

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 25 A-B

DATE: November 21, 2006

STAFF: Darin Atteberry
Diane Jones
Ann Turnquist

SUBJECT

Items Relating to the Adoption of a Transportation Maintenance Fee and a Community Park Maintenance Fee.

RECOMMENDATION

Staff recommends adoption of the Ordinances on Second Reading.

FINANCIAL IMPACT

These Ordinances propose a Transportation Maintenance Fee (TMF) and a Community park Maintenance Fee (CPMF). The total net revenue from the new special services fees will equal approximately \$3.15 million per year. The TMF revenue will be allocated to the Pavement Management Program and the CPMF revenue will be allocated to the maintenance of City Parks.

	Transportation Maintenance Fee	Park Maintenance Fee	Total
New Revenue	\$1,736,568	\$1,686,722	\$3,423,290
Exemptions	\$<272,835>	n/a	\$<272,835>
Net Revenue	\$ 1,463,733	\$1,686,722	\$3,150,455

EXECUTIVE SUMMARY

- A. Second Reading of Ordinance No. 184, 2006, Amending Chapter 7.5 of the City Code to Establish a Transportation Maintenance Fee. (Option B-1 from First Reading)
- B. Second Reading of Ordinance No 185, 2006, Amending Chapter 7.5 of the City Code to Establish a Community Park Maintenance Fee. (Options B-1 and B-2)

On November 7, 2006, City Council adopted Ordinance No. 184, 2006 on First Reading by a vote of 5-2 (Nays: Ohlson, Roy). Ordinance No. 185, 2006 was adopted on First Reading by a vote of 6-1 (Nays: Roy). The Transportation Maintenance Fee (TMF) would be applied to all properties, including residential and non-residential properties, with \$1.06/month applied to residential properties. The Community Park Maintenance Fee (CPMF) would be applied to each residence in the City in the amount of \$2.67 per month. Fees will be added to utility bills beginning in January 2007.

The monthly TMF fee will be applied according to the following schedule:

Transportation Maintenance Fees		
Institutional	\$ 16.44	Per Acre
Industrial	\$ 13.09	Per Acre
High Traffic Retail	\$125.11	Per Acre
Retail	\$ 51.65	Per Acre
Commercial	\$ 16.44	Per Acre
Residential	\$ 1.06	Per Dwelling Unit

Total new fees (TMF and CPMF) to residences will be \$3.72 per month.

The new fees will add \$3.15 million in new revenue to the City's resources in 2007 and balance the 2007 Budget.

BACKGROUND

On First Reading on November 7, 2006, City Council approved the establishment of a Transportation Maintenance Fee and a Community Park Maintenance Fee. If approved on Second Reading, the fees will be effective on utility bills issued after January 1, 2007.

Council selected an option to create the two fees with approximately equal revenues. Council also voted to implement the TMF with exemptions for governments, public and private schools (K-12) and places of worship. The proposed TMF rates will be adjusted to increase the net revenue to accommodate all exemptions.

Transportation Maintenance Fee

The establishment of a TMF would provide supplemental funding to maintain city streets, bike lanes, medians (excluding landscaping), and City-maintained sidewalks. Maintenance includes such work as keeping pavement surfaces in good condition, performing seal coats as needed, repairing potholes and cracks, repaving and other work to keep the City's transportation system safe.

The fee would be applied to all non-exempt properties within the city limits, including residential properties and non-residential properties. The fee would be a flat dollar amount for each residential dwelling unit, based on trip generation data for residential uses. A flat fee of \$1.06 per dwelling unit will be added to monthly utility bills. Non-residential properties will be assessed the fee based on various categories of use and the trip generation characteristics of those categories.

Transportation Maintenance Fees		
Institutional	\$ 16.44	Per Acre
Industrial	\$ 13.09	Per Acre
High Traffic Retail	\$125.11	Per Acre
Retail	\$ 51.65	Per Acre
Commercial	\$ 16.44	Per Acre
Residential	\$ 1.06	Per Dwelling Unit

The net savings to the General Fund from enacting the TMF would be \$1,463,733, after utility billing costs, exemptions, rebates and bad debts. The fee of \$1.06 per month or \$12.72 per year per residential dwelling unit will appear on City utility bills produced after January 1, 2007. Nonresidential fees would be calculated based on a formula which includes trip generation data by land use type and acreage.

The fee will be adjusted annually for inflation based on the Denver-Boulder-Greeley Consumer Price Index and as directed by City Council. The fee will reduce the need for General Fund support of the street system. This funding would be in addition to the voter approved Building on Basics Street Maintenance Sales and Use Tax and revenue from state gas taxes and street cut fees. The total cost of the street maintenance program in 2007 is projected to be over \$9 million.

Community Park Maintenance Fee

The Council directed staff to provide two options for Second Reading of the Park Maintenance Fee Ordinance. The implementation of the CPMF as originally drafted (Option B-1) would support maintenance of the City's community park system. The implementation of Option B-2 would fund maintenance of neighborhood parks as well as community parks. The fee will be imposed on all residential dwelling units as defined in the attached ordinance. A flat fee of \$2.67 per dwelling unit will be added to monthly utility bills beginning in 2007.

The fee will be used in conjunction with General Fund resources to fund all aspects of maintaining parks. Maintenance includes, but is not limited to maintenance of all landscaped areas, facilities and infrastructure, administration, and minor capital improvements as needed to keep the park facilities in safe and usable condition for the general public.

The net savings to the General Fund from enacting the CPMF would be \$1,686,722 after utility billing costs, rebates and bad debts. The fee of \$2.67 per month or \$32.04 per year will appear on City utility bills produced after January 1, 2007.

The fee will be adjusted annually for inflation based on the Denver-Boulder-Greeley Consumer Price Index and as directed by City Council. The fee would reduce the need for General Fund support in the park system and provide a possible funding source for future maintenance of new parks.

Rebates

A rebate program will be established to offset the impact of the new fees on low-income residents. Residents will have to meet qualifications previously established through the rebate program for sales tax on food as well as the new State immigration requirements. One rebate check will be issued per dwelling unit for both fees and the grocery tax rebate. The rebate would be up to 100% of the total fee paid. The rebate for both fees in 2007 will be \$ 44.76 per low-income household. Rebates would be made to qualified residents in 2008 for fees paid in 2007.

Exemptions

Staff recommends that the TMF exempt all property owned and occupied by government entities and public schools. Though both generate a significant number of trips per day, charging a fee to these entities would only serve to shift public money from one type of government to another and would diminish the public revenues available to them to carry out their public purposes. No new net increase in funds available for public services would be achieved.

On November 7, Council voted to provide exemptions from the TMF for places of worship and private schools (K-12).

EXEMPTION COSTS	
Transportation Maintenance Fee	
Public Schools	\$132,029
Government	\$ 77,987
Places of Worship	\$57,494
Private Schools	\$5,325
Grand Total	\$272,835

The final ordinance will include exemptions for government and public school properties as well as places of worship and private (k-12) schools. The total cost of all exemptions will be \$272,835.

ATTACHMENTS

1. New Fee Calculator, November 21, 2006.

Transportation Maintenance Fee and Park Maintenance Fee Calculations

New Fee Recommendation Calculator

Transportation Maintenance Fee		Revenue Sought	
(Enter target here)	\$ 2,640,000	General Fund Pvmt. Mgmt. Need	
	\$ 700,000	Proposed Cut	
	\$ 1,940,000	Net General Fund Need	
TMF Fee Schedule			
		Percent of Fee by Land Use	
Institutional	\$16.44 Per Acre	13%	
Industrial	\$13.09 Per Acre	4%	
High Traffic Retail	\$125.11 Per Acre	14%	
Retail	\$51.65 Per Acre	24%	
Commercial	\$16.44 Per Acre	9%	
Residential	\$1.06 Per Unit	36%	
Possible Exemptions			
	Acres		
Annual Fee for Churches	291.50	\$57,494	\$57,494 <input checked="" type="checkbox"/>
Annual Fee for all Government	395.40	\$77,987	\$77,987 <input checked="" type="checkbox"/>
Annual Fee for Public Schools	669.40	\$132,029	\$132,029 <input checked="" type="checkbox"/>
Annual Fee for Private Schools	27.00	\$5,325	\$5,325 <input checked="" type="checkbox"/>
Total Possible Exemptions:		\$272,835	
<i>(All exemptions must be paid by General Fund Contribution)</i>			
Total Fee	\$ 1,940,000		
Administrative Cost	\$ (130,000)		
Rebate/Delinquencies	\$ (73,432)		
General Fund for exemptions	\$ (272,835)		
Net to Pavement Management Program	\$1,463,733		

Park Maintenance Fee Calculation			
Target (enter fee total here)	\$ 1,850,000	Monthly Fee:	\$ 2.67
Actual Yield (less admin, rebate, delinq)	\$ 1,686,722		

Sample Transportation Maintenance Fees			
Use	Monthly Fee	Yearly Fee	Lot Size in Acres
Industrial			
Manufacturing	\$70.71	\$848.54	5.4
Manufacturing	\$916.64	\$10,999.63	70
Retail			
Drug Store	\$108.47	\$1,301.64	2.1
Old Town Restaurant	\$10.33	\$123.97	0.2
Old Town Shop	\$6.20	\$74.38	0.12
Large Retail	\$511.36	\$6,136.30	9.9
Institutional			
Church (large lot)	\$82.18	\$986.17	5
Church (small lot)	\$8.22	\$98.62	0.5
Elementary School	\$88.76	\$1,065.07	5.4
High School	\$197.23	\$2,366.82	12
High Traffic Retail			
Fast Food	\$225.21	\$2,702.46	1.8
Bank	\$150.14	\$1,801.64	1.2
Convenience Store	\$100.09	\$1,201.09	0.8
Grocery Store	\$738.17	\$8,858.07	5.9
Commercial			
Law Office	\$4.11	\$49.31	0.25
Motel	\$23.01	\$276.13	1.4
Daycare Center	\$12.66	\$151.87	0.77
Total New Fee Cost Per Residential Unit:		\$3.72	
Total New Fee Revenue		\$ 3,150,455	
Distribution of Total New Fees By Land Use			
70% Residential			
30% Non-Residential			

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 29

DATE: November 7, 2006

**STAFF: Darin Atteberry
Diane Jones
Ann Turnquist**

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SUBJECT

Items Relating to the Adoption of a Transportation Maintenance Fee and a Community Park Maintenance Fee.

RECOMMENDATION

Staff recommends adoption of the Ordinances under Option B on First Reading.

FINANCIAL IMPACT

These Ordinances propose a Transportation Maintenance Fee (TMF) and a Community Park Maintenance Fee (CPMF). The total net revenue from the new special services fees will equal approximately \$3.14 million per year. The TMF revenue will be allocated to the Pavement Management Program and the CPMF revenue will be allocated to the maintenance of community parks.

Revenue Weighting	Residential Fee			Revenue		Total Revenue
	TMF	CPMF	Total	TMF *	CPMF	
Option A: Weighted to TMF	\$ 1.53	\$ 1.44	\$ 2.97	\$2,260,900	\$ 879,864	\$ 3,140,764
Option B: Balanced TMF/CPMF	\$ 1.01	\$ 2.67	\$ 3.68	\$1,449,702	\$1,686,722	\$ 3,136,424

*TMF rates for non-residential properties are set by formula. The CPMF would not apply to non-residential properties.

EXECUTIVE SUMMARY

OPTION A: Revenue Weighted to TMF

1. First Reading of Ordinance No. 184, 2006, Amending Chapter 7.5 of the City Code to Establish a Transportation Maintenance Fee. (Option A)

AND

First Reading of Ordinance No. 185, 2006, Amending Chapter 7.5 of the City Code to Establish a Community Park Maintenance Fee. (Option A)

OPTION B: Equal Revenue from TMF and CPMF

2. First Reading of Ordinance No. 184, 2006, Amending Chapter 7.5 of the City Code to Establish a Transportation Maintenance Fee. (Option B)

AND

First Reading of Ordinance No. 185, 2006, Amending Chapter 7.5 of the City Code to Establish a Community Park Maintenance Fee. (Option B)

At the October 10, 2006 Work Session, City Council directed staff to prepare two alternatives for the proposed Transportation Maintenance Fee (TMF) and Community Park Maintenance Fee (CPMF). Option A would weight the fee revenue toward the TMF, while Option B would equally divide the revenue between the TMF and CPMF. For each option (A and B), a TMF ordinance and a CPMF ordinance are presented. The Option A ordinances or the Option B ordinances should be adopted as a set.

In summary, the two options would generate the same amount of new revenue, approximately \$3.14 million per year in 2007.

Option A weights the fee revenue toward the TMF

- \$2,260,900 (72%) from TMF
- \$ 879,864 (28%) from CPMF
- Residential pays 54% (\$1,696,013)
- Non-residential pays 46% (\$1,444,751)

Option B equalizes the fee revenue between TMF and CPMF

- \$1,449,702 (46%) from TMF
- \$1,686,722 (54%) from CPMF
- Residential pays 70% (\$2,195,497)
- Non-residential pays 30% (\$940,927)

Both options generate approximately the same amount of total revenue. Staff recommends adoption of Option B, which would establish two new fees with equal revenue from each fee. This option would mitigate some of the impact on businesses which would have been created under Option A.

Each of the fees is based on recovering a portion of the cost of the respective programs. The total cost of the Pavement Management Program is over \$9 million (\$5.5 million is funded through the Building on Basics Street Maintenance Sales Tax), and the total cost of maintaining the City's community parks is \$2.6 million. These figures represent the maximum amount that could be charged through a special service fee. Neither of the proposed options exceeds the costs.

BACKGROUND

Special Service Fees

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The proposed TMF and CPMF are "special service fees." Such fees have been increasingly used by Colorado municipalities over the last couple of decades as a means of providing supplementary funding for particular government services. In order to establish a legitimate special service fee, several court-established tests must be met in formulating the fee and expending the proceeds from the fee. Essentially, a special service fee is distinguished from a tax in that it: (1) is imposed on persons or property to defray the costs of a particular governmental service rather than the general expenses of government; (2) the amount generated by fee must be reasonably related to the overall costs of providing the service funded by the fee; (3) the methodology used to determine the amount paid by individual fee payers must have a rational basis; and (4) revenues generated by the fee must be segregated and used only for the purposes for which the fee is imposed.

Both the TMF and CPMF have been prepared by City staff with these criteria in mind. Neither fee would generate revenues in excess of the cost of maintaining City streets and parks, and a substantial portion of those costs will continue to be borne by other revenue sources.

Community Park Maintenance Fee

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The implementation of the CPMF would support maintenance of the City's community park system. The fee will be imposed on all residential dwelling units as defined in the attached ordinance. A flat fee of \$1.44 (*Option A*) or \$2.67 (*Option B*) per dwelling unit will be added to monthly utility bills beginning in 2007.

The fee will be used in conjunction with General Fund resources to fund all aspects of maintaining community parks. Maintenance includes, but is not limited to maintenance of all landscaped areas, facilities and infrastructure, administration, and minor capital improvements as needed to keep the park facilities in safe and usable condition for the general public.

Under *Option A*, the CPMF contribution toward the maintenance of the City's community park system would result in net savings to the General Fund, after utility billing costs, rebates and bad debts, of \$880,000. The fee of \$1.44 per month or \$17.28 per year would appear on City utility bills produced after January 1, 2007.

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Under *Option B*, the net savings to the General Fund from enacting the CPMF would be \$1,686,722 after utility billing costs, rebates and bad debts. The fee of \$2.67 per month or \$32.04 per year will appear on City utility bills produced after January 1, 2007.

Under either scenario, the fee would be adjusted annually for inflation based on the Denver-Boulder-Greeley Consumer Price Index and as directed by City Council. The fee would reduce the need for General Fund support in the park system and provide a possible funding source for future maintenance of new parks.

Transportation Maintenance Fee

The establishment of a TMF would support maintaining city streets, bike lanes, medians (excluding landscaping), and City maintained sidewalks. Maintenance includes such work as keeping pavement surfaces in good condition, performing seal coats as needed, repairing potholes and cracks, repaving and other work to keep our transportation system safe.

The fee would be applied to all non-exempt properties within the city limits, including residential properties and non-residential properties. The fee would be a flat dollar amount for each residential dwelling unit, based on trip generation data for residential uses. A flat fee of \$1.53 (*Option A*) or \$1.01 (*Option B*) per dwelling unit will be added to monthly utility bills. Non-residential properties would be assessed the fee based on various categories of use and the trip generation characteristics of those categories.

Under *Option A*, the TMF contribution toward the maintenance of the City's street system would result in a net savings to the General Fund, after utility billing costs, rebates and bad debts, of \$2,260,900. The fee of \$1.53 per month or \$18.36 per year per residential dwelling unit would appear on City utility bills produced after January 1, 2007. Non-residential fees would be calculated based on a formula which includes trip generation data by land use type and acreage.

Under *Option B*, the net savings to the General Fund from enacting the TMF would be \$1,449,702, after utility billing costs, rebates and bad debts. The fee of \$1.01 per month or \$12.12 per year per residential dwelling unit would appear on City utility bills produced after January 1, 2007. Non-residential fees would be calculated based on a formula which includes trip generation data by land use type and acreage.

Under either scenario, the fee would be adjusted annually for inflation based on the Denver-Boulder-Greeley Consumer Price Index and as directed by City Council. The fee would reduce the need for General Fund support of the street system. This funding would be in addition to the voter approved Building on Basics Street Maintenance Sales and Use Tax and revenue from state gas taxes and street cut fees. The total cost of the street maintenance program in 2007 is projected to be over \$9 million.

Rebates

A rebate program would be established to offset the impact of the new fees on low-income residents. Residents would have to meet qualifications previously established through the rebate program for sales tax on food as well as the new State immigration requirements. One rebate check would be issued per dwelling unit for both fees and the grocery tax rebate. The rebate would be up to 100% of the total fee paid. The rebate for both fees in 2007 would range from \$35.64 to \$41.16 per low-income household, depending on the alternative approved by Council. Rebates would be made to qualified residents in 2008 for fees paid in 2007.

Exemptions

Staff recommends that the TMF exempt all property owned and occupied by government entities and public schools. Though both generate a significant number of trips per day, charging a fee to these entities would only serve to shift public money from one type of government to another and would diminish the public revenues available to them to carry out their public purposes. No net increase in funds available for public services would be achieved.

Council has asked staff to also provide data and an option to provide exemptions from the TMF for places of worship and private schools (K-12).

EXEMPTION COSTS		
Transportation Maintenance Fee		
Property Category	Option A: Revenue Weighted to TMF	Option B: Balanced Revenue
Government	\$112,558	\$74,369
Public Schools	\$190,557	\$125,904
Sub-total	\$303,115	\$200,273
Places of worship	\$82,981	\$54,827
Private Schools	\$7,686	\$5,078
Grand Total	\$393,782	\$260,178

Staff recommends exempting government and public school properties for a total exemption of \$303,115 for *Option A* or \$200,273 for *Option B*. Staff does not recommend providing an exemption for places of worship or private schools.

In case Councilmembers wish to include exemptions for places of worship and private schools, alternative TMF ordinances for *Option A* and *Option B* have been included within the two TMF ordinances. Options A-1 and B-1 would provide exemptions for places of worship and private schools. If these additional exemptions were approved by the Council, TMF annual revenues would be reduced by \$90,667 under *Option A* and by \$59,905 under *Option B*. "Places of worship" and "private schools" are defined in the Ordinance.

ATTACHMENTS

1. New Fee Recommendation Calculator, *Option A* and *Option B*.
2. New Fee Revenue Adoption, Transportation Maintenance Fee and Community Park Maintenance Fee, November 7, 2006

ORDINANCE NO. 184, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7.5 OF THE CODE OF THE CITY OF FORT COLLINS TO
ESTABLISH A TRANSPORTATION MAINTENANCE FEE

WHEREAS, the City has, over recent years, experienced a downturn in revenues that has challenged the City's ability to deliver the same, high-quality level of services that its residents have historically enjoyed; and

WHEREAS, this reduction in revenues has led to substantial budget cuts and service reductions; and

WHEREAS, the Colorado courts have recognized the ability of home rule municipalities such as Fort Collins to enact special service fees to help defray the costs of providing particular government services; and

WHEREAS, such special service fees must be cost related and calculated in a manner that will fairly and rationally distribute the costs of the funded services among those who benefit from the services; and

WHEREAS, the Council believes it to be necessary and appropriate to adopt a Transportation Maintenance Fee ("TMF") to defray a portion of the cost incurred by the City in maintaining City streets, with the remaining portion of said costs to be funded by other, existing revenue sources of the City; and

WHEREAS, City staff has a proposed formula for calculating such fee that fairly and rationally reflects the proportionate share of such costs to be borne by those who benefit from the funded services; and

WHEREAS, the proposed TMF would be imposed on the owners of all non-exempt, developed property in the City, with each feepayer's share of the TMF to be based on the size of the developed parcel of property and the number of vehicular trips typically generated by the type of use to which the property is put; and

WHEREAS, based upon accepted Transportation Engineering practices, all properties that would be subject to the TMF generate impacts upon the City's transportation system that are commensurate with the amount of the fee to be assessed those properties; and

WHEREAS, the City's streets and transportation system is available to all fee payers, so that the properties paying the fee will continue to benefit from the use of the fee revenues to maintenance of maintain the City's street system; and

WHEREAS, the Council believes it to be in the City's best interests to exempt from the TMF those properties that are owned **and/or** occupied by publicly funded entities in order to avoid diminishing the public revenues available to those entities and to carry out their public purposes; and

WHEREAS, the Council further believes it to be in the City's best interests to **also** exempt from the TMF properties that are owned **and/or** occupied by places of worship, so as to not impose a burden on religion through the imposition of this fee, and **to exempt** private schools **as well**, so as to treat both public and private schools equally **under this Ordinance**.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that a Chapter 7.5 of the Code of the City of Fort Collins is hereby amended by the addition of a new Article IX to read as follows:

ARTICLE IX.
TRANSPORTATION MAINTENANCE FEE

Sec. 7.5-110. Intent.

The provisions of this Article are intended to impose a special service fee for the operation and maintenance of City's transportation system, in an amount calculated as shown herein. Said fee shall not be used to collect more than is necessary to fund such operation and maintenance. The revenues from said fee shall be used to keep the City's transportation system maintained, clean and safe, and for administration of the provisions of this Article, in order that the health, safety and welfare of users of the City's transportation system may be safeguarded.

Sec. 7.5-111. Definitions.

When used in this Article, the following words and terms shall have the following meanings:

Commercial shall mean any premises not a dwelling or residential use, or a retail, high-traffic retail, industrial or institutional use.

Director shall mean the Director of Transportation Services or his or her designee.

Dwelling unit, shall mean one (1) or more rooms and a single kitchen and at least one(1) bathroom designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family, for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed use building.

Feepayer shall mean a person or entity who is obligated to pay a fee in accordance with the provisions of this Article.

Financial Officer shall mean the Financial Officer of the City of Fort Collins or such other person designated by the municipality. *Financial Officer* shall also include such person's designee.

High-Traffic Retail shall mean any retail establishment (whether greater or lesser in size than twenty-five thousand (25,000) square feet) which has automobile volumes greater than one thousand (1,000) trips per day/per acre.

Industrial shall mean any business devoted primarily to manufacturing, processing, assembly or storage of tangible personal property; any research facility, experimental or testing laboratory, warehouse, distribution or wholesale use, utility service facility, aircraft hangar and repair facility for aircraft, construction contracting facility, mineral extraction facility; and caretaker's quarters and other accessory buildings reasonably required for maintenance or security of such uses.

Institutional shall mean any place of worship or assembly, public use, semi-public use, community facility, school, hospital or cemetery.

Mobile home space shall mean any place designed for the placement of a mobile home or trailer and improved with City utilities.

Multi-family dwelling shall mean a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses, sorority houses and similar group accommodations.

Place of worship shall mean a building containing a sanctuary, hall, auditorium or other suitable room or rooms used by the occupants of such structure for the purpose of conducting religious services. *Place of worship* shall include churches, synagogues, mosques, temples and the like.

Private school shall mean any school that offers any or all grades from kindergarten through twelfth (12th) grade education that is not associated with a school district.

Retail shall mean any retail establishment (whether greater or lesser in size than twenty-five thousand (25,000) square feet) engaged in the sale or rental of goods or services to the public that is not high-traffic retail.

Trip shall mean a single or one-directional vehicle movement.

Trip Generation shall mean the number of trips attracted to or created by a specific building or land use as defined by the Institute of Transportation Engineers (ITE) Trip Generation Manual.

Sec. 7.5-112. Imposition of fee.

(a) Except as provided in subsection (d) below, there is hereby established a transportation maintenance fee which shall be imposed pursuant to the provisions of this Article, on property within the city for the purpose of funding the operation and maintenance of the city's transportation system.

(b) The amount of the fee for 2007 shall be ~~\$1.01~~1.06 per dwelling unit per month and, for all other uses shall be in accordance with the following schedule and formula:

Each lot, tract, or parcel used for institutional purposes: ~~\$15.67~~16.44 per month for each acre

Each lot, tract, or parcel used for industrial purposes: ~~\$12.49~~13.09 per month for each acre

Each lot, tract, or parcel used for high traffic retail purposes: ~~\$119.31~~125.11 per month for each acre

Each lot, tract, or parcel used for retail purposes: ~~\$49.26~~51.65 per month for each acre

Each lot, tract, or parcel used for commercial purposes: ~~\$15.67~~16.44 per month for each acre

Calculation of Fee for Each Category:

Average Daily Trips Per D.U. or Acre	x	D.U. or Acres	=	Total Daily Trips by Category	x	365 days	=	Total Annual Trips
Target Annual Revenue	÷	Trips per Year	=	Cost Per Trip	x	Total Annual Trips per D.U. or Acre	=	Annual Fee

D.U. = Dwelling Unit

Acres = Parcel acreage for each non-residential utility billing customer

(c) The amount of the fee may be adjusted up or down from time to time based upon revised estimates of the costs of maintenance of the City's street system, revised categories of uses and trip generation factors, and other factors reasonably related to the needs created or contributed to by properties subject to the fee, but in no event shall the amount of the fee collected exceed the projected costs for operation and maintenance of the city's transportation system.

(d) The transportation maintenance fee shall not be charged against property owned or occupied by the United States, the State of Colorado, Colorado State University, Larimer County, any school district (including charter schools) or any other political subdivision established by the law of the State of Colorado or the United States, or **any property used primarily as a** place of worship or private school.

Sec. 7.5-113. Billing; collection; expenditure of proceeds; enforcement.

(a) The fee shall be billed and collected with monthly City utility bills issued on or after January 1, 2007, pursuant to Article XII of Chapter 26 of the Code regarding utility accounts, billing and collections, for each property utilizing City utilities, whether billed to the owner or occupant of property, except that the City may not disconnect utility services to a property solely for non-payment or delinquent payment of the transportation maintenance fee.

(b) The utility shall be entitled to retain from fee proceeds, or to otherwise be reimbursed for, its costs of billing and collection, as required by Art. V, §23 of the Charter. The remaining proceeds from the fee shall be deposited in a restricted account within the Transportation Fund and shall be used solely to fund the maintenance of city streets, including curbs, gutters, bridges, parkways, shoulders, bike lanes, medians and city-maintained sidewalks, but not including landscaping.

(c) The Financial Officer may formulate and promulgate rules and regulations for the administration of this Article, not inconsistent with the provisions of this Article, with respect to the billing and collection of the transportation maintenance fee and other related matters. Such rules and regulations shall be consistent with rules and regulations authorized by Section 26-720 of the City Code regarding billing and collection of utility fees and charges.

Sec. 7.5-114. Unpaid charges a lien.

(a) The fee imposed by this Article, together with interest and the collection costs, if not paid by the due date specified on the utility bill, constitute a perpetual lien on the property to which the fee applies.

(b) The attachment of such lien is not dependent on the recording of written

notice, and the lien is prior and superior to all other liens, claims, titles and encumbrances whether or not prior in time except liens for general taxes and utilities. The lien remains attached to the property from the date the fees became due until the delinquent fees, together with interest and costs of collection, if any, are paid.

(c) When the tenant in possession of the property served or any third person pays the transportation maintenance fee, it shall relieve the landowner from the obligations and lien imposed by this Article, but the City is not required to seek payment of the transportation maintenance fee from any person other than the owner. No change of ownership, occupation or possession shall affect the application of this Section, and the failure of any owner to discover that he or she purchased property against which a lien for the transportation maintenance fee exists shall in no way affect such owner's liability for payment in full.

(d) The City may enforce the lien by a suit for foreclosure and sale of the property subject to the lien. The proceeds of the sale shall be applied to the unpaid fees and allowable costs in the manner provided for foreclosure of statutory liens. The lien may also be enforced by certification of assessment upon the property to the County Treasurer for collection by the County in the same manner as delinquent general taxes and special assessments upon such property are collected or by any other means provided by law.

(e) Delinquent fees together with interest and collection costs may also be collected by civil suit against the owner of the property served, or by any other lawful means, at any time after the charges become delinquent. The remedies provided under this Article are cumulative and supplemental to each other.

Sec. 7.5-115. Rebates.

(a) Persons who meet the requirements listed in Sec. 25-49 of the City Code regarding the sales tax rebate on food may apply annually for a rebate of up to one hundred (100) percent of the transportation maintenance fee paid in the preceding calendar year.

(b) The Financial Officer shall administer the rebate program established by this Section, and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Article and audit and verify the applications submitted pursuant to this Section. Any refund application form shall require the applicant to verify and sign the application under oath. The burden shall be on the applicant to prove entitlement to a rebate under this Section, including proof that the applicant paid the transportation maintenance fee in full for the calendar year for which application is made. The Financial Officer may require reasonable information to support the rebate application.

Sec. 7.5-116. Appeals.

Property owners or tenants may appeal to the Director in writing at any time the question of whether properties owned or occupied by them are being charged the proper fee under the provisions of this Article. The burden shall be on the applicant to provide substantial, competent evidence that the property that is the subject of the appeal is not being charged the proper fee. The Director may hold a hearing on the appeal in his or her discretion, and may consider other competent evidence provided by City staff. The Director's written decision shall be mailed to the applicant within thirty (30) days of receipt of the appeal. The applicant may appeal the Director's decision to the City Manager pursuant to Division 3 of Chapter 2 of the City Code. A successful applicant shall not be entitled to a refund of any fees paid for the subject property prior to the date of the Director's decision.

Introduced, considered favorably on first reading, and ordered published this 7th day of November, A.D. 2006, and to be presented for final passage on the 21st day of November, A.D. 2006.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of November, A.D. 2006.

Mayor

ATTEST:

City Clerk

**ORDINANCE NO. 185, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7.5 OF THE CODE OF THE CITY OF FORT COLLINS
TO ESTABLISH A COMMUNITY PARK MAINTENANCE FEE**

WHEREAS, the City has, over recent years, experienced a downturn in revenues that has challenged the City's ability to deliver the same, high-quality level of services that its residents have historically enjoyed; and

WHEREAS, this reduction in revenues has led to substantial budget cuts and service reductions; and

WHEREAS, the Colorado courts have recognized the ability of home rule municipalities such as Fort Collins to enact special service fees to help defray the costs of providing particular government services; and

WHEREAS, such special service fees must be cost related and calculated in a manner that will fairly and rationally distribute the costs of the funded services among those who benefit from the services; and

WHEREAS, the Council believes it to be necessary and appropriate to adopt a Community Park Maintenance Fee ("CPMF") to defray a portion of the costs of maintaining community parks, with the remaining portion of said costs to be funded by other, existing revenue sources of the City; and

WHEREAS, City staff has proposed a formula for calculating such fee that fairly and rationally reflects the proportionate share of such costs to be borne by those who benefit from the funded services; and

WHEREAS, the proposed CPMF would be imposed on all residential properties in the City, with the owner of each residential dwelling unit to pay the same proportionate share of the fee; and

WHEREAS, pursuant to the City's Parks and Recreation Policy Plan, all dwelling units that would be subject to the CPMF are located within a reasonable distance from one or more community parks.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Chapter 7.5 of the Code of the City of Fort Collins is hereby amended by the addition of a new Article VIII to read as follows:

ARTICLE VIII.
COMMUNITY PARK MAINTENANCE FEE

Sec. 7.5-100. Intent.

The provisions of this Article are intended to impose a special service fee for the maintenance of City-owned community parks, in an amount calculated as shown herein. Said fee shall not be used to collect more than is necessary to fund such maintenance. The revenues from said fee shall be used to repair park grounds and facilities and keep them maintained, clean and safe for all scheduled and unscheduled activities within the City's community park system, and for administration of the provisions of this Article, in order that the health, safety and welfare of park users may be safeguarded.

Sec. 7.5-101. Definitions.

When used in this Article, the following words and terms shall have the following meanings:

Director shall mean the Director of Cultural, Library and Recreation Services or his or her designee.

Dwelling unit shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed use building.

Feepayer shall mean a person or entity who is obligated to pay a fee in accordance with the provisions of this Article.

Financial Officer shall mean the Financial Officer of the City of Fort Collins or such other person designated by the municipality. *Financial Officer* shall also include such person's designee.

Multi-family dwelling shall mean a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses, sorority houses and similar group accommodations.

Sec. 7.5-102. Imposition of fee.

(a) There is hereby established a community park maintenance fee which shall be imposed, pursuant to the provisions of this Article, on each dwelling unit within the city for the purpose of funding the maintenance of community parks.

(b) The amount of the fee for 2007 shall be two dollars and sixty-seven cents (\$2.67) per dwelling unit per month. Said amount represents the portion of total community park maintenance costs to be borne by the fee, as determined by the City Council, divided by the total number of dwelling units within the city. The amount of the fee shall be increased annually according to the Denver-Boulder Consumer Price Index for Urban Consumers, as published by the Bureau of Labor Statistics. In no event shall the amount of the fee collected in any one (1) year exceed the projected annual costs for maintenance of community parks.

Sec. 7.5-103. Billing; collection; expenditure of proceeds; enforcement.

(a) The fee shall be billed and collected with monthly City utility bills issued on or after January 1, 2007, pursuant to Article XII of Chapter 26 of the City Code regarding utility accounts, billing and collections, for each dwelling unit utilizing City utilities, whether billed to the owner or occupant of such dwelling unit, except that the City may not disconnect utility services to a property solely for non-payment or delinquent payment of the community park maintenance fee.

(b) The utility shall be entitled to retain from fee proceeds, or to otherwise be reimbursed for, its costs of billing and collection, as required by Article V, §23 of the Charter. The remaining proceeds from the fee shall be deposited in a restricted account within the General Fund and shall be used solely to fund the maintenance and repair of community park facilities and infrastructure, the administration of community parks, the construction of minor capital improvements, and the replacement of existing facilities.

(c) The Financial Officer may formulate and promulgate rules and regulations for the administration of this Article, not inconsistent with the provisions of this Article, with respect to the billing and collection of the community park maintenance fee and other related matters. Such rules and regulations shall be consistent with rules and regulations authorized by § 26-720 of the City Code regarding billing and collection of utility fees and charges.

Sec. 7.5-104. Unpaid charges a lien.

(a) The fee imposed by this Article, together with interest and the collection costs, if not paid by the due date specified on the utility bill, constitute a perpetual lien on the property to which the fee applies.

(b) The attachment of such lien is not dependent on the recording of written notice, and the lien is prior and superior to all other liens, claims, titles and encumbrances whether or not prior in time except liens for general taxes and utilities. The lien remains attached to the property from the date the fees became due until the delinquent fees, together with interest and costs of collection, if any, are paid.

(c) When the tenant in possession of the property served or any third person pays the community park maintenance fee, it shall relieve the landowner from the obligations and lien imposed by this Article, but the City shall not be required to seek payment of the community park maintenance fee from any person other than the owner. No change of ownership, occupation or possession shall affect the application of this Section, and the failure of any owner to discover that he or she purchased property against which a lien for the community park maintenance fee exists shall in no way affect such owner's liability for payment in full.

(d) The City may enforce the lien by a suit for foreclosure and sale of the property subject to the lien. The proceeds of the sale shall be applied to the unpaid fees and allowable costs in the manner provided for foreclosure of statutory liens. The lien may also be enforced by certification of assessment upon the property to the County Treasurer for collection by the County in the same manner as delinquent general taxes and special assessments upon such property are collected or by any other means provided by law.

(e) Delinquent fees together with interest and collection costs may also be collected by civil suit against the owner of the property served, or by any other lawful means, at any time after the charges become delinquent. The remedies provided under this Article are cumulative and supplemental to each other.

Sec. 7.5-105. Rebates.

(a) Persons who meet the requirements listed in § 25-49 of the City Code regarding the sales tax rebate on food may apply annually for a rebate of up to one hundred (100) percent of the community park maintenance fee paid in the preceding calendar year.

(b) The Financial Officer shall administer the rebate program established by this Section, and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Article and audit and verify the applications submitted pursuant to this Section. Any refund application form shall require the applicant to verify and sign the application under oath. The burden shall be on the applicant to prove entitlement to a rebate under this Section, including proof that the applicant paid the community park maintenance fee in full for the calendar year for which application is made. The Financial Officer may require reasonable information to support the rebate application.

Sec. 7.5-106. Appeals.

Property owners or tenants may appeal to the Director in writing at any time the question of whether properties owned or occupied by them are dwelling units subject to the provisions of this Article. The burden shall be on the applicant to provide substantial, competent evidence that the property that is the subject of the

appeal is not a dwelling unit. The Director may hold a hearing on the appeal in his or her discretion, and may consider other competent evidence provided by City staff. The Director's written decision shall be mailed to the applicant within thirty (30) days of receipt of the appeal. The applicant may appeal the Director's decision to the City Manager pursuant to Division 3 of Chapter 2 of the City Code. A successful applicant shall not be entitled to a refund of any fees paid for the subject property prior to the date of the Director's decision.

Introduced, considered favorably on first reading, and ordered published this 7th day of November, A.D. 2006, and to be presented for final passage on the 21st day of November, A.D. 2006.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of November, A.D. 2006.

Mayor

ATTEST:

City Clerk

OPTION B-2

ORDINANCE NO. 185, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7.5 OF THE CODE OF THE CITY OF FORT COLLINS
TO ESTABLISH A ~~COMMUNITY~~-PARK MAINTENANCE FEE

WHEREAS, the City has, over recent years, experienced a downturn in revenues that has challenged the City's ability to deliver the same, high-quality level of services that its residents have historically enjoyed; and

WHEREAS, this reduction in revenues has led to substantial budget cuts and service reductions; and

WHEREAS, the Colorado courts have recognized the ability of home rule municipalities such as Fort Collins to enact special service fees to help defray the costs of providing particular government services; and

WHEREAS, such special service fees must be cost related and calculated in a manner that will fairly and rationally distribute the costs of the funded services among those who benefit from the services; and

WHEREAS, the Council believes it to be necessary and appropriate to adopt a ~~Community~~ Park Maintenance Fee ("CPMF") to defray a portion of the costs of maintaining **neighborhood and** community parks, with the remaining portion of said costs to be funded by other, existing revenue sources of the City; and

WHEREAS, City staff has proposed a formula for calculating such fee that fairly and rationally reflects the proportionate share of such costs to be borne by those who benefit from the funded services; and

WHEREAS, the proposed CPMF would be imposed on all residential properties in the City, with the owner of each residential dwelling unit to pay the same proportionate share of the fee; and

WHEREAS, pursuant to the City's Parks and Recreation Policy Plan, all dwelling units that would be subject to the CPMF are located within a reasonable distance from one or more ~~community~~ **City** parks.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Chapter 7.5 of the Code of the City of Fort Collins is hereby amended by the addition of a new Article VIII to read as follows:

ARTICLE VIII.
~~COMMUNITY~~-PARK MAINTENANCE FEE

Sec. 7.5-100. Intent.

The provisions of this Article are intended to impose a special service fee for the maintenance of City-owned ~~community~~ parks, in an amount calculated as shown herein. Said fee shall not be used to collect more than is necessary to fund such maintenance. The revenues from said fee shall be used to repair park grounds and facilities and keep them maintained, clean and safe for all scheduled and unscheduled activities within the City's ~~community~~ park system, and for administration of the provisions of this Article, in order that the health, safety and welfare of park users may be safeguarded.

Sec. 7.5-101. Definitions.

When used in this Article, the following words and terms shall have the following meanings:

Director shall mean the Director of Cultural, Library and Recreation Services or his or her designee.

Dwelling unit shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed use building.

Feepayer shall mean a person or entity who is obligated to pay a fee in accordance with the provisions of this Article.

Financial Officer shall mean the Financial Officer of the City of Fort Collins or such other person designated by the municipality. *Financial Officer* shall also include such person's designee.

Multi-family dwelling shall mean a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses, sorority houses and similar group accommodations.

Sec. 7.5-102. Imposition of fee.

(a) There is hereby established a ~~community~~ park maintenance fee which shall be imposed, pursuant to the provisions of this Article, on each dwelling unit within the city for the purpose of funding the maintenance of ~~community~~ **City** parks.

(b) The amount of the fee for 2007 shall be two dollars and sixty-seven

cents (\$2.67) per dwelling unit per month. Said amount represents the portion of total ~~community~~ park maintenance costs to be borne by the fee, as determined by the City Council, divided by the total number of dwelling units within the city. The amount of the fee shall be increased annually according to the Denver-Boulder Consumer Price Index for Urban Consumers, as published by the Bureau of Labor Statistics. In no event shall the amount of the fee collected in any one (1) year exceed the projected annual costs for maintenance of ~~community~~-City parks.

Sec. 7.5-103. Billing; collection; expenditure of proceeds; enforcement.

(a) The fee shall be billed and collected with monthly City utility bills issued on or after January 1, 2007, pursuant to Article XII of Chapter 26 of the City Code regarding utility accounts, billing and collections, for each dwelling unit utilizing City utilities, whether billed to the owner or occupant of such dwelling unit, except that the City may not disconnect utility services to a property solely for non-payment or delinquent payment of the ~~community~~ park maintenance fee.

(b) The utility shall be entitled to retain from fee proceeds, or to otherwise be reimbursed for, its costs of billing and collection, as required by Article V, §23 of the Charter. The remaining proceeds from the fee shall be deposited in a restricted account within the General Fund and shall be used solely to fund the maintenance and repair of ~~community~~ park facilities and infrastructure, the administration of ~~community~~-City parks, the construction of minor capital improvements, and the replacement of existing facilities.

(c) The Financial Officer may formulate and promulgate rules and regulations for the administration of this Article, not inconsistent with the provisions of this Article, with respect to the billing and collection of the ~~community~~ park maintenance fee and other related matters. Such rules and regulations shall be consistent with rules and regulations authorized by § 26-720 of the City Code regarding billing and collection of utility fees and charges.

Sec. 7.5-104. Unpaid charges a lien.

(a) The fee imposed by this Article, together with interest and the collection costs, if not paid by the due date specified on the utility bill, constitute a perpetual lien on the property to which the fee applies.

(b) The attachment of such lien is not dependent on the recording of written notice, and the lien is prior and superior to all other liens, claims, titles and encumbrances whether or not prior in time except liens for general taxes and utilities. The lien remains attached to the property from the date the fees became due until the delinquent fees, together with interest and costs of collection, if any, are paid.

(c) When the tenant in possession of the property served or any third person pays the ~~community~~ park maintenance fee, it shall relieve the landowner from

the obligations and lien imposed by this Article, but the City shall not be required to seek payment of the ~~community~~ park maintenance fee from any person other than the owner. No change of ownership, occupation or possession shall affect the application of this Section, and the failure of any owner to discover that he or she purchased property against which a lien for the ~~community~~ park maintenance fee exists shall in no way affect such owner's liability for payment in full.

(d) The City may enforce the lien by a suit for foreclosure and sale of the property subject to the lien. The proceeds of the sale shall be applied to the unpaid fees and allowable costs in the manner provided for foreclosure of statutory liens. The lien may also be enforced by certification of assessment upon the property to the County Treasurer for collection by the County in the same manner as delinquent general taxes and special assessments upon such property are collected or by any other means provided by law.

(e) Delinquent fees together with interest and collection costs may also be collected by civil suit against the owner of the property served, or by any other lawful means, at any time after the charges become delinquent. The remedies provided under this Article are cumulative and supplemental to each other.

Sec. 7.5-105. Rebates.

(a) Persons who meet the requirements listed in § 25-49 of the City Code regarding the sales tax rebate on food may apply annually for a rebate of up to one hundred (100) percent of the ~~community~~ park maintenance fee paid in the preceding calendar year.

(b) The Financial Officer shall administer the rebate program established by this Section, and may prepare a rebate application form, adopt rules and regulations consistent with the provisions of this Article and audit and verify the applications submitted pursuant to this Section. Any refund application form shall require the applicant to verify and sign the application under oath. The burden shall be on the applicant to prove entitlement to a rebate under this Section, including proof that the applicant paid the ~~community~~ park maintenance fee in full for the calendar year for which application is made. The Financial Officer may require reasonable information to support the rebate application.

Sec. 7.5-106. Appeals.

Property owners or tenants may appeal to the Director in writing at any time the question of whether properties owned or occupied by them are dwelling units subject to the provisions of this Article. The burden shall be on the applicant to provide substantial, competent evidence that the property that is the subject of the appeal is not a dwelling unit. The Director may hold a hearing on the appeal in his or her discretion, and may consider other competent evidence provided by City staff. The Director's written decision shall be mailed to the applicant within thirty (30)

days of receipt of the appeal. The applicant may appeal the Director's decision to the City Manager pursuant to Division 3 of Chapter 2 of the City Code. A successful applicant shall not be entitled to a refund of any fees paid for the subject property prior to the date of the Director's decision.

Introduced, considered favorably on first reading, and ordered published this 7th day of November, A.D. 2006, and to be presented for final passage on the 21st day of November, A.D. 2006.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 21st day of November, A.D. 2006.

Mayor

ATTEST:

City Clerk