ORDINANCE NO. 552
SERIES 2003

AN ORDINANCE OF THE TOWN OF MANCOS, COLORADO, AMENDING THE MANCOS LAND USE CODE, CONCERNING STREET IMPROVEMENT FEES ON LAND DEVELOPMENT ACTIVITY WHICH GENERATES ADDITIONAL TRAFFIC

WHEREAS, certain elements of the Town's current street system are close to capacity, and in order to maintain adequate levels of service without burdening existing taxpayers, expansion of the Town's street system capacity should be primarily funded by new development; and

WHEREAS, the Town has established a street classification system, street network plan, and improvement standards for local, collector and arterial streets; and

WHEREAS, the Town has established a capital improvements plan for the expansion and enhancement of its street system based upon expected future land development (Town of Mancos Transportation Study, March 2000, Felsburg, Holt & Ullevig); and

WHEREAS, the Town desires to adopt a rational system for identifying growth related costs incurred by the Town in providing new and expanded street facilities made necessary by expanded population levels and economic activity levels and to develop a fee structure therefor directly related to such costs and to provide a method for collection of such fees; and

WHEREAS, the Board of Trustees believes that street improvement fees should accurately reflect actual growth-related capital costs and should be understandable and inexpensive to administer; and

WHEREAS, new development should not be charged for upgrading the existing street system to serve primarily existing development; and

WHEREAS, new residential and non-residential development will only be charged for its fair share of the cost of the capacity-related streets improvements made necessary by the traffic generated by new development; and

WHEREAS, the Town recognizes that general streets revenue may be spent on the same capacity-related improvements for which the streets improvement fee revenue is designated; and

WHEREAS, to prevent double charging new development for capacity-related improvements, the fee, as calculated in the fee support study conducted by R.P.I. Consulting (2003), has been credited for revenues paid into the Town of Mancos

Streets Fund with general taxes (Specific Ownership Tax, HUTF Tax, and the Montezuma County Road & Bridge Property Tax); and

WHEREAS, the Local Government Land Use Control Enabling Act of 1974, Sections 29-20-101, et. Seq., C.R.S.; Article 23 of Title 31, C.R.S.; the Planned Unit Development Act of 1972, Sections 24-67-101, et. Seq., C.R.S.; and other applicable law grant broad authority to the Town of Mancos to plan for and regulate the development of land on the basis of the impacts thereof on the community and surrounding areas; and

WHEREAS, Section 29-1-801, et. Seq., C.R.S., concerning the land development charges, recognize that municipalities may collect charges imposed on land development as a condition of the approval of the development, if such charges relate to any expenditure for an improvement, facility, or piece of equipment necessitated by land development which is directly related to a local governmental service; and

WHEREAS, Section 29-20-104.5, C.R.S., authorizes the Town to impose impact fees for these purposes, and also permits deferring collection of an impact fee or similar development charge until the issuance of a building permit or certificate of occupancy; and

WHEREAS, the proper regulation of development requires the payment of a Street Improvement Fee to defray the cost of new and enlarged street facilities made necessary by new development; and

WHEREAS, pursuant to Sections 31-23-214, 31-23-227, and 31-23-305, C.R.S., the Board of Trustees may alter or amend the zoning and subdivision regulations contained in the Town of Mancos Land Use Code; and

WHEREAS, the Board of Trustees may, after recommendation of the Planning Commission, amend any regulation of any zone district; and

WHEREAS, the Planning Commission has recommended to the Board of Trustees that the Town of Mancos Land Use Code be amended in the manner hereinafter provided; and

WHEREAS, the Board of Trustees of the Town of Mancos finds and determines that the amendments to the Town of Mancos Land Use Code as contained herein, are necessary and designed for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town of Mancos and are consistent with the Town's goals, policies and plans per Section 1.5 of the Town of Mancos Land Use Code and the Town of Mancos Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Mancos, Colorado:

That the following sections of the Town of Mancos Land Use Code are hereby modified and enacted by adding language which shall read:

Chapter 6, Section 21.1, paragraph B.: Agreement to pay streets impact fee prior to issuance of building permit required: Prior to issuance of the zoning development permit, the applicant shall receive approval from the fee administrator for the streets impact fee price for the proposed development (pursuant to Chapter 9, Impact Fee Requirements) and shall sign an agreement on the Zoning Development Permit (Appendix A) to pay the approved fee price due prior to the issuance of a building permit.

Chapter 9 – Impact Fee Requirements

9.1 Purpose and Applicability

9.1.1 The purpose of an impact fee requirement is to require development to pay for its fair share of the impacts it generates upon the Town's capital facilities which, if a fair share contribution were not required, would otherwise be publicly subsidized.

9.1.2 All development within the Town of Mancos that is subject to Section 6.21, Zoning Development Permit, shall be subject to impact fee requirements unless exempt pursuant to section 9.1.3. The purpose of the impact fee requirements development includes.

A. Development of a single-family dwelling unit.

B. Development of a multi-family dwelling unit.

C. Development, expansion, or change in use of a non-residential structure.

9.1.3 Vesting

A. Impact fee requirements shall not apply to developments which received a zoning development permit prior pursuant to 6.21 prior to the effective date of this ordinance.

9.2 Exemptions

9.2.1 The following development shall be exempt from impact fee requirements:

A. Remodeling of residential structures

B. Remodeling of non-residential structures that does not result in an increase of square footage

C. Replacement of existing residential units

D. Public sector non-residential development determined by the fee administrator to be a development that serves growth rather than a growth generator

E. Publicly subsidized affordable housing projects

9.3 General Streets Impact Fee

Traffic generating development generates a need for capacity-related capital improvements to Town streets, which are required to be mitigated through the payment of streets fees. The streets fee is based on two classes of development: residential and non-residential. If the type of traffic generating development is not specified on the fee schedule, the applicant for the zoning development permit shall conduct an independent traffic study to determine the trip generation upon which the fee for the specified land use shall be based.

A. Payment of the fee: Impact fee requirements shall be imposed in connection with all zoning development permits (Section 6.21) and payment of the fee shall be due prior to the issuance of any building permit for all development in the Town of Mancos, unless exempt pursuant to Section 9.2.1.

B. Change in Use: The fee for a change in use shall be determined by computing the difference in the fee amount between the existing and the proposed land use.

C. Expansion of non-residential land uses: The fee for expansion of a non-residential land use shall be determined by computing the difference in the fee amount for the existing and proposed expanded land use.

9.3.1 Fee Schedules

A. Residential

Land Use	Fee per Unit
Single Family Detached Unit	$1,890
Multi-Family Attached Unit	$1,300

B. Non-Residential

Land Use Category	Driveway Volume (ADT per 1000 Sq. Ft. or Other Units if Noted)	Adjustment Factor	Trip Generation (ADT per 1000 Sq. Ft. or Other Units if Noted)	Mitigation Fee (per 1000 Sq. Ft. or Other Units if Noted)
Bank	156	22%	34	$ 9,418
Carwash (per position)	40	22%	9	$ 2,493
Medical Clinic	31	50%	16	$ 4,432
General Office	11	50%	6	$ 1,662
Hardware Store	51	22%	11	$ 3,047
High turn-over restaurant	130	22%	29	$ 8,033
Industrial	2	50%	1	$ 277
Light Industrial	7	50%	4	$ 1,108
Lodging (per lodg'g unit)	6	50%	3	$ 831
Post Office	108	22%	24	$ 6,648
Quality Restaurant	90	22%	20	$ 5,540
Specialty Retail	40	22%	9	$ 2,493
Super Market	112	22%	25	$ 6,925
Video Store	54	22%	12	$ 3,324
Warehousing	5	50%	3	$ 831

C. Independent traffic study for calculating non-residential streets impact fee:

If the trip generation figures in the non-residential fee schedule above do not reflect the traffic generation of the proposed land use, or the proposed land use is not included in the schedule, the applicant can request permission from the fee administrator to conduct an independent traffic study. Independent traffic study calculations shall comply with the criteria listed in Section 9.3.2. If this method is used the following formula shall be used to compute the fee:

Trip Generation for Proposed Land Use (in Average Daily Trips) x $277 = Fee Amount

9.3.2 Independent traffic study criteria:

A. The fee may be calculated using an independent traffic study applied to the formula in Section 9.3.1 C, so long as:

1. The Fee Administrator determines if the traffic produced by the proposed land use is not properly reflected in the non-residential fee schedule (9.3.1 B) or is not one of the land uses listed in the non-residential 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 less than the amount of the fee generated by use of the schedule (9.3.1 B).

B. Applicant prepared independent traffic study: The preparation of the traffic study and the fee calculation derived from the formula in 9.3.1 C shall be the

responsibility of the applicant and shall be submitted to the Fee Administrator as part of the application for a zoning development permit required prior to issuance of a building permit pursuant to Section 6.21.

C. Subject of study: The independent traffic study shall provide the following information:

1. The total number of average daily trips to and from the proposed land use, also referred to as the "driveway volume" by transportation professionals.

2. The trip adjustment factor for the appropriate land use from the most recent version of the Institute of Transportation Engineers Trip Generation Manual, or as recommended by a qualified transportation professional.

3. The trip generation of the proposed land use in average daily trips.

4. The streets impact fee computed using the formula in 9.3.1 C.

D. Qualifications for the Study:

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 on trip characteristics carried out by a qualified planner or transportation professional pursuant to an accepted planning or transportation methodology.

E. Approval required: The fee administrator shall review the independent traffic study. Only when the fee administrator determines that the study is reasonable, accurate, and meets the criteria of this code shall the final fee calculation be accepted.

9.4 Credits

A. Any person applying to develop a traffic-generating land use may apply for a credit against the full price of the streets mitigation fee as calculated in 9.3 for any contribution, payment, construction, or dedication of land for any capacity related capital improvements to the overall Mancos streets system. No credits shall be provided for on-site or project related improvements. Such credits shall be offered as follows:

1. <u>A credit is an offset against the fee owed</u>. The applicant for the proposed land use 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. The credit shall be in an amount equal to the value of the contribution or payment at the time it was made to the Town of Mancos, the costs of streets 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 using the Boulder Denver CPI inflation rate.

3. Apportionment of credits for subdivisions. If system-wide streets improvements were performed for a subdivision as a whole in its initial review, then any credits shall be applied as follows:

a. The credit for the capacity related system-wide streets improvements performed shall first be applied to any existing development in the subdivision or planned development.

b. Any remaining credit shall be apportioned equally among the remaining undeveloped lots.

B. No credit if no payment. There shall be no credit for any system-wide streets improvements required through a development approval unless the property owner, or the property owner's predecessor in interest actually provided the mitigation prior to the effective date of this ordinance.

9.5 Impact fee procedures

9.5.1 Imposition of Impact Fees. Impact fee requirements shall be imposed in connection with all zoning development permits and payment of the fee price shall be due prior to the issuance of any building permit for all development in the Town of Mancos, unless exempt pursuant to Section 9.2.1.

9.5.2 Prior to the issuance of a building permit for any development requiring a development permit pursuant to Section 6.21 the applicant shall either: 1) obtain and submit a certificate of exemption from the fee administrator with the building permit –or– 2) pay the fee amount in the fee schedule (Section 9.3.1) or the fee price approved by the fee administrator as documented on the zoning development permit (Section 6.21).

9.5.3 Procedure for Certificate of Exemption: Any applicant for development claiming an exemption from the streets impact fee shall document their exemption by submitting the approval for streets impact fee exemption on the zoning development permit (Appendix A) with their building permit application.

9.5.4 Procedure for calculation of the streets impact fee: The streets impact fee price determined by the fee schedule or through an independent traffic study shall be documented on the zoning development permit as approved by the Fee Administrator. Any payment of the streets impact fee shall be documented on the building permit.

9.5.5 Procedure for determining credits: Applicants shall apply to the fee administrator for any credits against the streets impact fee. The credits shall be applied to the streets impact fee price as documented on the zoning development permit and approved by the fee administrator.

9.5.6 Procedure for independent traffic study: An applicant seeking to calculate the streets impact fee price using an independent traffic study shall apply to do so with the Fee Administrator pursuant to Section 9.3.2. The approved streets impact fee price shall be documented on the zoning development permit due with the building permit application. Any changes in the size or nature of the land use that occur during the building permit process shall be adjusted for in the final streets impact fee calculation.

9.5.7 Administration of Streets Impact Fee:

A. Building Permit Application Required. No fee payments shall be accepted from any property owner prior to building permit application. There shall be no pre-payment fees and no building permit shall be issued unless the applicant has paid the current fee applicable.

9.5.8 Appeal

Any appeal to any decision made herein shall be in accordance with the procedure set forth in Section 6.14, Appeals of the Town of Mancos Land Use Code.

9.5.9 Review Every Two Years: Chapter 9 may be reviewed annually by the Town Staff and a recommendation forwarded to the Board of Trustees addressing: 1) any necessary updates to data or methodology for the Impact Fee Requirements; 2) a report on the Impact Fee Requirements imposed and collected, including the amount of development exempted from Impact Fee Requirements; and 3) any other issue raised by the staff, elected and appointed officials, or the public. The failure of Town Staff to conduct a review every 2 years shall not result in the invalidation of Chapter 9, nor shall this provision be construed to create an affirmative enforceable obligation to perform the review.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2003.

TOWN OF MANCOS, COLORADO

_____
GREG RATH, Mayor

A T T E S T:

_____
AMY L. PHILLIPS, Town Clerk

PUBLISHED THE _____ DAY OF _____, 2003 BY AUTHORITY OF THE TOWN CLERK OF MANCOS, COLORADO.

A T T E S T:

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AMY L. PHILLIPS, Town Clerk