

CHAPTER 8: DEVELOPMENT EXACTIONS AND IMPACT FEES

8-10: Road Impact Fees

8-10-10: Purpose

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**DEVELOPMENT EXACTIONS AND IMPACT FEES**

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## **CHAPTER 8: DEVELOPMENT EXACTIONS AND IMPACT FEES**

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### **8-10: ROAD IMPACT FEES**

#### **8-10-10: PURPOSE**

This provision implements and is consistent with the Pitkin County Road Management and Maintenance Plan and the 20-Year Road Improvement Plan. Traffic-generating development is required to pay its equitable share of those capital improvements. The establishment of a system for the imposition of transportation capital expansion fees is to assure that development contributes its equitable share of the cost of providing, and benefits from, the provision of road capital improvements. The technical support and analysis upon which the road fee is based is the 2000 Pitkin County Transportation Impact Fees (the support study), which is incorporated into this Land Use Code by reference.

#### **8-10-20: EXEMPTIONS**

The following types of activity or development shall be exempt from development exactions and impact fee payments. A development or activity exempted from one type of development exaction or impact fee shall still be subject to other types of development exaction or impact fees not listed in the exemption.

##### **(a) Development Plans Approved Prior to June 10, 2000 Still Within the Statutory Vesting Period As Set Forth in Chapter 2**

If statutory vesting is determined, the property in issue shall not be subject to any road impact fee.

##### **(b) Any Property Determined by a Court of Law or the County to be Vested Under the Common Law of the State of Colorado.**

The extent of any common law vesting and the applicability of the road impact fee requirements shall be made on a case-by-case basis by the County Attorney.

##### **(c) Redevelopment of Preexisting Use: Replacement Units and Remodeling**

The redevelopment, replacement, or remodeling of a preexisting residential, commercial or tourist accommodation uses shall be exempted from development exactions and impact fee requirements for roads if they meet the following standards.

###### **(1) NO NET INCREASE IN IMPACTS**

The applicant shall demonstrate that there is no net increase in any road impacts due to the redevelopment, replacement unit or remodeling.

###### **(2) REPLACEMENT AND REMODELING EXEMPTION**

If a residential, commercial, or tourist accommodation unit is being replaced remodeled, the exemption shall be limited to the floor area of the existing unit. Any additional floor area above the floor area of the existing unit shall be subject to development exactions and impact fees for roads.

**8-10-30: GENERAL ROAD FEE**

Traffic-generating development generates a need for capital improvements to County roads that is required to be mitigated through the payment of road fees. The road fee schedule is based on two classes of development: residential and non-residential. If the type of traffic-generating development proposed is not specified on the fee schedule, the fee applicable shall be the most comparable type of land use on the fee schedule, or the applicant shall be required to conduct an independent fee calculation study to determine the appropriate amount pursuant to Sec. 8-10-50.

**(a) Payment of Fee**

Pursuant to the requirements of this section, the fee shall be paid to the Fee Administrator prior to issuance of a building permit for any portion of the development subject to the road fee.

**(b) Computed Separately for Amount of Development**

The fee shall be computed separately for the amount of development covered by the permit if the building permit is for less than the entire development subject to the road fee.

**(c) Change in Use**

If the fee is paid for traffic-generating development because of a change in use, the fee shall be determined by computing the difference in the fee schedule between the proposed use and the existing use.

**(d) Expansions of Area**

If the fee is required to be paid for traffic-generating development because of expansion of an existing use, the fee shall be determined by computing the difference in the fee schedule between the proposed expansion and the existing use.

**(e) Run with Land**

The obligation to pay the fee shall run with the land.

**8-10-40: ROAD FEE SCHEDULE**

Any person who proposes traffic-generating development, except those exempted or conducting an independent fee calculation pursuant to Sec. 8-10-50, shall pay a transportation capital expansion fee in accordance with the following fee schedules:

**CHAPTER 8: DEVELOPMENT EXACTIONS AND IMPACT FEES**  
**8-10: Road Impact Fees**  
**8-10-40: Road Fee Schedule**

| <b>TABLE 8-1:<br/>TRIP GENERATION AND IMPACT FEES BY<br/>RESIDENTIAL FLOOR AREA</b> |       |                              |                   |
|---|-------|------------------------------|-------------------|
| <u>Heated Sq. Ft.</u>   |       | <u>Vehicle Trip<br/>Ends</u> | <u>Impact Fee</u> |
| Attached (All Sizes)  |       | 6.66                         | \$4760            |
| Detached  | 1,000 | 6.09                         | \$4350            |
| Detached  | 1,200 | 6.89                         | \$4920            |
| Detached  | 1,400 | 7.56                         | \$5400            |
| Detached  | 1,600 | 8.15                         | \$5820            |
| Detached  | 1,800 | 8.66                         | \$6190            |
| Detached  | 2,000 | 9.12                         | \$6520            |
| Detached  | 2,200 | 9.54                         | \$6820            |
| Detached  | 2,400 | 9.92                         | \$7090            |
| Detached  | 2,600 | 10.27                        | \$7340            |
| Detached  | 2,800 | 10.60                        | \$7570            |
| Detached  | 3,000 | 10.90                        | \$7790            |
| Detached  | 3,200 | 11.18                        | \$7990            |
| Detached  | 3,400 | 11.45                        | \$8180            |
| Detached  | 3,600 | 11.70                        | \$8360            |
| Detached  | 3,800 | 11.93                        | \$8520            |
| Detached  | 4,000 | 12.16                        | \$8690            |
| Detached  | 4,200 | 12.37                        | \$8840            |
| Detached  | 4,400 | 12.57                        | \$8980            |
| Detached  | 4,600 | 12.77                        | \$9120            |
| Detached  | 4,800 | 12.96                        | \$9260            |
| Detached  | 5,000 | 13.13                        | \$9380            |
| Detached  | 5,200 | 13.31                        | \$9510            |
| Detached  | 5,400 | 13.47                        | \$9620            |
| Detached  | 5,600 | 13.63                        | \$9740            |
| 5,800 & Larger  |       | 13.79                        | \$9850            |

| <b>TABLE 8-2: FEES FOR NON RESIDENTIAL DEVELOPMENT</b>               |        |
|--|--------|
| Road Impact Fee Schedule Non Residential (Per Sq. Ft. of Floor Area) |        |
| Light Industrial   | \$2.39 |
| Manufacturing  | 1.31   |
| Warehousing  | 1.22   |
| Mini-Warehouse   | 0.85   |
| School   | 3.49   |

**CHAPTER 8: DEVELOPMENT EXACTIONS AND IMPACT FEES**  
**8-10: Road Impact Fees**  
**8-10-40: Road Fee Schedule**

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|   |         |
|---|---------|
| Hospital  | 5.66    |
| Office  | 4.77    |
| Business Park   | 4.38    |
| Retail/Restaurant   | 10.15   |
| Non Residential (Per Unique Demand Indicator)   |         |
| Assisted Living (per bed)   | \$ 913  |
| Lodging (per room)  | \$ 1932 |
| Day Care (per student)  | \$ 738  |
| <b><i>(Code repealed and reenacted (all sections) by Ord. No. 14-D, 2006, 07-05-08; § 8-10-40 amended <a href="#">Ord. 23-09, 09-23-09</a>)</i></b> |         |

### **8-10-50: ANNUAL ADJUSTMENT**

Beginning in 2010, at the end of each year the transportation impact fee schedule shall be adjusted to account for construction cost inflation, pursuant to the provisions of this section. On January 1 following each calendar year during which the fee schedule was not comprehensively updated based on an update of the study, an adjusted fee schedule shall become effective. The County shall make the adjusted transportation impact fee schedule publicly available. The County shall calculate adjustments to the impact fee rates by multiplying them by a ratio based on Denver-Boulder CPI-U from the preceding year.

*(Code repealed and reenacted (all sections) by Ord. No. 14-D, 2006, 07-05-08; § 8-10-50 (part) amended [Ord. 23-09, 09-23-09](#))*

### **8-10-60: INDEPENDENT FEE CALCULATION**

#### **(a) Applicability**

The fee established in this section 8-10-50 may be computed by the use of an independent fee calculation study pursuant to the procedures of this Sec. 8-10-50 if:

- (1) The Fee Administrator determines that the land development activity proposed is not one of the types listed on the fee schedule and is not comparable to any land use on the fee schedule; or
- (2) The applicant believes it can be demonstrated that the nature, timing or location of the proposed traffic-generating development make it likely that the impacts generated will cost substantially less to mitigate than the amount of the fee that would be generated by the use of the fee schedule; or
- (3) The proposed traffic-generating development is "transit oriented," located within one-half mile of an existing or proposed mass transit stop, and the applicant believes it can be demonstrated that the proposed development will generate fewer traffic trips than assumed by the fee schedule; or
- (4) The Fee Administrator determines that the nature, timing, or location of the proposed traffic-generating development make it likely that the impacts generated will cost substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule. It shall not be grounds for an independent fee calculation that the applicant believes that the applicant as an individual will not generate as many traffic trips as assumed by the fee schedules; or
- (5) The property is located within the Village Commercial (VC) zone district.

#### **(b) Applicant to Prepare**

The preparation of the independent fee calculation study shall be the responsibility of the applicant and shall be submitted to the Fee Administrator.

**(c) Portion Subject to Study**

The independent fee calculation study may provide alternative data in one or both of two areas:

- (1) The number of average daily traffic trips generated by the land use types in the proposed development; and/or
- (2) The average trip length in miles on County roads.

**(d) Qualifications for Study**

The independent fee calculations may include independent sources, provided that:

- (1) The independent source is an accepted standard source of transportation engineering or planning data or information.
- (2) The independent source is a local study of trip characteristics carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering.
- (3) The "percent new trips" factor used in the independent fee calculation study shall be based on actual surveys conducted in Pitkin County.

**(e) Standards**

To qualify for an independent fee calculation, the applicant shall demonstrate that it is reasonably likely that the use of the structure (by any person(s) subject to development exactions and/or impact fees) for public roads will result in the generation of fewer traffic trips than assumed by the fee schedule. If, on the basis of generally recognized principles of impact analysis it is determined the data, information and assumptions used by the applicant to calculate the independent fee calculation study satisfies the requirements of this section, the fee determined in the independent calculation study shall be deemed the fee for the proposed traffic-generating development. The adjustment shall be set forth in a Fee Agreement.

**(f) Fee Agreement**

The Fee Agreement shall be in a form approved by the County Attorney and shall memorialize the fee amount to be paid pursuant to the independent fee calculation study.

**8-10-70: CREDITS**

**(a) Prior Road Mitigation for System Improvements**

Any person initiating traffic-generating development may apply for a credit against traffic fees otherwise due, for any contribution, payment, construction or dedication of land for any system improvements on a County road. No credits shall be provided for project-related improvements. Prior road mitigation for system improvements shall be credited against the road fee contained in this provision as follows:

**(1) CREDIT IS AN OFFSET AGAINST FEES OWED**

The person initiating traffic-generating development shall be required to pay the difference between the road fee required by this provision and the prior mitigation. There shall be no entitlement to any refunds for fees paid in excess of the current fee schedule.

**(2) CALCULATION OF CREDIT**

Credit shall be in an amount equal to the value of the contribution or payment at the time it was made to Pitkin County, the costs of road construction at the time of its completion, or the fair market value of the land dedicated at the time of dedication. An adjustment for inflation shall then be applied to the credit at the annual CPI rate.

**(3) APPORTIONMENT OF CREDIT**

If road mitigation for system improvements was performed for a subdivision as a whole, then any credits shall be applied as follows:

- (a) The credit for the road mitigation performed shall first be applied to any existing development in the subdivision and/or planned unit development; and
- (b) Any remaining credit shall be apportioned equally among the remaining undeveloped lots or parcels.

**(b) No Credit If No Payment**

There shall be no credit for any road mitigation required through a development approval unless the property owner, or the property owner's predecessor in interest, actually provided the mitigation prior to July 10, 2000.

**8-20: ROAD SYSTEM DEDICATIONS**

[Reserved]

**8-30: EMPLOYEE HOUSING IMPACT FEE**

**8-30-10: INTENT**

(a) The purpose of the employee housing impact fee is to require the applicable development to pay to mitigate the impacts of development and land use to the employee housing stock managed or controlled by Pitkin County or its housing designee, the Aspen/Pitkin County Housing Authority (APCHA). All provisions of this Chapter are self-executing and severable.

(b) The employee housing impact fee constitutes a law of general applicability of Pitkin County and as such shall be applicable to all property in unincorporated Pitkin County.

(c) The impact fee shall be applicable to the following classifications of development and land use in the following manner:

**(1) RESIDENTIAL DEVELOPMENT AND LAND USE**

Structures with five thousand seven hundred fifty (5,750) square feet or less of interior space, as measured by the International Building Code (IBC), shall not be assessed an impact fee. For residential structures over five thousand seven hundred fifty (5,750) square feet, one hundred (100) percent of the impact shall be mitigated for the full size of the structure. Multiple residential structures on one property shall be considered as one structure.

**(2) COMMERCIAL DEVELOPMENT AND LAND USE**

One hundred percent (100%) of the impact fee shall be mitigated for the full size of commercial construction.

**(3) TOURIST/LODGE ACCOMMODATION DEVELOPMENT AND LAND USE**

**(a) Standard Rooms**

One hundred percent (100%) of the impact shall be mitigated for all rooms in excess of four (4).

**(b) Luxury Tourist/Lodge Rooms**

One hundred percent (100%) of the impact and use shall be mitigated for all rooms.

**(4) UNCLASSIFIED DEVELOPMENT OR LAND USE**

Development or land use not fitting into the above described development or land use shall be subject to the employee housing impact fee pursuant to Sec. 8-30-60.

**(d)** The employee housing impact fee shall be adjusted administratively once per year on the anniversary date of the adoption of the current fee schedule to reflect inflation. The measure of inflation shall be the annualized rate of inflation published in the Consumer Price Index (Denver/Boulder/Greeley CPI-W) as established by the United States Bureau of Labor Statistics. If this index should be discontinued, then reference will be to Denver/Boulder/Greeley CPI-U, and if this is not available, then to CPI-W All Cities.

***(Code repealed and reenacted (all sections) by Ord. No. 14-D, 2006, 07-05-08; § 8-30-10 amended [Ord. 27-07, 11-14-07](#))***

**8-30-20: PAYMENT OF EMPLOYEE HOUSING FEE**

Procedures for payment of the Employee Housing Impact Fee are set forth in Chapter 2. Impact Fee for Residential Development and Land Use

**(a) Impact Fee Formulas**

The impact fee for residential development or land use will vary based upon the size of the residential development. In no case shall an impact fee apply to properties improved with less than five thousand seven hundred fifty (5,750) square feet of interior floor area as measured by the IBC. The fee collected for residential construction shall reflect mitigation for second-home use unless a covenant is recorded on the property restricting it to Pitkin County resident occupancy. The formula to determine the fee amount for each specific residential development is as follows:

- (1) **FOR RESIDENTIAL DEVELOPMENT OF 9,000 SQUARE FEET OR LESS:**
- (a) Construction Employment for all Units =  $\{[0.547 * (\text{Unit FT}^2 * .001)] \setminus 40\}$
  - (b) Post-Construction Employment – Locally Occupied Unit = Exponent  $[-4.67138 + (0.000328 * \text{Unit FT}^2)]$
  - (c) Post-Construction Employment – Second/Vacation Home = Exponent  $[-4.67138 + (0.000328 * \text{Unit FT}^2) + 2.00514]$
  - (d) Total Employees = Construction Employment + Post- Construction Employment
  - (e) Impact Fee = Total Employees \* \$34,173
- (2) **FOR UNITS OVER 9,000 SQUARE FEET:**
- (a) Add \$1,141.67 per 1,000 square feet for locally occupied units
  - (b) Add \$5,515.00 per 1,000 square feet for second/vacation homes

**(b) Examples**

Even though it will be necessary to calculate the impact fee for each individual residential development since each will vary in size, a schedule for specific sizes of residential development that demonstrates employees generated, the affordable housing units needed and the impact fee is set down in Table 8.2.

| <b>TABLE 8-2: EXAMPLE FEE/SUBSIDY FOR RESIDENTIAL DEVELOPMENT</b> |                                   |                           |          |
|---|-----------------------------------|---------------------------|----------|
| Size of Residential Development                                   | Subsidy per Employee @100% Target | Fee Subsidy @ 100% Target |          |
|   |                                   | Local Occupancy           | 2nd Home |
| 6,000 sq. ft.   | \$34,173                          | \$5,062                   | \$19,772 |
| 7,000 sq. ft.   | \$34,173                          | \$6,412                   | \$26,833 |
| 8,000 sq. ft.   | \$34,173                          | \$8,107                   | \$36,457 |
| 9,000 sq. ft.   | \$34,173                          | \$10,282                  | \$49,635 |
| 10,000 sq. ft.  | \$34,173                          | \$11,423                  | \$55,150 |

**8-30-30: IMPACT FEE FOR COMMERCIAL DEVELOPMENT AND LAND USE**

The impact fee for commercial development or land use will vary based on size and type of commercial development. The formula to determine the fee amount is:

- (a) Number of Employees = Unit Size x Employee Generation
- (b) Fee = Number of Employees x \$34,173
- (c) Employee Generation = Employee Generation Rate from Table 8-3 (Employee Generation for Commercial Development).

**CHAPTER 8: DEVELOPMENT EXACTIONS AND IMPACT FEES**  
**8-30: Employee Housing Impact Fee**  
**8-30-30: Impact Fee for Commercial Development and Land Use**

| <b>TABLE 8-3: EMPLOYEES GENERATED BY SIZE OF DEVELOPMENT</b> |                            |                      |                            |
|--|----------------------------|----------------------|----------------------------|
| <b>Office - General</b>                                      |                            |                      |                            |
| Unit Size in sq. ft.   | No. of Employees Generated | Unit Size in sq. ft. | No. of Employees Generated |
| 1,000  | 4.5                        | 10,000               | 45                         |
| 2,500  | 11.25                      | 15,000               | 67.5                       |
| 5,000  | 22.5                       | 20,000               | 90                         |
| 7,500  | 33.75                      |                      |                            |
| <b>Office – Real Estate</b>                                  |                            |                      |                            |
| Unit Size in sq. ft.   | No. of Employees Generated | Unit Size in sq. ft. | No. of Employees Generated |
| 1,000  | 5.9                        | 10,000               | 59                         |
| 2,500  | 14.75                      | 15,000               | 88.5                       |
| 5,000  | 29.5                       |                      |                            |
| 7,500  | 44.25                      |                      |                            |
| <b>Office – Non-Profit</b>                                   |                            |                      |                            |
| Unit Size in sq. ft.   | No. of Employees Generated | Unit Size in sq. ft. | No. of Employees Generated |
| 1,000  | 3.8                        | 10,000               | 38                         |
| 2,500  | 9.5                        | 15,000               | 57                         |
| 5,000  | 19                         | 20,000               | 76                         |
| 7,500  | 28.5                       |                      |                            |
| <b>Retail – Guest Market</b>                                 |                            |                      |                            |
| Unit Size in sq. ft.   | No. of Employees Generated | Unit Size in sq. ft. | No. of Employees Generated |
| 1,000  | 2.9                        | 10,000               | 29                         |
| 2,500  | 7.25                       | 15,000               | 43.5                       |
| 5,000  | 14.5                       | 20,000               | 58                         |
| 7,500  | 21.75                      | 25,000               | 72.5                       |
| <b>Service – Repair, Personal, Business</b>                  |                            |                      |                            |
| Unit Size in sq. ft.   | No. of Employees Generated | Unit Size in sq. ft. | No. of Employees Generated |
| 1,000  | 1.13                       | 10,000               | 11.32                      |
| 2,500  | 2.83                       | 15,000               | 16.98                      |
| 5,000  | 5.66                       | 20,000               | 22.64                      |
| 7,500  | 8.49                       | 25,000               | 28.31                      |
| <b>Restaurant/Bar</b>  |                            |                      |                            |

**CHAPTER 8: DEVELOPMENT EXACTIONS AND IMPACT FEES**  
**8-30: Employee Housing Impact Fee**

**8-30-40: Impact Fee for Tourist /Lodge Accommodation Development and Land Use**

| Unit Size in sq. ft.   | No. of Employees Generated | Unit Size in sq. ft. | No. of Employees Generated |
|--|----------------------------|----------------------|----------------------------|
| 1,000  | 7.4                        | 10,000               | 37                         |
| 2,500  | 18.5                       | 15,000               | 55.5                       |
| <b>Government</b>  |                            |                      |                            |
| Unit Size in sq. ft.   | No. of Employees Generated | Unit Size in sq. ft. | No. of Employees Generated |
| 1,000  | 3.9                        | 10,000               | 39                         |
| 2,500  | 9.75                       | 15,000               | 58.5                       |
| 5,000  | 19.5                       | 20,000               | 78                         |
| 7,500  | 29.25                      | 25,000               | 97.5                       |
| <b>(Code revised (all sections) by Ord. No. 14-D, 2006, 07-05-08; § 8-30-40 amended by Ord. 27-07, 11-14-07)</b> |                            |                      |                            |

**8-30-40: IMPACT FEE FOR TOURIST /LODGE ACCOMMODATION DEVELOPMENT AND LAND USE**

**(a)** The impact fee for tourist /lodge accommodation development or land use will vary based on the number and type of rooms. There are two types of rooms, historic/standard and luxury.

**(b)** The impact fee for historic/standard tourist/lodge accommodation development or land use will apply for all rooms in excess of four (4).

**(1)** Number of Employees = Number of Rooms x Employee Generation Rate (0.3 employees per number of rooms over 4)

**(2)** Fee = Number of Employees x \$34,173

**(c)** The formula to determine the fee amount for luxury tourist/lodge accommodation development or land use is as follows:

**(1)** Number of Employees = Number of Rooms x Employee Generation Rate (1.1 employees per room)

**(2)** Fee = Number of Employees x \$34,173

**(Code repealed and reenacted (all sections) by Ord. No. 14-D, 2006, 07-05-08; § 8-30-40 amended [Ord. 27-07, 11-14-07](#))**

**8-30-50: IMPACT FEE FOR UNCLASSIFIED DEVELOPMENT AND LAND USE**

The employee housing impact fee schedule is based upon three classes of development: residential, commercial and tourist/lodge accommodations. If the type of development proposed is not specified as one of these three classes of development, the fee applicable shall be calculated based upon the most comparable type of development and land use category described above. If a

property owner believes that there is no appropriate comparison between the proposed development or land use and the three classes of development described above or that the specific instance of proposed development would generate employees at a significantly lower rate than indicated by the impact fee schedule, then the property owner may submit an independent fee calculation study, as described in Section 800, to suggest an alternative impact fee payment. Unclassified development and land use shall mitigate one hundred (100) percent of the impact of its employee generation.

**8-30-60: OPTIONS TO DEFRAY THE PAYMENT OF IMPACT FEES**

In order to mitigate the impacts of development upon the employee housing capital facilities, a developer or property owner may be allowed to avoid full payment of the scheduled impact fee through one or a combination of the following events. These events shall include and be limited to the construction of deed restricted employee housing, the acquisition and deed restriction of existing residential housing units, or the dedication of real property to Pitkin County that will be used for the construction of employee housing. In no event shall the exercise of any of these three options cause a developer or property owner to exceed the impact fee schedule with the value of any construction, acquisition or dedication. The decision of whether or not to accept an offered alternative to full payment of the impact fee is a discretionary decision of the Board of County Commissioners. The Board of County Commissioners may accept or reject such offer based upon any reasonable consideration including, but not limited to any of the following: the type and location of the development to be mitigated; location of the property that is offered; the physical condition of the offered property; the ability to utilize the property in the employee housing program; the need for the type of property offered.

**(a) Construction Requirements for Employee Housing Units**

Any employee housing units developed in lieu of payment of a full impact fee shall meet the following guidelines:

- (1) All construction must comply with all regulations and required permits of the Pitkin County Code.
- (2) Size and materials used in the construction of employee housing shall be specifically approved by either the Board of County Commissioners or its housing designee, the Aspen/Pitkin County Housing Authority. All employee housing units constructed shall be ready for occupancy prior to the issuance of a Certificate of Occupancy for the free-market development for which the deed restricted housing is in mitigation.
- (3) A deed restriction to be recorded against the property shall be reviewed and accepted by the Board of County Commissioners and its County Attorney prior to acceptance of the unit for mitigation of development impacts and/or prior to issuance of a building permit for the unit.

**(b) Requirements for Converted/Deed Restricted Units**

Free-market units acquired in lieu of full payment of the scheduled impact fee shall meet the following requirements:

- (1) All units must be specifically approved for mitigation by the Board of County Commissioners or its housing designee, the Aspen/Pitkin County Housing Authority. The grant of this acceptance will be based upon the location of the units and the physical quality of the housing units.
- (2) The acquired and restricted units shall be ready for occupancy before the issuance of a Certificate of Occupancy for the constructed free-market development whose impact the deed restricted units mitigate.
- (3) Prior to acceptance, the deed restriction recorded against the converted units shall be approved by the Board of County Commissioners or its County Attorney.

**(c) Dedication of Real Property**

All real property proposed by a developer or property owner for dedication to Pitkin County in lieu of full payment of the scheduled employee housing impact fee, shall be specifically accepted by the Board of County Commissioners through enactment of a County ordinance. The Board of County Commissioners may reject or accept any offered real property based upon any reasonable consideration. Included in the criteria for consideration but not representative of all factors that may be considered by the Board of County Commissioners in accepting a real property dedication will be: the location of the property; the size of the property to accommodate development of employee housing; the existing zoning of the property; the environmental, topographic and soils condition of the offered property; and the presence of any infrastructure or utilities.

**8-30-70: EXEMPTIONS AND CREDITS**

**(a) Exemptions from Payment of Scheduled Impact Fees**

**(1) EMPLOYEE HOUSING**

No employee housing impact fee shall be imposed on the construction of deed restricted employee housing as defined from time to time by the Board of County Commissioners or its housing designee, the Aspen/Pitkin County Housing Authority.

**(2) REPLACEMENT, RESTORATION OR REMODEL OF EXISTING UNITS**

No employee housing impact fee shall be charged for replacement or restoration for an improvement that was lost or damaged through fire, age or other event not precipitated by the owner of the property. This exemption shall extend only so far as replacement or restoration for the unit lost is being sought in its same location and at the same size and configuration. No employee housing impact fee shall be charged for remodel construction that does not increase the size of the residential structure. No exemption shall be recognized for expansion of an existing structure.

**(b) Credits**

**(1) PREVIOUS PAYMENT AND EXACTION**

- (a) Any fee imposed by this Chapter shall be subject to offset and reduced to reflect all previous payments, exactions, dedications or other mitigation made in relation to the proposed use and development.
- (b) The value of any payment, exactions, dedications or other mitigation made to Pitkin County shall be adjusted upward to reflect the present value not the value at the time of the original payment, exaction or dedication. This upward adjustment shall be based upon the annualized rate of inflation as published in the Consumer Price Index (Denver/Boulder/Greeley CPI-W) as established by the United States Bureau of Labor Statistics. If this index should be discontinued, then reference will be to Denver/Boulder/Greeley CPI-U, and if this is not available, then to CPI-W All Cities.
- (c) If the previous dedication, contribution or exaction was made as a part of a larger approval, i.e., subdivision or PUD review process, then the previous contribution, dedication or exaction shall be apportioned between all the properties of the approved development for which the previous contribution, dedication or exaction was made.

**(2) CHANGE IN USE**

When the imposition of the employee housing impact fee is required due to a change in use, credit shall be recognized for any legally established use

**8-30-80: IMPACT FEE FOR "SMALL" ESTABLISHED COMMERCIAL BUSINESS"**

- (a) A "small" established commercial business" (a commercial business that has eight (8) or fewer full time equivalent employees, that is less than five thousand (5,000) sq. ft. of floor area, and that has operated continuously as the same type of business with the same ownership, and in the same location in Pitkin County for a period exceeding twenty (20) years that relocates and abandons an old facility and that constructs and owns a new facility to accommodate the same small established commercial business shall be required to pay only the employee housing impact fee that would be imposed by Section 8-30-30 on the amount of additional floor area by which the new facility exceeds the previously occupied facility.
- (b) If a new facility is exempted in conformance with Section 8-30-60(a) above, and the use of the facility changes prior to occupancy of the new facility or within five (5) years of occupancy of the new facility, an impact fee shall be required for the new facility in accordance with the formula and computation of fees established in Section 8-30-30. The fee owed will be that in effect at the time of the change in occupancy.

- (c) A business utilizing this provision for reduction in/or exemption from the impact fee shall be subject to periodic employee audits (not more than once every two years) which shall be undertaken by Pitkin County and which will be funded by the business. Any increase in full time equivalent employees documented by an audit will require the business to pay additional employee impact fees at 100% of the amount that would be imposed for the additional employees by utilizing the formula and computation of fees established in Section 8-30-30.

*(Code repealed and reenacted (all sections) by Ord. No. 14-D, 2006, 07-05-08; § 8-10-60 (part) amended [Ord. 23-09, 09-23-09](#))*

#### **8-30-90: IMPACT FEE FOR CHANGE OF USE**

When a “commercial development” facility (as described in Table 8-4) changes in use from one category to a more intensive category of use in terms of employee generation, an impact fee shall be imposed according to Section 8-30-30 for the increase in employee generation.

*(Code repealed and reenacted (all sections) by Ord. No. 14-D, 2006, 07-05-08; § 8-10-70 (part) amended [Ord. 23-09, 09-23-09](#))*

### **8-40: PARKS/RECREATION/OPEN SPACE EXACTION**

#### **8-40-10: APPLICABILITY**

The parks/recreation/open space development exactions are applicable to new residential subdivisions.

#### **8-40-20: INTENT**

Pitkin County established a Parks/ Recreation/Open Space program to insure an ample supply of parks/recreation/open space to satisfy the needs of residents and visitors. The program is intended to ensure:

- (a) An adequate supply of parks and recreation facilities to satisfy the demand for such facilities resulting from new residential development;
- (b) An adequate supply of open space to preserve and enhance the rural character of the County as a critical asset contributing to a high quality of life for residents and visitors;
- (c) Preservation of open space in certain areas to protect wildlife habitat, ranching, public lands and scenic road corridors;
- (d) Parks and recreation facilities and open space are dedicated on a schedule to coincide with the demand for such facilities and land generated by new residential development;
- (e) Land dedicated for parks/recreation/open space will remain committed to such uses and not be used for other purposes.

## **8-40-30: PARKS/RECREATION/OPEN SPACE DEVELOPMENT EXACTION STANDARDS**

### **(a) General**

Pitkin County parks/ recreation/open space development exaction standards are based upon consideration of the Pitkin County Comprehensive Plan and adopted open space and trails plans.

### **(b) Standards**

Prior to the recordation of final plat, a developer subdividing residential land shall dedicate to Pitkin County, platted land in a location selected by the Board in the ratio of ten and one half (10 1/2) acres for every one thousand (1,000) residents of a proposed subdivision (that is, the number of residents multiplied by one hundred and five ten thousandths [0.0105] of an acre per resident). The number of residents attributable to a subdivision is calculated according to the schedule in Table 8-4 (applicable to single family, duplexes and multi-family structures). Mixed Use Developments -- In the case of mixed residential, commercial, industrial or other uses, the required dedication is determined based upon the minimum lot area required by this Land Use Code for dwelling units.

## **8-40-40: OPTION FOR INDEPENDENT CALCULATION OF DEDICATION STANDARDS**

An applicant seeking approval for a residential development application may submit an independent calculation. If approved, the independent calculation will be utilized to calculate the required dedication.

## **8-40-50: CASH-IN-LIEU OF LAND DEDICATION**

At the election of the Board of County Commissioners, an applicant may satisfy his or her land dedication requirement by making a cash payment to the County for an amount equal to the current market value of the land required for dedication by Sec. 8-40-30.

### **(a) Calculating Cash-in-Lieu Payment**

The amount of the cash-in-lieu land dedication payment is calculated by multiplying the square footage of the area of land to be dedicated by the current market value per square foot of the land to be subdivided.

### **(b) Calculating Land Value**

Land value shall be market value at the time of the cash-in-lieu payment including site improvements such as streets, and utilities, but excluding residential dwelling units. Market value may be substantiated by a documented purchase price (if an arm's length transaction no more than two years old) or other mutually agreed upon recognized means, provided, however, assessed valuation shall not be relied upon as the basis of current market value. In the event, a developer and the County fail to agree on market value, such value shall be established by a qualified real estate appraiser acceptable to both parties. The developer shall pay for the appraisal.

**(c) Timing of Cash-In-Lieu Payment**

Payment shall be made to Pitkin County prior to, and on a proportional basis to, the issuance of any building permits for the residential dwelling units.

**(d) Criteria to Select Method to Satisfy the Dedication Standards**

The Board of County Commissioners upon recommendation of the Planning and Zoning Commission shall approve or deny a request from an applicant to pay cash-in-lieu of land dedication. The Board shall consider the following criteria in evaluating a request for a cash in lieu payment:

- (1) Whether the development itself requires on-site parks/recreation/open space land on site; and
- (2) Whether the County has identified the applicant's proposed development site as being appropriate for parks/recreation/open space land.

| Type of Dwelling Unit | Number of Residents Per Dwelling Unit  |
|-----------------------|--|
| Studio                | 1.25 Residents   |
| One Bedroom           | 1.75 Residents   |
| Two Bedroom           | 2.25 Residents   |
| Three Bedroom         | 3.0 Residents  |
| Four or More Bedrooms | 3.0 Residents PLUS .50 Residents/Bedroom for each bedroom over 3                     |
| Dormitory             | 1.0 Resident/150 square feet of net livable space as defined by the Housing Designee |

**8-50: PARKS/OPEN SPACE/AGRICULTURAL PRESERVATION FEE**

[Reserved]

**8-60: TRAILS EXACTION**

**8-60-10: APPLICABILITY**

The trails development exaction standards are applicable to new residential and commercial subdivisions and tourist accommodation developments.

**8-60-20: INTENT**

Pitkin County established a trails program to satisfy trails needs of residents and visitors. The program is intended to provide:

- (a) Trails for diversified segments of the population including: nordic skiers, mountain bike riders, road bike riders, hikers, horse back riders, fisherman, hunters, senior and handicapped citizens;

**(b)** Recreational trails, commuting trails and dual purpose trails for recreation and commuting; and

**(c)** Multiple access points to the United States Forest Service trails system and public lands.

**8-60-30: TRAILS STANDARDS**

**(a) General**

Pitkin County trails standards are based upon consideration of the Pitkin County Comprehensive Plan and adopted open space and trails plans.

**(b) Standards**

- (1)** Whenever a tract to be subdivided includes any part of a trail or trails designated on trail or master plans or historically used trails, the developer shall plat and grant public easements consistent with County Trail standards and specifications and in a location acceptable to the Board of County Commissioners.
- (2)** Whenever a tract of land is traversed by or abuts a river or creek, the developer shall plat and grant a public fishing easement to include the stream and the land area five feet (5') beyond the high water mark on the stream bank.

**8-70: PUBLIC TRAIL FEES**

[Reserved]

**8-80: SCHOOL LAND DEDICATION STANDARDS**

**8-80-10: APPLICABILITY**

Pursuant to C.R.S. 30-28-101 et. seq. , school land dedication standards shall be assessed upon all new subdivisions containing residential units within unincorporated Pitkin County that are located within the boundaries of the Aspen School District or the Roaring Fork School District (RE-1).

**8-80-20: INTENT**

The Aspen and Roaring Fork School Districts require land for necessary school functions, which may include, but are not limited to, school buildings, support facilities, open space and recreation areas and housing for employees and their families. The purpose of this Section is to ensure that as development occurs within the School Districts and school enrollment grows, the current level of service provided to students can be maintained. This is accomplished by the adoption of standards for new subdivisions to provide land, or cash-in-lieu thereof to the County, for use by the School District. The standards are based on the number of students the development generates and the School Districts current level of service standard for land area provided per student.

## 8-80-30: ASPEN SCHOOL DISTRICT DEDICATIONS AND PAYMENTS

### (a) Land Dedication Standards

For lands within the Aspen School District boundaries, school land dedications shall be assessed according to the following schedule:

| Unit Type        | Land Dedication Standard     |
|------------------|------------------------------|
| Dormitory        | 0.0000 acres (0 sq. ft.)     |
| Studio/1 Bedroom | 0.0012 acres (52 sq. ft.)    |
| 2 Bedroom        | 0.0095 acres (416 sq. ft.)   |
| 3 Bedroom        | 0.0162 acres (707 sq. ft.)   |
| 4 Bedroom        | 0.0248 acres (1,081 sq. ft.) |
| 5 Bedroom        | 0.0284 acres (1,236 sq. ft.) |

### (b) Cash-in-Lieu Payment Formula

For lands within the Aspen School District Boundaries, an applicant may make a cash payment in-lieu of dedicating land to the County, or may make a cash payment in combination with a land dedication, to comply with the standards of this Section. Because of the cost of subdivided land in Pitkin County, the School District and Pitkin County have decided to require payment of a cash-in-lieu amount that is less than the full market value of the land area that would result from application of these land dedication standards. Because there is not a single formula that works equally well for both small and large lots, two formulas have been established. Applicants may use the formula that results in the lesser of the two payment amounts. Regardless of that formula is chosen, any individual cash-in-lieu payment shall not be required to exceed \$4,260 for a single dwelling unit. The formulas to determine the amount of the cash-in-lieu payment for each residential dwelling unit are as follows:

#### (1) **FORMULA 1**

Market value of land multiplied by the applicable land dedication standard multiplied by 0.33 equals the amount of the cash payment. For example, for a property having a market land value of \$100,000, on which a four bedroom house is proposed, the payment would be:

$$\$100,000 \times 0.0248 \times 0.33 = \$818.40.$$

#### (2) **FORMULA 2**

The market value of the land divided by the total number of square feet of land within the property equals the market value of one square foot of the property. The market value of one square foot of the property multiplied by the number of square feet of land required to be dedicated to the county equals the amount of the cash payment. For example, for a ten acre property having a market land value of \$1,000,000 on which a four-bedroom house is proposed, the payment would be:

$$\$1,000,000/43,560 \times 10 = \$2.30$$

$$\$2.30 \times 1,081 = \$2,486$$

**(3) CURRENT MARKET VALUE**

Current market value means the value of a subdivided lot at the time of the cash-in-lieu payment, including site improvements such as streets and utilities, but excluding the value of residential dwelling units and other structures on the property. When more than one residential dwelling unit is to be built on a lot, then each unit shall be assigned its proportionate share of the current market value of the lot.

**(4) SUBSTANTIATION**

Market value may be substantiated by a documented purchase price (if an arms length transaction nor more than two (2) years old) or other mutually agreed upon recognized means.

**(5) APPRAISAL**

In the event the developer and the County fail to agree on market value, such value shall be established by a qualified real estate appraiser acceptable to both parties. The developer shall pay for the appraisal.

**(6) MIXED USE DEVELOPMENTS**

When the proposed subdivision contains a mix of residential, commercial, and other uses, the required dedication shall be based solely on the number of proposed residential dwelling units.

**8-80-40: ROARING FORK SCHOOL DISTRICT DEDICATIONS AND PAYMENTS**

**(a) General Formula**

Within the Roaring Fork School Districts, required land dedications or fees-in-lieu of land dedications for school purposes shall be based on the following formula:

$$\text{Land area required per student} \times \text{students generated per dwelling unit} = \text{land dedication standard}$$

**(b) Land Area Required Per Student**

In applying the general formula in subsection (a) above, the following requirements for land area per student shall be used.

| <b>TABLE 8-6: ROARING FORK SCHOOL DISTRICT LAND REQUIREMENTS PER STUDENT</b> |                            |                            |
|--|----------------------------|----------------------------|
|  | <b>Reasonable Capacity</b> | <b>Recommended Acreage</b> |
| Elementary School  | 550                        | 15.5                       |
| Middle School  | 600                        | 26.0                       |
| High School  | 800                        | 38.0                       |
| Totals   | 1950                       | 79.                        |
| Total Ac./Student  |                            | .04077                     |
| Total Sq.Ft./Student   |                            | 1,776                      |

**(c) Student Generation Rates**

In applying the general formula in subsection (a) above, the following requirements for land area per student shall be used.

|                      |                                      |
|----------------------|--------------------------------------|
| Single-Family        | .49 student / dwelling unit          |
| Multi-Family         | .38 student / dwelling               |
| Mobile Home, Trailer | .71 student / mobile home or trailer |

**(d) Land Dedication Requirements**

Applying the factors listed in subsections (a) through (c) above results in the Roaring Fork School District school land dedication requirements shown below.

|                      |                                    |
|----------------------|------------------------------------|
| Single-Family        | 870 sq.ft. per unit or .020 ac.    |
| Multi-Family         | 675 sq. ft. per unit or .015 ac.   |
| Mobile Home, Trailer | 1,261 sq. ft. per unit or .029 ac. |

**(e) Cash-in-Lieu of Land Dedication**

At the discretion of the Roaring Fork School District, a developer of residential housing may make a cash payment in lieu of dedicating land, or may make a cash payment in combination with a land dedication. The formula to determine the cash-in-lieu payment is as follows:

Market value of land per acre \* land dedication standard from subsection (d) above \* no. of dwelling units = cash-in-lieu payment required.

**8-80-50: PROCEDURES FOR LAND DEDICATION AND CASH PAYMENT**

**(a) Land Dedication**

Lands to be dedicated to the County to fulfill the standards of this section shall be identified on the detailed subdivision plan and shall be dedicated to the County at the time of final subdivision plat approval.

**(1) ACCEPTANCE**

Acceptance of the lands to be dedicated shall be at the discretion of the Board of County Commissioners.

**(2) CRITERIA**

Prior to acceptance, the Board of County Commissioners shall consider the comments of the School District to determine whether the lands proposed to be dedicated are of adequate size and can be suitably developed for school purposes or whether the lands have the capability of being sold, with the proceeds being used for school purposes. The Board shall also consider the probable impacts on neighboring properties of the development of the land for school purposes. When the lands proposed to be dedicated are not adequate or suitable for school purposes and cannot feasibly be sold, the Board shall require a cash payment in-lieu of the land dedication.

**(b) Cash-in-Lieu Payment**

Payment of cash-in-lieu of a land dedication shall be made to the County prior to and on a proportional basis to the issuance of a building permit for residential dwelling units.

**8-80-60: USE OF LAND AND USE OF FUNDS**

**(a) Land**

All lands dedicated to the County pursuant to this section shall be held by the County for the Aspen School District or the Roaring Fork School District, as applicable, until such time as they shall be requested by the School District for school purposes.

**(1) MAINTENANCE**

The applicable School District shall be responsible for the maintenance of said lands in a reasonable manner while they are being held by the County.

**(2) SALE OF LAND**

The Board of County Commissioners may, at the request of the applicable School District, sell lands that have been dedicated to the County pursuant to this section. The proceeds from the sale shall be transferred to the designated interest bearing account into which funds collected from payments in-lieu of school land dedications are transferred.

**(b) Funds**

All funds collected pursuant to this section shall be transferred by the building inspector to the finance director, for deposit in a designated interest bearing account.

**(1) COUNTY SHALL HOLD FUNDS**

The County shall hold the funds until such time as they shall be requested by the applicable School District for the acquisition of land for school purposes, or for other capital outlays or growth-related planning functions for education purposes, at which time they shall be released to the applicable School District.

**(2) ADMINISTRATIVE FEE**

The County shall be entitled to retain one (1) percent of the funds collected to compensate the County for its administrative expenses of collecting the cash-in-lieu payments. Said administrative fees shall be deposited in the County's General Revenue Fund, to be expended as the County shall determine in its sole discretion.

**(c) Use of Land or Funds for Housing**

If the applicable School District decides that land or funds dedicated pursuant to this Section should be used for housing, then the School District shall place a deed restriction on those housing units, restricting their occupancy solely to employees of the applicable School District and their families. In the event the inventory of housing exceeds the applicable School District's needs, the School Board may allow occupancy of the units through the Housing Authority.

**(d) Periodic Review**

In order to ensure that these land dedication standards are fair and represent the current level of service provided by the applicable School District, the formula and dedication schedule shall be reviewed by the County, together with the applicable School District, and amended as necessary within three (3) years of its effective date and every three (3) years thereafter.

**8-90: PUBLIC TRANSPORTATION FEES**

[Reserved]

**8-100: HEALTH AND HUMAN SERVICES FEES**

[Reserved]