

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0874.01 Bob Lackner

HOUSE BILL 08-1279

HOUSE SPONSORSHIP

Bruce,

SENATE SPONSORSHIP

(None),

House Committees
Local Government

Senate Committees

A BILL FOR AN ACT

101 CONCERNING GOVERNMENTAL LAND USE REGULATIONS, AND, IN
102 CONNECTION THEREWITH, REQUIRING LAND DEVELOPERS TO
103 PAY FEES TO ADDRESS THE IMPACTS CAUSED BY NEW
104 CONSTRUCTION, PLACING LIMITS ON FEES FOR CHANGES IN
105 PERMITTED USES OF REAL PROPERTY, PROHIBITING THE NEW
106 ISSUANCE OR APPLICATION OF LAND USE REGULATIONS IN
107 SPECIFIED CIRCUMSTANCES WITHOUT THE PAYMENT OF JUST
108 COMPENSATION, AND PROVIDING FOR INITIATIVE PETITION
109 RIGHTS BY WHICH ELECTORS MAY VOTE TO LIMIT OR END LAND
110 USE REGULATIONS.

Bill Summary

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires each land developer seeking to develop Colorado real property for new construction, but not for additions to existing structures, to pay, within a specified deadline after final plat approval or similar final approvals, a proportionate impact fee in an amount established by a public schedule related to the direct and indirect impacts of such development as specified in the act. Specifies that the need for and amount of the impact fees is to be governed by enumerated United States supreme court decisions, other constitutional principles enunciated in those and other judicial decisions, and by state and federal statutory provisions. As an alternative to paying the impact fee, authorizes the developer to perform such work to governmental standards.

Specifies that failure of the developer to pay timely any impact fee or to perform such work within a specified period of the approval shall void the development approval and the developer's application for a governmental approval.

Requires that all impact fees be paid before the developer may take any other action following governmental approval.

Requires the state office of smart growth (office) to issue and publish on its web site the schedule of impact fees, which shall apply to impact fees charged on or after the effective date of the act.

Requires each local board to review and update annually any existing impact fees. Under specified circumstances, authorizes the local board to receive payment of impact fees in land instead of a monetary payment as long as the value of any land offered is within a specified percentage of the equivalent monetary amount, considering factors specified in the act. Permits a developer to appeal the application of the impact fee or its amount.

On or after the effective date of the act, prohibits any local government, even with voter approval, from increasing taxes or issuing bonds, certificates of participation, leases, or any other legal borrowing instruments to finance new or expanded capital improvements that address growth caused by new construction for which impact fees under the act are being paid or will be paid to the local government.

Requires the approval by a local government of an application concerning a land use matter to be conditioned on advance completion or payment of collateral by the land developer to ensure completion of required on-site infrastructure. Prior to recording such final plat map and related documents, requires the developer to grant to the local government that has approved the application a recorded first lien on the affected real property for the entire cost of the uncompleted infrastructure required. Requires the lien to be partially released as the work is

completed.

Limits the amount of any fee for processing a land use application or approval for a new zoning, variance, conditional use, special use, waiver, or any similar land use classification. Requires any fee imposed in excess of this amount on a matter pending as of the effective date of the act to be refunded within a specified time to the applicant.

Requires a local government that seeks any change in a land use classification imposed on or after the effective date of the act to obtain in advance the written consent of the property owner to the change.

Except as provided in the act, prohibits any land use regulation enacted or applied on or after the effective date of the act from lowering the market value of any real property by a specified percentage unless the property owner waives in writing the stated dollar amount of the compensation or is justly compensated by the local government that enacted or applied the regulation. Requires the local government to apply constitutional standards for the full determination of the loss under eminent domain procedures as a taking of property.

Permits an initiative petition to be filed by which certain land areas may opt out of zoning or other land use regulations.

Permits owners of real property located in any political subdivision of the state to similarly petition, and for local officials of the subdivision to place on the ballot, a ballot issue to limit or end zoning or land use regulations in all or any part of a land area within the territorial boundaries of the local government in accordance with the procedures specified in the act or as otherwise provided by law. Permits the ballot issue to cover all or part of the land area within the territorial boundaries of the political subdivision. Prohibits a local government from seeking to reimpose land use regulations that have been repealed in the affected area without the approval at a subsequent election of a majority of the property owners of record in the area.

Provides for the recovery of attorney fees and court costs in certain cases.

Makes a conforming amendment. Makes legislative findings and declarations. Defines terms.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 1 of article 20 of title 29, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **29-20-109. Governmental land use regulations - impact fees -**

1 **changes in permitted uses of real property - limitations on issuance**
2 **or application of land use regulations without just compensation -**
3 **initiative petitions on land use matters - recovery by plaintiff of**
4 **damages, costs, and attorney fees in civil actions - definitions -**
5 **legislative declaration.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS,
6 DETERMINES, AND DECLARES THAT:

7 (I) THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION
8 PROHIBITS THE TAKING OF PRIVATE PROPERTY FOR PUBLIC USE WITHOUT
9 JUST COMPENSATION AND SECTION 15 OF ARTICLE II OF THE STATE
10 CONSTITUTION PROHIBITS THE TAKING OR DAMAGING OF PRIVATE
11 PROPERTY FOR PUBLIC OR PRIVATE USE WITHOUT JUST COMPENSATION.

12 (II) THESE CONSTITUTIONAL PROTECTIONS MAKE THE RIGHT TO
13 OWN AND USE PROPERTY A FUNDAMENTAL RIGHT.

14 (III) TOO OFTEN, LAND USE REGULATION BY GOVERNMENTAL
15 ENTITIES HAS ABRIDGED THE CONSTITUTIONAL RIGHTS TO USE AND OWN
16 PROPERTY FREE FROM EXCESSIVE GOVERNMENTAL INFRINGEMENT.

17 (b) BY ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS
18 TO CREATE PROCEDURES BY WHICH THE PARTIES DIRECTLY RESPONSIBLE
19 FOR NEW GROWTH WILL BE RESPONSIBLE FOR PAYING THE COSTS OF
20 ADDRESSING THE INFRASTRUCTURE IMPACTS OF THE GROWTH, RATHER
21 THAN SHIFTING THOSE COSTS TO THE GENERAL PUBLIC.

22 (c) BY ENACTING THIS SECTION, THE GENERAL ASSEMBLY FURTHER
23 INTENDS TO STRENGTHEN AND INVIGORATE THE CONSTITUTIONAL
24 PROTECTIONS OF OWNERS OF PRIVATE REAL PROPERTY AND TO GIVE SUCH
25 PROPERTY OWNERS PROTECTION FROM GOVERNMENTAL POLICIES AND
26 RULES THAT INFRINGE UPON SUCH RIGHTS. THE PROVISIONS OF THIS
27 SECTION ARE INTENDED TO STRENGTHEN THE ABILITY OF PROPERTY

1 OWNERS TO PROTECT THE CONSTITUTIONAL RIGHT OF ALL PERSONS TO
2 OWN AND USE PROPERTY AND TOWARDS THAT END SHALL BE LIBERALLY
3 CONSTRUED TO ACCOMPLISH THIS PURPOSE.

4 (d) THE FAIR, CONSISTENT, PREDICTABLE, AND UNIFORM
5 APPLICATION OF THE GOALS, STANDARDS, AND SAFEGUARDS IN THIS
6 SECTION IS A MATTER OF STATEWIDE CONCERN.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "LOCAL BOARD" MEANS THE GOVERNING BODY OF A COUNTY
10 OR MUNICIPALITY, AS APPLICABLE.

11 (b) "OFFICE" MEANS THE OFFICE OF SMART GROWTH CREATED IN
12 SECTION 24-32-3203 (1) (a), C.R.S.

13 (3) (a) IN ADDITION TO ANY IMPACT FEE LAWFULLY IN EXISTENCE
14 AS OF THE EFFECTIVE DATE OF THIS SECTION FOR PARKS, SCHOOL LAND,
15 AND OTHER IMPACTS, EACH LAND DEVELOPER SEEKING TO DEVELOP
16 COLORADO REAL PROPERTY FOR NEW CONSTRUCTION, BUT NOT FOR
17 ADDITIONS TO EXISTING STRUCTURES, SHALL PAY, WITHIN THIRTY DAYS
18 AFTER FINAL PLAT APPROVAL OR SIMILAR FINAL APPROVALS, A
19 PROPORTIONATE IMPACT FEE IN AN AMOUNT ESTABLISHED BY A PUBLIC
20 SCHEDULE RELATED TO ALL OF THE FOLLOWING DIRECT AND INDIRECT
21 IMPACTS OF SUCH DEVELOPMENT:

22 (I) SCHOOL DISTRICT BUILDINGS TO SERVE NEW RESIDENTS OF THE
23 AREA IN WHICH THE DEVELOPMENT OCCURS;

24 (II) THE CONSTRUCTION, EXPANSION, OR IMPROVEMENT OF ANY
25 PUBLIC ROAD WITHIN THREE MILES OF THE DEVELOPMENT;

26 (III) FIRE STATIONS, POLICE OR SHERIFF STATIONS, OR SIMILAR
27 LAW ENFORCEMENT BUILDINGS, AND RELATED CAPITAL EXPENDITURES

1 SUPPORTING SUCH LAW ENFORCEMENT PURPOSES EXCEEDING
2 TWENTY-FIVE THOUSAND DOLLARS PER ITEM, SUCH AS FIRE TRUCKS;

3 (IV) DRAINAGE BASINS; AND

4 (V) OTHER RELATED GOVERNMENTAL CAPITAL CONSTRUCTION
5 COSTS DETERMINED BY THE OFFICE.

6 (b) THE NEED FOR AND AMOUNT OF THE IMPACT FEES AUTHORIZED
7 BY THIS SECTION FOR THE PURPOSE OF FUNDING THE CAPITAL PURCHASE
8 AND IMPROVEMENTS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3)
9 SHALL BE GOVERNED BY THE PRINCIPLES STATED IN THE UNITED STATES
10 SUPREME COURT CASES ENTITLED *NOLLAN V. CALIFORNIA COASTAL*
11 *COMMISSION*, 483 U.S. 825 (1987), AND *DOLAN V. CITY OF TIGARD*, 512
12 U.S. 374 (1994), REGARDING ESSENTIAL NEXUS AND ROUGH
13 PROPORTIONALITY, AND ANY OTHER CONSTITUTIONAL PRINCIPLES
14 ENUNCIATED IN THOSE AND OTHER JUDICIAL DECISIONS AND BY STATE AND
15 FEDERAL STATUTORY PROVISIONS. THE AMOUNT OF ANY FEE AUTHORIZED
16 BY THIS SECTION MAY VARY AMONG DIFFERENT DEVELOPERS TO REFLECT
17 DIFFERING LAND AND CONSTRUCTION COSTS FOR GOVERNMENT
18 INFRASTRUCTURE IN URBAN, SUBURBAN, AND RURAL LOCATIONS. AS AN
19 ALTERNATIVE TO PAYING THE IMPACT FEE, THE DEVELOPER MAY PERFORM
20 THE WORK ADDRESSING THE CAPITAL IMPROVEMENTS SPECIFIED IN
21 PARAGRAPH (a) OF THIS SUBSECTION (3) TO GOVERNMENTAL STANDARDS.
22 FAILURE OF THE DEVELOPER TO PAY TIMELY ANY IMPACT FEE REQUIRED
23 TO BE PAID PURSUANT TO THIS SECTION, OR TO PERFORM THE WORK
24 WITHIN ONE YEAR OF THE APPROVAL, SHALL VOID THE DEVELOPMENT
25 APPROVAL AND THE DEVELOPER'S APPLICATION FOR A GOVERNMENTAL
26 APPROVAL.

27 (c) ANY IMPACT FEE CHARGED AGAINST A RESIDENTIAL BUILDING

1 SHALL BE RELATED TO THE NUMBER, SQUARE FOOTAGE, AND EXPECTED
2 OCCUPANCY OF THE RESIDENTIAL UNITS IN THE BUILDING. ANY IMPACT
3 FEE CHARGED AGAINST A NONRESIDENTIAL BUILDING SHALL BE RELATED
4 TO THE SQUARE FOOTAGE OF THE NEW CONSTRUCTION.

5 (d) ANY IMPACT FEE CHARGED TO FINANCE SCHOOL BUILDINGS TO
6 BE CONSTRUCTED IN THE FUTURE SHALL BE LEVIED ON THE CONSTRUCTION
7 OF RESIDENTIAL UNITS ONLY. NO IMPACT FEE SHALL BE IMPOSED TO
8 ADDRESS THE IMPACT CAUSED BY ANY HOUSING THAT PROHIBITS, BY
9 COVENANT, LAW, OR OTHER RECORDED OR PUBLISHED BINDING
10 RESTRICTION, RESIDENTS WHO ARE AGE TWENTY-ONE OR YOUNGER, SUCH
11 THAT NO TEMPORARY OR PERMANENT OCCUPANT OF THE HOUSING WOULD
12 ENROLL IN A PUBLICLY FUNDED ELEMENTARY OR SECONDARY SCHOOL.

13 (e) ALL FEES REQUIRED TO BE PAID UNDER THIS SECTION SHALL BE
14 PAID BEFORE THE DEVELOPER MAY TAKE ANY OTHER ACTION FOLLOWING
15 GOVERNMENTAL APPROVAL.

16 (4) (a) ON OR BEFORE DECEMBER 1, 2008, THE OFFICE SHALL ISSUE
17 AND PUBLISH ON ITS WEB SITE THE SCHEDULE OF IMPACT FEES REQUIRED
18 BY PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION. THE SCHEDULE
19 SHALL APPLY TO ALL THE IMPACT FEES CHARGED ON OR AFTER THE
20 EFFECTIVE DATE OF THIS SECTION. ANY DEVELOPER WHO RECEIVES A
21 GOVERNMENTAL APPROVAL ON OR AFTER THE EFFECTIVE DATE OF THIS
22 SECTION BUT BEFORE THE DATE OF THE ISSUANCE OF THE SCHEDULES
23 SHALL PAY AN ESTIMATED IMPACT FEE THAT SHALL BE SUBJECT TO
24 ADJUSTMENT NOT LATER THAN THIRTY DAYS AFTER THE SCHEDULE HAS
25 BEEN ISSUED. THE GENERAL ASSEMBLY MAY APPROVE, AMEND, OR
26 RETURN THE SCHEDULE TO THE OFFICE FOR FURTHER STUDY. THE OFFICE
27 SHALL ESTIMATE AT LEAST ONCE EVERY THREE YEARS THE PROPER LEVEL

1 OF IMPACT FEES. THE SCHEDULE SHALL CONTAIN AN AUTOMATIC ANNUAL
2 INFLATION FACTOR BASED ON THE UNITED STATES DEPARTMENT OF
3 LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR
4 DENVER-BOULDER-GREELEY, ALL ITEMS, ALL URBAN CONSUMERS, OR ITS
5 SUCCESSOR INDEX, ROUNDED UP TO THE NEAREST DOLLAR. ANY OTHER
6 CHANGE TO THE SCHEDULE SHALL REQUIRE THE APPROVAL OF THE OFFICE
7 OR OF THE GENERAL ASSEMBLY. EACH LOCAL BOARD SHALL REVIEW AND
8 UPDATE ANNUALLY ANY IMPACT FEES IN EXISTENCE AS OF THE EFFECTIVE
9 DATE OF THIS SECTION THAT IT IMPOSES FOR SCHOOL LAND, PARKS, AND
10 OTHER IMPACTS TO CONFORM THE DONATED LAND VALUE TO ITS CURRENT
11 MARKET VALUE. ANY DEVELOPER MAY FILE AN APPEAL WITH THE OFFICE
12 CONTESTING THE APPLICATION OR AMOUNT OF THE IMPACT FEE.

13 (b) A LOCAL BOARD MAY ALLOW PAYMENT OF IMPACT FEES IN
14 LAND INSTEAD OF A MONETARY PAYMENT AS LONG AS THE VALUE OF ANY
15 LAND OFFERED IS WITHIN FIVE PERCENT OF THE EQUIVALENT MONETARY
16 AMOUNT CONSIDERING THE LAND'S TOPOGRAPHY, WATER RIGHTS,
17 DEVELOPMENT VALUE, AND OTHER FACTORS. NO LOCAL BOARD SHALL
18 ACCEPT FOR PAYMENT LAND THAT IS INTENDED TO EQUAL THE PARK
19 IMPACT FEE IF DEVELOPMENT RIGHTS ARE OR WILL BE RECORDED AS FULLY
20 OR PARTLY SOLD OFF, ASSIGNED, OR WAIVED.

21 (5) ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, NO LOCAL
22 GOVERNMENT SHALL, EVEN WITH VOTER APPROVAL, INCREASE TAXES OR
23 FEES OR ISSUE BONDS, CERTIFICATES OF PARTICIPATION, LEASES, OR ANY
24 OTHER LEGAL BORROWING INSTRUMENTS TO FINANCE NEW OR EXPANDED
25 CAPITAL IMPROVEMENTS THAT ADDRESS GROWTH CAUSED BY NEW
26 CONSTRUCTION FOR WHICH IMPACT FEES ARE BEING PAID OR WILL BE PAID
27 TO THE LOCAL GOVERNMENT UNDER THIS SECTION. THE PROVISIONS OF

1 THIS SUBSECTION (5) SHALL NOT BE CONSTRUED TO PROHIBIT GENERAL
2 OBLIGATION BONDS OR OTHER VOTER-APPROVED BORROWING ISSUED BY
3 THE LOCAL GOVERNMENT TO RENOVATE OR REPLACE EXISTING
4 INFRASTRUCTURE. THE GENERAL ASSEMBLY HEREBY FINDS AND
5 DECLARES THAT THE NEED TO FUND NEW GROWTH WILL BE MET FULLY BY
6 THE IMPACT FEE PAID PURSUANT TO THIS SECTION.

7 (6) (a) THE APPROVAL BY A LOCAL GOVERNMENT OF AN
8 APPLICATION CONCERNING A LAND USE MATTER SHALL BE CONDITIONED
9 ON ADVANCE COMPLETION OR PAYMENT OF COLLATERAL BY THE LAND
10 DEVELOPER TO ENSURE COMPLETION OF REQUIRED ON-SITE
11 INFRASTRUCTURE. PRIOR TO RECORDING A FINAL PLAT MAP AND RELATED
12 DOCUMENTS, THE DEVELOPER SHALL GRANT TO THE LOCAL GOVERNMENT
13 THAT HAS APPROVED THE APPLICATION A RECORDED FIRST LIEN ON THE
14 AFFECTED REAL PROPERTY FOR THE ENTIRE COST OF THE UNCOMPLETED
15 INFRASTRUCTURE REQUIRED AND ANY DOLLAR AMOUNT SPECIFIED IN THE
16 DOCUMENT GRANTING THE APPROVAL. THE LIEN SHALL BE PARTIALLY
17 RELEASED BY AMOUNT AND BY AREA AS THE WORK IS COMPLETED, BUT AN
18 AMOUNT SHALL BE RETAINED SUCH THAT, UNTIL THE COMPLETION OF ALL
19 INFRASTRUCTURE, THE AMOUNT OF THE TOTAL LIEN RELEASED AS A
20 PERCENTAGE OF THE TOTAL LIEN IS ALWAYS TEN PERCENTAGE POINTS LESS
21 THAN THE PERCENTAGE OF THE WORK COMPLETED BY DOLLAR AMOUNT.
22 UNTIL COMPLETION OF THE INFRASTRUCTURE AND ANY FINAL
23 GOVERNMENTAL APPROVALS, IN ADDITION TO PAYMENT OF THE
24 COLLATERAL, THE LAND DEVELOPER SHALL ALSO BE PERSONALLY LIABLE
25 FOR THE COST OF COMPLETION OF THE INFRASTRUCTURE. THE DEVELOPER
26 SHALL REMAIN LIABLE EVEN IF THE DEVELOPER SELLS THE DEVELOPER'S
27 INTEREST IN THE PROPERTY; EXCEPT THAT, IN SUCH CASE, THE LIABILITY

1 OF THE ORIGINAL DEVELOPER SHALL BE EXECUTED UPON ONLY TO THE
2 EXTENT THE INFRASTRUCTURE IS NOT COMPLETED AND THE COST REMAINS
3 UNPAID BY PARTIES IN THE CHAIN OF TITLE SUBSEQUENT TO THE ORIGINAL
4 DEVELOPER. IN SUCH CASE, THE ORDER OF LIABILITY SHALL RUN FROM
5 THE CURRENT OWNER BACK TO THE ORIGINAL DEVELOPER.

6 (b) AFTER THE NECESSARY GOVERNMENT APPROVALS HAVE BEEN
7 OBTAINED, THE PAYMENT OF IMPACT FEES FOR SCHOOL LAND OR THE
8 PAYMENT OF LAND IN LIEU OF FEES SHALL, WITHIN THIRTY DAYS, BE
9 CONVEYED TO AND HELD BY THE SCHOOL DISTRICT AND NOT THE LOCAL
10 GOVERNMENT THAT APPROVED THE APPLICATION. THE SAME
11 REQUIREMENTS OF THIS PARAGRAPH (b) SHALL APPLY WITH RESPECT TO
12 IMPACT FEES TO BE PAID TO OTHER AFFECTED GOVERNMENTS.

13 (c) ANY BONDS, CASH, LETTERS OF CREDIT, AND OTHER
14 COLLATERAL REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL
15 BE DEPOSITED WITH THE LOCAL GOVERNMENT IN A TRUST FUND TO ENSURE
16 THE COMPLETION OF ON-SITE INFRASTRUCTURE. THE LOCAL BOARD SHALL
17 REVIEW THE COLLATERAL IN ITS POSSESSION SIXTY DAYS BEFORE
18 EXPIRATION OF ANY BOND, LETTER OF CREDIT, OR OTHER OBLIGATION
19 INSTRUMENT AND NOT LESS OFTEN THAN ONCE ANNUALLY, AND THE
20 AMOUNT AND FORM OF COLLATERAL MAY BE MODIFIED BEFORE EACH
21 YEARLY ANNIVERSARY OF ITS ISSUANCE. ADDITIONAL COLLATERAL MAY
22 BE REQUIRED IN THE DISCRETION OF THE LOCAL BOARD AND SHALL EQUAL
23 ONE HUNDRED TWENTY-FIVE PERCENT OF THE LATEST ESTIMATE OF
24 REMAINING COSTS OF COMPLETING THE INFRASTRUCTURE. IF THE
25 INFRASTRUCTURE IS NOT COMPLETED WITHIN THREE YEARS OF FINAL PLAT
26 OR OTHER LAND USE APPROVAL BY THE LOCAL BOARD, THE LOCAL
27 GOVERNMENT SHALL USE THE COLLATERAL TO COMPLETE THE

1 INFRASTRUCTURE WITHIN THE NEXT YEAR.

2 (7) (a) ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, NO FEE
3 REQUIRED TO BE PAID FOR PROCESSING A LAND USE APPLICATION OR
4 APPROVAL FOR A NEW ZONING, VARIANCE, CONDITIONAL USE, SPECIAL
5 USE, WAIVER, OR ANY SIMILAR LAND USE CLASSIFICATION SHALL EXCEED
6 ONE THOUSAND DOLLARS, WHICH AMOUNT SHALL BE ADJUSTED ANNUALLY
7 HEREAFTER FOR THE PERCENTAGE CHANGE IN THE UNITED STATES
8 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE
9 INDEX FOR DENVER-BOULDER-GREELEY, ALL ITEMS, ALL URBAN
10 CONSUMERS, OR ITS SUCCESSOR INDEX, AND THEN ROUNDED UP TO THE
11 NEAREST DOLLAR. ANY FEE IMPOSED IN EXCESS OF THIS AMOUNT ON A
12 MATTER PENDING AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE
13 REFUNDED WITHIN THIRTY DAYS TO THE APPLICANT.

14 (b) ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, ANY
15 LOCAL GOVERNMENT THAT SEEKS A CHANGE IN AN EXISTING OR EXPIRING
16 LAND USE CLASSIFICATION SHALL, NINETY DAYS OR MORE IN ADVANCE OF
17 THE DATE ON WHICH THE CHANGE WILL BE IMPLEMENTED, NOTIFY IN
18 WRITING EACH OWNER OF PROPERTY WITH SUCH CLASSIFICATION WITHIN
19 THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT AND OBTAIN
20 THE WRITTEN CONSENT OF SUCH OWNER TO THE CHANGE. ANY EXTENSION
21 OF AN EXPIRING LAND USE CLASSIFICATION SHALL BE AUTOMATICALLY
22 GRANTED TO THE PROPERTY OWNER WITHOUT CHARGE UNLESS THE OWNER
23 CONSENTS IN WRITING TO ITS EXPIRATION. ANY EXTENSION SHALL LAST AT
24 LEAST TEN YEARS UNLESS SOME OTHER TIME FOR THE EXTENSION IS
25 OTHERWISE AGREED TO IN WRITING BY THE PROPERTY OWNER. WITHOUT
26 THE PROPERTY OWNER'S WRITTEN CONSENT, NO NEW RESTRICTION IN
27 PERMITTED USES IN REAL PROPERTY ON OR AFTER THE EFFECTIVE DATE OF

1 THIS SECTION WITHIN A PARTICULAR CLASSIFICATION SHALL APPLY TO ANY
2 REAL PROPERTY SUBJECT TO THAT CLASSIFICATION AS OF THE EFFECTIVE
3 DATE OF THIS SECTION.

4 (c) TO REDUCE THE COSTS OF APPLYING FOR GOVERNMENTAL
5 APPROVALS, ANY REQUIRED PUBLICATION OF A PUBLIC NOTICE
6 CONCERNING LAND USE APPLICATIONS SHALL BE ISSUED WITHOUT CHARGE
7 AND POSTED ONLINE ON THE LOCAL GOVERNMENT'S WEB SITE, AND NOT BY
8 PAID NOTICES. IN THE CASE OF REQUIRED NOTICE BY MAIL, SUCH NOTICES
9 SHALL BE MAILED TO PROPERTY OWNERS ONLY WITHIN FIVE HUNDRED
10 FEET OF THE BOUNDARIES OF THE APPLICANT'S PROPERTY, AND AT THE
11 APPLICANT'S EXPENSE. ANY LAW REQUIRING NOTICE BY MAIL TO MORE
12 THAN THE PROPERTY OWNERS WITHIN FIVE HUNDRED FEET OF THE
13 BOUNDARIES OF THE APPLICANT'S PROPERTY IS HEREBY REPEALED.

14 (8) FOR PURPOSES OF FINAL PLAT APPROVAL OR OTHER FINAL
15 ACTION BY THE LOCAL GOVERNMENT BEFORE LAND DEVELOPMENT BEGINS,
16 REAL ESTATE TAXES SHALL BE PAID CURRENT TO THE MOST RECENT BILL,
17 AND WRITTEN PROOF OF SUCH PAYMENT SHALL BE PROVIDED TO THE
18 LOCAL GOVERNMENT PRIOR TO OR ON THE DATE OF THE HEARING AT
19 WHICH THE APPROVAL OR ACTION WILL BE ADDRESSED AS AN AGENDA
20 ITEM BY THE LOCAL GOVERNMENT. NO LOCAL GOVERNMENT SHALL
21 POSTPONE THE SUBMISSION OF PROOF OF PAYMENT UNTIL THE FINAL PLAT
22 MAP HAS BEEN RECORDED OR OTHER TIME AFTER THE MATTER HAS BEEN
23 HEARD BY THE LOCAL GOVERNMENT AS AN AGENDA ITEM. ANY APPROVAL
24 GRANTED BY A LOCAL GOVERNMENT ON OR AFTER THE EFFECTIVE DATE OF
25 THIS SECTION IN VIOLATION OF THIS SECTION SHALL REQUIRE THE LOCAL
26 BOARD TO APOLOGIZE TO THE APPLICANT IN WRITING FOR THE LOCAL
27 GOVERNMENT'S ILLEGAL ACTION AND TO REFUND TO THE APPLICANT

1 WITHIN THIRTY DAYS ALL COSTS THE APPLICANT HAS PAID TO THE LOCAL
2 GOVERNMENT FOR THE APPROVED APPLICATION.

3 (9) A LOCAL GOVERNMENT SHALL CORRECT ANY ERRORS IN
4 PROPERTY CLASSIFICATION AND RECORDS ON ITS OWN MOTION AFTER
5 PROVIDING NOTICE OF SUCH CORRECTION TO THE PROPERTY OWNER OR
6 SHALL MAKE SUCH CORRECTION UPON THE PROPERTY OWNER'S REQUEST;
7 EXCEPT THAT THE PROPERTY OWNER'S WRITTEN CONSENT IS REQUIRED FOR
8 THE RECLASSIFICATION TO BE EFFECTIVE AS TO THE OWNER'S PROPERTY.
9 IN ALL CASES, ANY CORRECTION TO WHICH THE PROPERTY OWNER HAS
10 CONSENTED IN WRITING SHALL BE COMPLETED WITHIN THIRTY DAYS AFTER
11 SUCH CONSENT IS RECEIVED AT NO CHARGE TO THE PROPERTY OWNER.

12 (10) EXCEPT AS PROVIDED IN THIS SECTION, NO LAND USE
13 REGULATION ENACTED OR APPLIED ON OR AFTER THE EFFECTIVE DATE OF
14 THIS SECTION SHALL LOWER THE MARKET VALUE OF ANY REAL PROPERTY
15 BY ONE PERCENT OR MORE UNLESS THE PROPERTY OWNER WAIVES IN
16 WRITING THE STATED DOLLAR AMOUNT OF THE COMPENSATION OR IS
17 JUSTLY COMPENSATED BY THE LOCAL GOVERNMENT THAT ENACTED OR
18 APPLIED THE REGULATION. THE LOCAL GOVERNMENT SHALL APPLY
19 CONSTITUTIONAL STANDARDS FOR THE FULL DETERMINATION OF THE LOSS
20 UNDER EMINENT DOMAIN PROCEDURES AS A TAKING OF PROPERTY.

21 (11) (a) AN INITIATIVE PETITION MAY BE FILED BY WHICH ANY
22 PARTICULAR LAND AREA OF TWENTY-FIVE ACRES OR MORE MAY OPT OUT
23 OF ZONING OR OTHER LAND USE REGULATIONS. IF APPROVED BY THE
24 PROPERTY OWNERS OF RECORD IN ACCORDANCE WITH THE REQUIREMENTS
25 OF THIS PARAGRAPH (a), THE PETITION SHALL BIND THE LOCAL
26 GOVERNMENT IMPOSING SUCH REGULATIONS. NO FEE OR OTHER CHARGE
27 SHALL BE IMPOSED FOR THE PETITION. THE PETITION TO BE SIGNED BY THE

1 PROPERTY OWNERS OF RECORD SHALL CONTAIN SPACES FOR SIGNATURES
2 OF SUCH PERSONS; THEIR PHYSICAL OR MAILING ADDRESSES; LEGAL
3 DESCRIPTIONS OR ADDRESSES OF THEIR PROPERTY; AND THE DATES ON
4 WHICH THE PETITION WAS SIGNED BY THE OWNER OF RECORD OF A
5 PARTICULAR PARCEL OF REAL PROPERTY OR THE OWNER'S DESIGNATED
6 AGENT, IF THE OWNER IS AN ENTITY. IN ORDER TO BE SUFFICIENT,
7 PETITIONS SATISFYING THE REQUIREMENTS OF THIS PARAGRAPH (a) SHALL
8 BE COLLECTED FROM PROPERTY OWNERS WHOSE PROPERTY REPRESENTS
9 NOT LESS THAN TWENTY-FIVE PERCENT OF THE LAND AREA THAT IS THE
10 SUBJECT OF THE PETITION. IN A PETITION AND IN AN ELECTION, EACH
11 NATURAL PERSON LISTED AS AN OWNER OF RECORD OF AN AFFECTED
12 PARCEL WITHIN THE AREA SUBJECT TO THE PETITION SHALL HAVE ONE
13 SIGNATURE AND ONE VOTE, AND EACH PARCEL OWNED BY AN ENTITY
14 OTHER THAN A NATURAL PERSON SHALL HAVE ONE SIGNATURE AND ONE
15 VOTE THAT SHALL BE CAST BY THE ENTITY'S DESIGNATED AGENT. PRIOR
16 TO SIGNING A PETITION OR CASTING A BALLOT, SUCH AGENTS SHALL FILE
17 WITH THE LOCAL GOVERNMENT NOTARIZED PROOF OF A GRANT OF
18 AUTHORITY TO SIGN OR TO VOTE, OR BOTH, GRANTED BY THE
19 PROPERTY-OWNING ENTITY. STATE LAW GOVERNING LOCAL INITIATIVE
20 PETITIONS SHALL OTHERWISE GOVERN THE PETITION PROCESS SPECIFIED
21 IN THIS PARAGRAPH (a). ANY SUCH PETITION FOR A SPECIFIC AREA SHALL
22 BE VOTED ON ONLY AT A STATEWIDE GENERAL ELECTION, BUT NO MORE
23 FREQUENTLY THAN ONCE EVERY FOUR YEARS. THE BALLOT ISSUE
24 CONCERNING THE PETITION SHALL PASS IF A MAJORITY OF THE ELECTORS
25 VOTING ON THE BALLOT ISSUE HAVE CAST A BALLOT IN FAVOR OF ITS
26 PASSAGE; EXCEPT THAT THE OWNER OF ANY PROPERTY NOT ENTIRELY
27 SURROUNDED BY PROPERTY THAT IS THE SUBJECT OF THE PETITION MAY

1 REQUEST IN A NOTARIZED WRITING WITHIN NINETY DAYS OF THE ELECTION
2 THAT THE PETITION NOT APPLY TO SUCH PROPERTY, AND THE REQUEST
3 SHALL BE HONORED. IN ADDITION, IF ANY PROPERTY OWNER REQUESTS IN
4 WRITING THAT THE AREA THAT IS THE SUBJECT OF THE PETITION NOT
5 INCLUDE THE OWNER'S PROPERTY, AND THE WRITING IS RECEIVED BEFORE
6 THE SCOPE OF THE AREA HAS BEEN SET, THE SCOPE OF THE LAND AREA
7 THAT IS THE SUBJECT OF THE PETITION SHALL NOT INCLUDE THE OWNER'S
8 PROPERTY.

9 (b) OWNERS OF REAL PROPERTY LOCATED IN ANY POLITICAL
10 SUBDIVISION OF THE STATE MAY SIMILARLY PETITION, OR THE OFFICIALS
11 OF THE SUBDIVISION MAY PLACE AN ISSUE ON A BALLOT, TO LIMIT OR END
12 ZONING OR OTHER LAND USE REGULATIONS IN ALL OR ANY PART OF A LAND
13 AREA WITHIN THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT
14 IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN PARAGRAPH (a) OF
15 THIS SUBSECTION (11) OR AS OTHERWISE PROVIDED BY LAW. A BALLOT
16 ISSUE MAY COVER ALL OR PART OF THE LAND AREA WITHIN THE
17 TERRITORIAL BOUNDARIES OF THE POLITICAL SUBDIVISION. IF THE BALLOT
18 ISSUE COVERS THE ENTIRE LAND AREA OF THE POLITICAL SUBDIVISION AND
19 A MAJORITY OF THE PROPERTY-OWNING ELECTORS VOTE IN FAVOR OF SUCH
20 BALLOT ISSUE, ANY OWNER OF REAL PROPERTY LOCATED WITHIN THE AREA
21 SHALL BE SUBJECT TO THE BALLOT ISSUE. IF THE BALLOT ISSUE COVERS
22 LESS THAN THE TOTAL LAND AREA OF THE POLITICAL SUBDIVISION, ONLY
23 THOSE OWNERS OF REAL PROPERTY LOCATED WITHIN THE SUBJECT AREA
24 SHALL BE ENTITLED TO FILE A PETITION CONCERNING A LAND USE
25 REGULATION AFFECTING THE SUBJECT AREA AND TO CAST A BALLOT ON
26 THE ISSUE.

27 (c) NO LOCAL GOVERNMENT MAY SEEK TO REIMPOSE LAND USE

1 REGULATIONS THAT HAVE BEEN REPEALED BY VOTERS IN THE AFFECTED
2 AREA WITHOUT THE APPROVAL AT A SUBSEQUENT ELECTION OF A
3 MAJORITY OF PROPERTY OWNERS OF RECORD IN THE AREA.

4 (12) IN ANY CIVIL ACTION WITH A GOVERNMENTAL ENTITY
5 CONCERNING LAND USE REGULATIONS OR THE ENFORCEMENT OF THIS
6 SECTION, A SUCCESSFUL PROPERTY OWNER PLAINTIFF SHALL RECEIVE
7 DAMAGES AND RECOVERY OF THE PLAINTIFF'S COSTS AND REASONABLE
8 ATTORNEY FEES. IN ANY SUCH LITIGATION, A GOVERNMENTAL ENTITY
9 MAY RECOVER ITS DAMAGES, COSTS, OR REASONABLE ATTORNEY FEES
10 ONLY IF THE PLAINTIFF'S ACTION HAS BEEN HELD BY A FINAL COURT
11 RULING TO BE FRIVOLOUS.

12 **SECTION 2.** The introductory portion to 29-20-104.5 (1),
13 Colorado Revised Statutes, is amended, and the said 29-20-104.5 is
14 further amended BY THE ADDITION OF A NEW SUBSECTION, to
15 read:

16 **29-20-104.5. Impact fees.** (1) Pursuant to the authority granted
17 in section 29-20-104 (1) (g) and as a condition of issuance of a
18 development permit, PRIOR TO SEPTEMBER 1, 2008, a local government
19 may impose an impact fee or other similar development charge to fund
20 expenditures by such local government on capital facilities needed to
21 serve new development. No impact fee or other similar development
22 charge shall be imposed except pursuant to a schedule that is:

23 (10) ON OR AFTER SEPTEMBER 1, 2008, ANY IMPACT FEE LEVIED
24 BY A LOCAL GOVERNMENT SHALL BE IMPOSED ONLY IN ACCORDANCE WITH
25 THE PROVISIONS OF SECTION 29-20-109.

26 **SECTION 3. Severability.** If any provision of this act or the
27 application thereof to any person or circumstance is held invalid, such

1 invalidity shall not affect other provisions or applications of the act that
2 can be given effect without the invalid provision or application, and to
3 this end the provisions of this act are declared to be severable.

4 **SECTION 4. Effective date.** (1) This act shall take effect
5 September 1, 2008.

6 (2) However, if a referendum petition is filed against this act or
7 an item, section, or part of this act during the 90-day period after final
8 adjournment of the general assembly that is allowed for submitting a
9 referendum petition pursuant to article V, section 1 (3) of the state
10 constitution, then the act, item, section, or part, shall not take effect unless
11 approved by the people at a biennial regular general election and shall
12 take effect on the date specified in subsection (1) or on the date of the
13 official declaration of the vote thereon by proclamation of the governor,
14 whichever is later.