CITY COUNCIL COMMUNICATION
AGENDA ITEM 4B

SUBJECT:	**CONSIDERATION OF ORDINANCE NO. 1902, SERIES 2025 – IMPACT FEES** **ORDINANCE NO. 1902, SERIES 2025 – AN INITIATED ORDINANCE AMENDING CHAPTER 3.18 OF THE LOUISVILLE MUNICIPAL CODE REGARDING IMPACT FEES – 1ST READING, SET PUBLIC HEARING** **OR** **RESOLUTION NO. 64, SERIES 2025 – A RESOLUTION REFERRING AN INITIATED ORDINANCE REGARDING IMPACT FEES TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF LOUISVILLE AT A REGULAR ELECTION TO BE HELD NOVEMBER 4, 2025 AND DESIGNATING THE CITY CLERK TO SET THE BALLOT TITLE**
DATE:	**SEPTEMBER 4, 2025**
PREPARED BY:	**MELINDA CULLY, DEPUTY CITY ATTORNEY** **GENNY KLINE, INTERIM CITY CLERK**
PRESENTED BY:	**GENNY KLINE, INTERIM CITY CLERK**

SUMMARY:
A resident initiative petition regarding impact fees was received by the Interim City Clerk's Office on July 2, 2025. The Interim City Clerk issued an initial statement of petition sufficiency on July 23, 2025. On August 8, 2025, a protest to the petition was filed by three Louisville residents. The Protest Hearing was conducted on August 28, 2025, and the hearing officer's determination was received on September 2, 2025. The hearing officer determined that the petition sufficiency was upheld, and the initiative could be either adopted by Council or placed on the ballot for consideration by the electors of the City of Louisville.

ANALYSIS:
State statute gives City Council 20 days to either adopt the proposed ordinance without alteration or refer the proposed ordinance to the registered electors of Louisville.

If Council chooses to adopt the ordinance, first reading tonight will allow for second reading and the public hearing to be conducted at the September 16, 2025 meeting. This meets the 20-day deadline required by law.

If Council chooses to refer the initiative to the voters, the resolution will meet the 20-day deadline. This will also allow the Interim City Clerk to set the ballot title and provide the ballot language to the Boulder County Clerk prior to the deadline of September 5, 2025 for the November 4, 2025 regular election.

2025 COUNCIL WORK PLAN:
Conducting inclusive, transparent, effective and fiscally responsible elections are an integral part of Core Services.

FISCAL IMPACT:
Budgeted?: **Yes**
While the City Clerk's Office budgets annually for election expenses, the cost of adding this item to the November ballot will not be known until after the election is complete. A budget amendment may be necessary.

ALTERNATIVE(S):
Council may adopt the initiative as written or refer the question to the registered electors of Louisville.

RECOMMENDATION:
Staff recommends the City Council consider initiated Ordinance No. 1902, Series 2025 as required by state statute and determine whether the ordinance should be passed as written or referred to the voters during the November 4, 2025 regular election.

ATTACHMENT(S):
1. Ordinance No. 1902, Series 2025
2. Resolution No. 64, Series 2025
3. Initiative Petition – Impact Fees
4. Initial Statement of Petition Sufficiency – Impact Fees
5. Protest Petition – Impact Fees
6. Ruling from Protest Hearing Officer Karen Goldman

ORDINANCE NO. 1902
SERIES 2025

AN INITIATED ORDINANCE AMENDING CHAPTER 3.18 OF THE LOUISVILLE MUNICIPAL CODE REGARDING IMPACT FEES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Chapter 3.18 (Development Impact Fees) of the Louisville Municipal Code is hereby amended read as follows:

~~Strikethrough~~ text is to be deleted
Bold Underlined text is to be added.

3.18.020.- Intent.

A. *Development bears proportionate share of costs of capital facilities*. The intent of this chapter is to ensure that new development bears a proportionate share of the cost of city ~~library capital facilities, transportation capital facilities, and parks and trails~~ capital facilities~~.~~ **including library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**

B. *Bear proportionate share of costs through impact fees.* It is the further intent of this chapter that new development pay for its fair share of the costs of ~~these library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the capital facilities impacted by growth, including all capital facilities defined in Sec. 3.18.030 C.**

C. *Not intent to charge more than proportionate cost.* It is the intent of this chapter that the impact fees imposed on new development are no greater than necessary to defray the impacts directly related to proposed new development (the costs of the capital facilities, **defined in Sec. 3.18.030 C.** ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ to accommodate new development).

D. *Not intent to remedy existing deficiency*. It is not the intent of this chapter that impact fees be used to remedy any existing deficiency in ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the categories of capital facilities defined in Sec. 3.18.030 C.**

E. *Not intent to commingle funds.* It is not the intent of this chapter that any monies collected from any impact fee deposited in an impact fee trust account ever be commingled with monies from a different trust account, or ever be used for capital facilities that are different from that for which the fee was paid, or ever be used to replace or rehabilitate existing ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **capital facilities defined in Sec. 3.18.030 C.**

Sec. 3.18.030. - Definitions.

C. *Capital facilities.* Any improvement or facility that:

1. Is directly related to any service that the city is authorized to provide;
2. Has an estimated useful life of five years or longer; and
3. Is required by the charter or general policy of the city pursuant to a resolution or ordinance.

This chapter establishes impact fees for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**
When referring to "capital facilities" in this chapter the reference is to ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~**capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, general municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**

J. *Impact fee(s)*. ~~The library capital facilities impact fee (library fee), transportation capital facilities impact fee (transportation fee), and parks and trails capital facilities impact fee (parks and trails fee.~~**The library capital facilities impact fee (library fee), transportation capital facilities impact fee (transportation fee), parks and trails capital facilities impact fee (parks and trails fee), open space capital facilities impact fee (open space fee), recreation capital facilities impact fee (recreation fee), emergency services capital facilities impact fee (emergency service fee), municipal buildings capital facilities impact fee (municipal buildings fee), water capital facilities impact fee (water fee), wastewater capital facility impact fee (wastewater fee), sewer capital facilities impact fee (sewer fee), flood control capital facilities impact fee (flood control fee), and affordable housing capital facilities impact fee (affordable housing fee)** established by this chapter.

H. *Development.* Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, which creates additional demand for ~~library capital facilities, transportation capital~~

~~facilities, and parks and trails capital facilities.~~ **<u>the capital facilities defined in Sec. 3.18.030 C.</u>**

K. *Impact fee trust fund.* **T**he trust fund established by <u>section 3.18.060</u> of this chapter, which includes ~~a library capital facilities account, transportation capital facilities account, and parks and trails facilities account.~~ **<u>an account for each of the categories of capital facilities in Sec. 3.18.030 C.</u>** The impact fee trust fund is also called the trust fund.

M. *Fee schedule or impact fee schedule.* The impact fees for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **<u>capital facilities definedin Sec. 3.18.030 C.</u>** established by this chapter. The impact fee schedule is set forth in Appendix A to this chapter and is incorporated herein by reference.

N. *Impact fee study*. The study entitled City of Louisville, Colorado Development Impact Fee Study, prepared by TischlerBise dated April 18, 2017 **<u>until a new study is completed. Thereafter, *Impact fee study* shall be defined as the most recent impact fee study beginning with the 2026 study to be entitled City of Louisville, Colorado Development Impact Fee Study, and to be completed by June 1, 2026.</u>**

O. Independent fee calculation study. A study prepared by a fee payer, calculating the cost of ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **<u>capital facilities in Sec. 3.18.030 C.</u>** required to serve the fee payer's proposed development, that is performed on an average cost (not marginal cost) methodology, uses the level of service standards, service units and unit construction costs stated in the **<u>most recent</u>** impact fee study, and is performed in compliance with any criteria for such studies established by this chapter.

P. Level of service (LOS). A measure of the relationship between service capacity and service demand for capital facilities ~~(in this chapter library capital facilities, transportation capital facilities, and/or parks and trails capital facilities)~~. **<u>defined in Sec. 3.18.030 C</u>**.

<u>Z. *Impact Fee Liaison Committee.* The committee to be formed every 5 years beginning January 1, 2026 pursuant to Sec. 3.18.100 to advise city staff and consultants during the development of a new development impact fee study.</u>

Sec. 3.18.040. - Development impact fees to be imposed.

C. Calculation of amount of impact fees.

1. *General.* Except for those electing to pay impact fees pursuant to section 3.18.040.C.2, Independent fee calculation study, the impact fees applicable to the impact-generating development shall be as determined by the fee schedule set forth in Appendix A: Impact Fee Schedule, which is hereby adopted and incorporated herein. The impact fee schedule adopted in Appendix A is based on the **most recent** impact fee study. It applies to the broad class of land uses within the city, differentiates between types of land uses, and is intended to defray the projected impacts caused by proposed new development on city ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** The determination of the land use category(ies) in the impact fee schedule that is applicable to impact-generating development shall be made by the city planning director or designee with reference to the **most recent** impact fee study and the methodologies therein; the then-current edition of the ITE Trip Generation Manual, published by the Institute of Traffic Engineers; the city zoning code; the then-current land use approvals for the development; the intent of this chapter as set forth in section 3.18.020, and any additional criteria set forth in administrative rules adopted pursuant to this chapter.

(a) *Annual adjustment of fees to reflect effects of inflation.* The impact fees shown in Appendix A: Impact Fee Schedule, shall be adjusted annually to reflect the effects of inflation on those costs for ~~city transportation capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** On November 1, ~~2018~~ **2027**, and on November 1 of each following year unless and until the Fees in Appendix A are revised or replaced, each impact fee amount set forth in Appendix A shall be adjusted for inflation, based on the most current Construction Cost Index published by Engineering News Record. Such adjustments in the Impact Fees shall become effective immediately upon calculation and certification by the city manager or manager's designee, and shall not require additional action by the city council to be effective.

(b) *Impact-generating development not listed in Appendix A: Impact Fee Schedule.* If the proposed impact-generating development is of a type not listed in Appendix A: Impact Fee Schedule, then the impact fees applicable to the most nearly comparable type of land use listed in Appendix A shall be used. The determination of the most nearly comparable type of land use shall be made by the city planning director or designee with reference to the **most recent** impact fee study and city zoning code.

2. *Independent fee calculation study.* In lieu of calculating the amount(s) of impact fees by reference to Appendix A: Impact Fee Schedule, a fee payer may request that the amount of the required impact fee be determined by reference to an independent fee calculation study.

(b) *General parameters for independent fee calculation study.* Each independent fee calculation study shall be based on the same LOS standards and unit costs for city ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** used in the **most recent** impact fee study, and shall document the relevant methodologies and assumptions used.

Sec. 3.18.050. - Credits.

A. Standards.
1. General. Any person causing the commencement of impact-generating development may apply for credit against impact fees otherwise due, up to but not exceeding the full obligation of impact fees proposed to be paid pursuant to the provisions of this chapter, for any contributions, construction, or dedication of land (where appropriate) accepted by the city ~~for city library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** ~~Credits against library fees shall be provided only for library capital facilities. Credits against transportation fees shall be provided only for transportation capital facilities on the city's road system. Credits against parks and trails fees shall be provided only for parks and trails capital facilities.~~ **Credits against a category of capital facility defined in Section 3.18.030 C. shall be provided only for the same category of capital facility. For example, credits against library fees shall be provided only for library capital facilities.**

Sec. 3.18.060. Impact fee trust fund.

A. *Establishment of trust fund and trust accounts.*

1. Establishment of accounts. The trust fund shall be divided into ~~three (3) Accounts: a library capital facilities account, a transportation capital facilities account, and a parks and trails capital facilities account.~~ **Separate capital facilities accounts for each of the capital facility categories defined in Section 3.18.030 C.**

B. *Deposit and management of accounts and trust fund.*

2. Managed in conformance with CRS § 29-1-801 et seq. The impact fee trust fund and the ~~five~~ **twelve** accounts shall be maintained as an interest bearing account and shall be managed in conformance with CRS § 29-1-801 et seq.

3. *Immediate deposit of fees in appropriate account in trust fund.* All impact fees collected by the city pursuant to this chapter shall be promptly deposited into the appropriate account in the trust fund. ~~The library fees shall be deposited into the library capital facilities account. The transportation fees shall be deposited into the transportation capital facilities account. The parks and trails fees shall be deposited into the parks and trails capital facilities account.~~ **The fees for each**

category of capital facilities defined Section 3.18.030 C. shall be deposited into the capital facilities account for that same category of capital facilitties. For example, the library fees shall be deposited into the library capital facilities account.

Sec. 3.18.070. - Expenditure of impact fees.

~~*A. Library capital facilities fee.* The monies collected from the library fee shall be used only to acquire or construct library capital facilities within the city.~~

~~B. Transportation capital facilities fee. The monies collected from the transportation fee shall be used only to acquire or construct transportation capital facilities on the city's road system.~~

~~C. *Parks and trails capital facilities fee.* The monies collected from the parks and trails fee shall be used only to acquire or construct parks and trails capital facilities within the city.~~

A. *Capital facilities fees.* The monies collected from fees for each category of capital facility defined Section 3.18.030 C. shall be used only to acquire or construct that same category of capital facility within the city. For example, the monies collected from the library fee shall be used only to acquire or construct library capital facilities within the city.

~~D.~~ **B.** *No monies spent for routine maintenance, rehabilitation or replacement of capital facilities.* No monies shall be spent for periodic or routine maintenance, rehabilitation, or replacement of any city ~~library capital facilities, transportation capital facilities, or parks and trails capital facilities.~~ **capital facility defined Section 3.18.030 C.**

~~E.~~ **C.** *No monies spent to remedy deficiencies existing on effective date of chapter.* No monies shall be spent to remedy existing deficiencies in ~~library capital facilities, transportation capital facilities, or parks and trails capital facilities.~~**capital facilities defined Section 3.18.030 C.**

~~F.~~ **D.** *Annual impact fee capital facilities budget.* At least once during each fiscal year of the city, the city manager or designee shall present to the city council a proposed impact fee capital facilities budget for **all capital facilities defined Section 3.18.030 C.** ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ This impact fee capital facilities budget shall recommend assigning monies from each impact fee trust account to specific ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **each category of capital facility.** Based on this recommendation, the city council shall approve an annual impact fee capital facilities budget and assign monies from the trust accounts for the specific capital facilities identified. Any monies, including any accrued interest, not assigned to specific capital facility projects and not expended shall be retained in the same impact fee trust account until the next fiscal year.

Sec. 3.18.080. - Benefit districts.

A. *Establishment.*

~~1. *Library capital facilities.* Because all new impact-generating development will benefit from the library capital facilities funded by the library fees, the city shall contain one library capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

~~2. *Transportation capital facilities.* Because all new impact-generating development will benefit from the transportation capital facilities funded by the transportation fees, the city shall contain one transportation capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

~~3. *Parks and trails capital facilities*. Because all new impact-generating development will benefit from the parks and trails capital facilities funded by the parks and trails fees, the city shall contain one parks and trails capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

Capital facilities benefit districts. **All new impact-generating development will benefit from each category of capital facilities defined Section 3.18.030 C. to the extent determined by the most recent impact fee study. Because fees fund each category of capital facilities, the city shall contain one capital facilities benefit district for each category of capital facilities. The district boundaries are coterminous with the city's boundaries.**

B. *Expenditure.*

~~1. *Library fees.* Library fees collected shall only be spent within the library capital facilities benefit district. The expenditure of library fees shall be limited to library capital facilities.~~

~~2. *Transportation fees.* Transportation fees collected shall only be spent within the transportation capital facilities benefit district. The expenditure of transportation fees shall be limited to transportation capital facilities.~~

~~3. *Parks and trails fees*. Parks and trails fees collected shall only be spent within the parks and trails capital facilities benefit district. The expenditure of parks and trails fees shall be limited to parks and trails capital facilities.~~

Capital facilities fees. **Fees collected for each category of capital facilities**

shall only be spent within the benefit district for that category. The expenditure of fees for that category shall be limited to capital facilities of the same category. For example, library fees collected shall only be spent within the library capital facilities benefit district. The expenditure of library fees shall be limited to library capital facilities.

Sec. 3.18.100. - ~~Review~~ **Update** every five years.

A. *Impact fee study.* The impact fees described in this chapter and the administrative procedures of this chapter shall be ~~reviewed~~ **updated in an impact fee study produced by an independent entity and guided by an Impact Fee Liaison Committee at least once every five years beginning no later than June 1, 2026.** ~~at least once every five years. by the city manager or the manager's designee~~ **The study will** ~~to~~ ensure that (1) the demand and cost assumptions underlying the impact fees are ~~still~~ valid, (2) the resulting impact fees do not exceed the actual costs of constructing capital facilities that are of the type for which the fees are paid and that are required to serve new impact- generating development, (3) the monies collected or to be collected in each impact fee trust account have been and are expected to be spent for capital facilities for which the fees were paid, and (4) the capital facilities for which the fees are to be used will benefit the new development paying the fees.

B. *Impact fee liaison committee.* The Impact Fee Liaison Committee will be formed every 5 years beginning January 1, 2026 to advise city staff and consultants during the development of a new impact fee study by providing stakeholder input, reviewing key materials, and promoting transparency throughout the process. The committee will be formed from representatives from each of the advisory boards and commissions that provide input on the capital facilities defined in Section 3.18.030 C.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 4th day of September 2025.

____
Christopher M. Leh, Mayor

ATTEST:

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Genny Kline, Interim City Clerk

APPROVED AS TO FORM:
Kelly PC

____
Melinda Culley, Deputy City Attorney

PUBLIC HEARING AND SECOND READING WILL BE THE 16th DAY OF SEPTEMBER, 2025, AT 6:00 P.M. AT LOUISVILLE CITY HALL, 749 MAIN STREET, LOUISVILLE, CO 80027.

PASSED AND ADOPTED ON SECOND AND FINAL READING, this ____ day of ____________________, 2025.

____
Christopher M. Leh, Mayor

ATTEST:

____
Genny Kline, Interim City Clerk

RESOLUTION NO. 64
SERIES 2025

A RESOLUTION REFERRING AN INITIATED ORDINANCE REGARDING IMPACT FEES TO A VOTE OF THE REGISTERED ELECTORS OF THE CITY OF LOUISVILLE AT A REGULAR ELECTION TO BE HELD NOVEMBER 4, 2025 AND DESIGNATING THE CITY CLERK TO SET THE BALLOT TITLE

WHEREAS, on September 4, 2025, the City Clerk of the City of Louisville submitted to the City Council a petition for an initiated ordinance amending Chapter 3.18 of the Louisville Municipal Code regarding impact fees imposed on impact-generating development in the City (the "Impact Fee Initiative"), the text of which initiated ordinance is set forth on Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, C.R.S. § 31-11-104 requires that if an initiated ordinance is not adopted by the legislative body within twenty days following the final determination of petition sufficiency, then the legislative body shall refer the initiated ordinance, in the form petitioned for, to the registered electors of the municipality at a regular or special election held not less than sixty days and not more than one hundred fifty days after the final determination of petition sufficiency; and

WHEREAS, following a protest hearing, the petition was determined sufficient on September 2, 2025; and

WHEREAS, the City Council deems it appropriate to refer the Impact Fee Initiative to a vote of the City's registered electors at the regular election to be held on November 4, 2025; and

WHEREAS, Section 1.16.045 of the Louisville Municipal Code provides the ballot title for an initiated measure shall be fixed by the City Council or its designee and Section 7-4(c) of the Louisville Home Rule Charter provides the City Clerk shall hold at least one (1) public hearing prior to setting the ballot title for the initiated ordinance, and shall take into consideration any comments received at the public hearing in setting the ballot title.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

1. The Impact Fee Initiative is hereby submitted to a vote of the City's registered electors at the regular election to be held on November 4, 2025. Such election shall be held as a part of the coordinated mail ballot election pursuant to the Uniform Election Code of 1992, articles 1 to 13 of title 1, C.R.S., as amended.

2. Pursuant to Section 7-4(c) of the City of Louisville Home Rule Charter and

Section 1.16.045 of the Louisville Municipal Code, the Interim City Clerk is authorized and designated to set the ballot title for the initiated ordinance. The Interim City Clerk shall hold at least one (1) public hearing prior to setting the ballot title for the initiated ordinance, and shall take into consideration any comments received at the public hearing in setting the ballot title.

3. The officers and employees of the City are hereby authorized and directed to take all necessary and appropriate actions to effectuate the provisions of this Resolution in accordance with Colorado law.

PASSED AND ADOPTED this 4th day of September 2025.

____
Christopher M. Leh, Mayor

ATTEST:

____
Genny Kline, Interim City Clerk

EXHIBIT A
TEXT OF IMPACT FEE INITIATIVE

Chapter 3.18 (Development Impact Fees) of the Louisville Municipal Code is hereby amended read as follows:

~~Strikethrough~~ text is to be deleted
Bold Underlined text is to be added.

3.18.020.- Intent.

A. *Development bears proportionate share of costs of capital facilities*. The intent of this chapter is to ensure that new development bears a proportionate share of the cost of city ~~library capital facilities, transportation capital facilities, and parks and trails~~ capital facilities~~.~~ **including library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**

B. *Bear proportionate share of costs through impact fees.* It is the further intent of this chapter that new development pay for its fair share of the costs of ~~these library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the capital facilities impacted by growth, including all capital facilities defined in Sec. 3.18.030 C.**

C. *Not intent to charge more than proportionate cost.* It is the intent of this chapter that the impact fees imposed on new development are no greater than necessary to defray the impacts directly related to proposed new development (the costs of the capital facilities, **defined in Sec. 3.18.030 C.** ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ to accommodate new development).

D. *Not intent to remedy existing deficiency*. It is not the intent of this chapter that impact fees be used to remedy any existing deficiency in ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the categories of capital facilities defined in Sec. 3.18.030 C.**

E. *Not intent to commingle funds.* It is not the intent of this chapter that any monies collected from any impact fee deposited in an impact fee trust account ever be commingled with monies from a different trust account, or ever be used for capital facilities that are different from that for which the fee was paid, or ever be used to replace or rehabilitate existing ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **capital facilities defined in Sec. 3.18.030 C.**

Sec. 3.18.030. - Definitions.

C. *Capital facilities.* Any improvement or facility that:

1. Is directly related to any service that the city is authorized to provide;
2. Has an estimated useful life of five years or longer; and
3. Is required by the charter or general policy of the city pursuant to a resolution or ordinance.

This chapter establishes impact fees for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**
When referring to "capital facilities" in this chapter the reference is to ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~**capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, general municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**

J. *Impact fee(s)*. ~~The library capital facilities impact fee (library fee), transportation capital facilities impact fee (transportation fee), and parks and trails capital facilities impact fee (parks and trails fee.~~**The library capital facilities impact fee (library fee), transportation capital facilities impact fee (transportation fee), parks and trails capital facilities impact fee (parks and trails fee), open space capital facilities impact fee (open space fee), recreation capital facilities impact fee (recreation fee), emergency services capital facilities impact fee (emergency service fee), municipal buildings capital facilities impact fee (municipal buildings fee), water capital facilities impact fee (water fee), wastewater capital facility impact fee (wastewater fee), sewer capital facilities impact fee (sewer fee), flood control capital facilities impact fee (flood control fee), and affordable housing capital facilities impact fee (affordable housing fee)** established by this chapter.

H. *Development.* Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, which creates additional demand for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the capital facilities defined in Sec. 3.18.030 C.**

K. *Impact fee trust fund.* **T**he trust fund established by section 3.18.060 of this chapter, which includes ~~a library capital facilities account, transportation capital facilities account, and parks and trails facilities account.~~ **an account for each of the categories of capital facilities in Sec. 3.18.030 C.** The impact fee trust fund is also called the trust fund.

M. *Fee schedule or impact fee schedule.* The impact fees for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities definedin Sec. 3.18.030 C.** established by this chapter. The impact fee schedule is set forth in Appendix A to this chapter and is incorporated herein by reference.

N. *Impact fee study*. The study entitled City of Louisville, Colorado Development Impact Fee Study, prepared by TischlerBise dated April 18, 2017 **until a new study is completed. Thereafter, *Impact fee study* shall be defined as the most recent impact fee study beginning with the 2026 study to be entitled City of Louisville, Colorado Development Impact Fee Study, and to be completed by June 1, 2026.**

O. Independent fee calculation study. A study prepared by a fee payer, calculating the cost of ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities in Sec. 3.18.030 C.** required to serve the fee payer's proposed development, that is performed on an average cost (not marginal cost) methodology, uses the level of service standards, service units and unit construction costs stated in the **most recent** impact fee study, and is performed in compliance with any criteria for such studies established by this chapter.

P. Level of service (LOS). A measure of the relationship between service capacity and service demand for capital facilities ~~(in this chapter library capital facilities, transportation capital facilities, and/or parks and trails capital facilities)~~. **defined in Sec. 3.18.030 C.**

Z. Impact Fee Liaison Committee. **The committee to be formed every 5 years beginning January 1, 2026 pursuant to Sec. 3.18.100 to advise city staff and consultants during the development of a new development impact fee study.**

Sec. 3.18.040. - Development impact fees to be imposed.

C. Calculation of amount of impact fees.

1. *General.* Except for those electing to pay impact fees pursuant to section 3.18.040.C.2, Independent fee calculation study, the impact fees applicable to the

impact-generating development shall be as determined by the fee schedule set forth in Appendix A: Impact Fee Schedule, which is hereby adopted and incorporated herein. The impact fee schedule adopted in Appendix A is based on the **most recent** impact fee study. It applies to the broad class of land uses within the city, differentiates between types of land uses, and is intended to defray the projected impacts caused by proposed new development on city ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** The determination of the land use category(ies) in the impact fee schedule that is applicable to impact-generating development shall be made by the city planning director or designee with reference to the **most recent** impact fee study and the methodologies therein; the then-current edition of the ITE Trip Generation Manual, published by the Institute of Traffic Engineers; the city zoning code; the then-current land use approvals for the development; the intent of this chapter as set forth in section 3.18.020, and any additional criteria set forth in administrative rules adopted pursuant to this chapter.

(a) *Annual adjustment of fees to reflect effects of inflation.* The impact fees shown in Appendix A: Impact Fee Schedule, shall be adjusted annually to reflect the effects of inflation on those costs for ~~city transportation capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** On November 1, ~~2018~~ **2027**, and on November 1 of each following year unless and until the Fees in Appendix A are revised or replaced, each impact fee amount set forth in Appendix A shall be adjusted for inflation, based on the most current Construction Cost Index published by Engineering News Record. Such adjustments in the Impact Fees shall become effective immediately upon calculation and certification by the city manager or manager's designee, and shall not require additional action by the city council to be effective.

(b) *Impact-generating development not listed in Appendix A: Impact Fee Schedule.* If the proposed impact-generating development is of a type not listed in Appendix A: Impact Fee Schedule, then the impact fees applicable to the most nearly comparable type of land use listed in Appendix A shall be used. The determination of the most nearly comparable type of land use shall be made by the city planning director or designee with reference to the **most recent** impact fee study and city zoning code.

2. *Independent fee calculation study.* In lieu of calculating the amount(s) of impact fees by reference to Appendix A: Impact Fee Schedule, a fee payer may request that the amount of the required impact fee be determined by reference to an independent fee calculation study.

(b) *General parameters for independent fee calculation study.* Each independent fee calculation study shall be based on the same LOS standards and unit costs for city ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** used in the **most recent** impact fee study, and shall document the relevant methodologies and assumptions used.

Sec. 3.18.050. - Credits.

A. Standards.

1. General. Any person causing the commencement of impact-generating development may apply for credit against impact fees otherwise due, up to but not exceeding the full obligation of impact fees proposed to be paid pursuant to the provisions of this chapter, for any contributions, construction, or dedication of land (where appropriate) accepted by the city ~~for city library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** ~~Credits against library fees shall be provided only for library capital facilities. Credits against transportation fees shall be provided only for transportation capital facilities on the city's road system. Credits against parks and trails fees shall be provided only for parks and trails capital facilities.~~ **Credits against a category of capital facility defined in Section 3.18.030 C. shall be provided only for the same category of capital facility. For example, credits against library fees shall be provided only for library capital facilities.**

Sec. 3.18.060. Impact fee trust fund.

A. *Establishment of trust fund and trust accounts.*

1. Establishment of accounts. The trust fund shall be divided into ~~three (3) Accounts: a library capital facilities account, a transportation capital facilities account, and a parks and trails capital facilities account.~~ **Separate capital facilities accounts for each of the capital facility categories defined in Section 3.18.030 C.**

B. *Deposit and management of accounts and trust fund.*

2. Managed in conformance with CRS § 29-1-801 et seq. The impact fee trust fund and the ~~five~~ **twelve** accounts shall be maintained as an interest bearing account and shall be managed in conformance with CRS § 29-1-801 et seq.

3. *Immediate deposit of fees in appropriate account in trust fund.* All impact fees collected by the city pursuant to this chapter shall be promptly deposited into the appropriate account in the trust fund. ~~The library fees shall be deposited into the library capital facilities account. The transportation fees shall be deposited into~~

~~the transportation capital facilities account. The parks and trails fees shall be deposited into the parks and trails capital facilities account.~~ **The fees for each category of capital facilities defined Section 3.18.030 C. shall be deposited into the capital facilities account for that same category of capital facilitties. For example, the library fees shall be deposited into the library capital facilities account.**

Sec. 3.18.070. - Expenditure of impact fees.

~~*A. Library capital facilities fee.* The monies collected from the library fee shall be used only to acquire or construct library capital facilities within the city.~~

~~B. Transportation capital facilities fee. The monies collected from the transportation fee shall be used only to acquire or construct transportation capital facilities on the city's road system.~~

~~C. *Parks and trails capital facilities fee.* The monies collected from the parks and trails fee shall be used only to acquire or construct parks and trails capital facilities within the city.~~

A. *Capital facilities fees.* The monies collected from fees for each category of capital facility defined Section 3.18.030 C. shall be used only to acquire or construct that same category of capital facility within the city. For example, the monies collected from the library fee shall be used only to acquire or construct library capital facilities within the city.

~~D.~~ **B.** *No monies spent for routine maintenance, rehabilitation or replacement of capital facilities.* No monies shall be spent for periodic or routine maintenance, rehabilitation, or replacement of any city ~~library capital facilities, transportation capital facilities, or parks and trails capital facilities.~~ **capital facility defined Section 3.18.030 C.**

~~E.~~ **C.** *No monies spent to remedy deficiencies existing on effective date of chapter.* No monies shall be spent to remedy existing deficiencies in ~~library capital facilities, transportation capital facilities, or parks and trails capital facilities.~~**capital facilities defined Section 3.18.030 C.**

~~F.~~ **D.** *Annual impact fee capital facilities budget.* At least once during each fiscal year of the city, the city manager or designee shall present to the city council a proposed impact fee capital facilities budget for **all capital facilities defined Section 3.18.030 C.** ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ This impact fee capital facilities budget shall recommend assigning monies from each impact fee trust account to specific ~~city~~

~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **<u>each category of capital facility.</u>** Based on this recommendation, the city council shall approve an annual impact fee capital facilities budget and assign monies from the trust accounts for the specific capital facilities identified. Any monies, including any accrued interest, not assigned to specific capital facility projects and not expended shall be retained in the same impact fee trust account until the next fiscal year.

Sec. 3.18.080. - Benefit districts.

A. *Establishment.*

~~1. *Library capital facilities.* Because all new impact-generating development will benefit from the library capital facilities funded by the library fees, the city shall contain one library capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

~~2. *Transportation capital facilities.* Because all new impact-generating development will benefit from the transportation capital facilities funded by the transportation fees, the city shall contain one transportation capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

~~3. *Parks and trails capital facilities*. Because all new impact-generating development will benefit from the parks and trails capital facilities funded by the parks and trails fees, the city shall contain one parks and trails capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

<u>Capital facilities benefit districts.</u> **<u>All new impact-generating development will benefit from each category of capital facilities defined Section 3.18.030 C. to the extent determined by the most recent impact fee study. Because fees fund each category of capital facilities, the city shall contain one capital facilities benefit district for each category of capital facilities. The district boundaries are coterminous with the city's boundaries.</u>**

B. *Expenditure.*

~~1. *Library fees.* Library fees collected shall only be spent within the library capital facilities benefit district. The expenditure of library fees shall be limited to library capital facilities.~~

~~2. *Transportation fees.* Transportation fees collected shall only be spent within the transportation capital facilities benefit district. The expenditure of transportation fees shall be limited to transportation capital facilities.~~

~~3. *Parks and trails fees*. Parks and trails fees collected shall only be spent within the parks and trails capital facilities benefit district. The expenditure of parks and trails fees shall be limited to parks and trails capital facilities.~~

Capital facilities fees. **Fees collected for each category of capital facilities shall only be spent within the benefit district for that category. The expenditure of fees for that category shall be limited to capital facilities of the same category. For example, library fees collected shall only be spent within the library capital facilities benefit district. The expenditure of library fees shall be limited to library capital facilities.**

Sec. 3.18.100. - ~~Review~~ **Update** every five years.

A. *Impact fee study.* The impact fees described in this chapter and the administrative procedures of this chapter shall be ~~reviewed~~ **updated in an impact fee study produced by an independent entity and guided by an Impact Fee Liaison Committee at least once every five years beginning no later than June 1, 2026.** ~~at least once every five years. by the city manager or the manager's designee~~ **The study will** ~~to~~ ensure that (1) the demand and cost assumptions underlying the impact fees are ~~still~~ valid, (2) the resulting impact fees do not exceed the actual costs of constructing capital facilities that are of the type for which the fees are paid and that are required to serve new impact- generating development, (3) the monies collected or to be collected in each impact fee trust account have been and are expected to be spent for capital facilities for which the fees were paid, and (4) the capital facilities for which the fees are to be used will benefit the new development paying the fees.

B. *Impact fee liaison committee.* The Impact Fee Liaison Committee will be formed every 5 years beginning January 1, 2026 to advise city staff and consultants during the development of a new impact fee study by providing stakeholder input, reviewing key materials, and promoting transparency throughout the process. The committee will be formed from representatives from each of the advisory boards and commissions that provide input on the capital facilities defined in Section 3.18.030 C.

WARNING:
IT IS AGAINST THE LAW:

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.

SUMMARY:

This initiated ordinance amends Chapter 3.18 of the Louisville Municipal Code regarding the impact fees imposed on impact-generating development in the City. Currently, the City imposes impact fees for library capital facilities, transportation capital facilities, and parks and trails capital facilities. This initiated ordinance would impose impact fees for capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. This initiated ordinance also requires: the preparation of a new impact fee study by June 1, 2026; the preparation of an updated impact fee study by an independent entity at least once every five years; and the formation of an Impact Fee Liaison Committee to advise City staff and consultants during the development of the impact fee study.

Petition Representatives

Janette Kotichas	Jean Morgan
278 Juniper Street	1131 Spruce Street
Louisville, CO 80027	Louisville, CO 80027

INITIATIVE PETITION

This petition requests that an ordinance to change Louisville Municipal Code Chapter 3.18, as shown below, be submitted to a vote if not passed by the City Council. (City Charter Article 7).

~~Strikethrough~~ text is to be deleted
Bold Underlined text is to be added.

Sec. 3.18.020. - Intent.

A. *Development bears proportionate share of costs of capital facilities*. The intent of this chapter is to ensure that new development bears a proportionate share of the cost of city ~~library capital facilities, transportation capital facilities, and parks and trails~~ capital facilities~~.~~ **including library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**

B. *Bear proportionate share of costs through impact fees.* It is the further intent of this chapter that new development pay for its fair share of the costs of ~~these library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the capital facilities impacted by growth, including all capital facilities defined in Sec. 3.18.030 C.**

C. *Not intent to charge more than proportionate cost.* It is the intent of this chapter that the impact fees imposed on new development are no greater than necessary to defray the impacts directly related to proposed new development (the costs of the capital facilities~~,~~ **defined in Sec. 3.18.030 C.** ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ to accommodate new development).

D. *Not intent to remedy existing deficiency*. It is not the intent of this chapter that impact fees be used to remedy any existing deficiency in ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the categories of capital facilities defined in Sec. 3.18.030 C.**

E. *Not intent to commingle funds*. It is not the intent of this chapter that any monies collected from any impact fee deposited in an impact fee trust account ever be commingled with monies from a different trust account, or ever be used for capital facilities that are different from that for which the fee was paid, or ever be used to replace or rehabilitate existing ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **capital facilities defined in Sec. 3.18.030 C.**

Sec. 3.18.030. - Definitions.

C. *Capital facilities*. Any improvement or facility that:

1. Is directly related to any service that the city is authorized to provide;
2. Has an estimated useful life of five years or longer; and
3. Is required by the charter or general policy of the city pursuant to a resolution or ordinance.

This chapter establishes impact fees for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**
When referring to "capital facilities" in this chapter the reference is to ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~.**capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, general municipal buildings, water, wastewater, sewer, flood control, and affordable housing.**

J. *Impact fee(s)*. ~~The library capital facilities impact fee (library fee), transportation capital facilities impact fee (transportation fee), and parks and trails capital facilities impact fee (parks and trails fee~~.**The library capital facilities impact fee (library fee), transportation capital facilities impact fee (transportation fee), parks and trails capital facilities impact fee (parks and trails fee), open space capital facilities impact fee (open space fee), recreation capital facilities impact fee (recreation fee), emergency services capital facilities impact fee (emergency service fee), municipal buildings capital facilities impact fee (municipal buildings fee), water capital facilities impact fee (water fee), wastewater capital facility impact fee (wastewater fee), sewer capital facilities impact fee (sewer fee), flood control capital facilities impact fee (flood control fee), and affordable housing capital facilities impact fee (affordable housing fee)** established by this chapter.

H. *Development*. Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, which creates additional demand for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **the capital facilities defined in Sec. 3.18.030 C.**

K. *Impact fee trust fund*. The trust fund established by section 3.18.060 of this chapter, which includes ~~a library capital facilities account, transportation capital facilities account, and parks and trails facilities account.~~ **an account for each of the categories of capital facilities in Sec. 3.18.030 C.**The impact fee trust fund is also called the trust fund.

M. *Fee schedule or impact fee schedule*. The impact fees for ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities definedin Sec. 3.18.030 C.** established by this chapter. The impact fee schedule is set forth in Appendix A to this chapter and is incorporated herein by reference.

N. *Impact fee study*. The study entitled City of Louisville, Colorado Development Impact Fee Study, prepared by TischlerBise dated April 18, 2017 **until a new study is completed. Thereafter, *Impact fee study* shall be defined as the most recent impact fee study beginning with the 2026 study to be entitled City of Louisville, Colorado Development Impact Fee Study, and to be completed by June 1, 2026.**

O. Independent fee calculation study. A study prepared by a fee payer, calculating the cost of ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities in Sec. 3.18.030 C.** required to serve the fee payer's proposed development, that is performed on an average cost (not marginal cost) methodology, uses the level of service standards, service units and unit construction costs stated in the **most recent** impact fee study, and is performed in compliance with any criteria for such studies established by this chapter.

P. Level of service (LOS). A measure of the relationship between service capacity and service demand for capital facilities ~~(in this chapter library capital facilities, transportation capital facilities, and/or parks and trails capital facilities).~~ **defined in Sec. 3.18.030 C.**

Z. Impact Fee Liaison Committee. **The committee to be formed every 5 years beginning January 1, 2026 pursuant to Sec. 3.18.100 to advise city staff and consultants during the development of a new development impact fee study.**

Sec. 3.18.040. - Development impact fees to be imposed.

C. Calculation of amount of impact fees.

1. *General.* Except for those electing to pay impact fees pursuant to section 3.18.040.C.2, Independent fee calculation study, the impact fees applicable to the impact-generating development shall be as determined by the fee schedule set forth in Appendix A: Impact Fee Schedule, which is hereby adopted and incorporated herein. The impact fee schedule adopted in Appendix A is based on the **most recent** impact fee study. It applies to the broad class of land uses within the city, differentiates between types of land uses, and is intended to defray the projected impacts caused by proposed new development on city ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** The determination of the land use category(ies) in the impact fee schedule that is applicable to impact-generating development shall be made by the city planning director or designee with reference to the **most recent** impact fee study and the methodologies therein; the then-current edition of the ITE Trip Generation Manual, published by the Institute of Traffic Engineers; the city zoning code; the then-current land use approvals for the development; the intent of this chapter as set forth in section 3.18.020, and any additional criteria set forth in administrative rules adopted pursuant to this chapter.

(a) *Annual adjustment of fees to reflect effects of inflation.* The impact fees shown in Appendix A: Impact Fee Schedule, shall be adjusted annually to reflect the effects of inflation on those costs for ~~city transportation capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** On November 1, ~~2018~~ **2027**, and on November 1 of each following year unless and until the Fees in Appendix A are revised or replaced, each impact fee amount set forth in Appendix A shall be adjusted for inflation, based on the most current Construction Cost Index published by Engineering News Record. Such adjustments in the Impact Fees shall become effective immediately upon calculation and certification by the city manager or manager's designee, and shall not require additional action by the city council to be effective.

(b) *Impact-generating development not listed in Appendix A: Impact Fee Schedule.* If the proposed impact-generating development is of a type not listed in Appendix A: Impact Fee Schedule, then the impact fees applicable to the most nearly comparable type of land use listed in Appendix A shall be used. The determination of the most nearly comparable type of land use shall be made by the city planning director or designee with reference to the **most recent** impact fee study and city zoning code.

2. *Independent fee calculation study.* In lieu of calculating the amount(s) of impact fees by reference to Appendix A: Impact Fee Schedule, a fee payer may request that the amount of the required impact fee be determined by reference to an independent fee calculation study.

(b) *General parameters for independent fee calculation study.* Each independent fee calculation study shall be based on the same LOS standards and unit costs for city ~~library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** used in the **most recent** impact fee study, and shall document the relevant methodologies and assumptions used.

Sec. 3.18.050. - Credits.

A. Standards.

1. General. Any person causing the commencement of impact-generating development may apply for credit against impact fees otherwise due, up to but not exceeding the full obligation of impact fees proposed to be paid pursuant to the provisions of this chapter, for any contributions, construction, or dedication of land (where appropriate) accepted by the city for ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities~~ **capital facilities defined in Sec. 3.18.030 C.** ~~Credits against library fees shall be provided only for library capital facilities. Credits against transportation fees shall be provided only for transportation capital facilities on the city's road system. Credits against parks and trails fees shall be provided only for parks and trails capital facilities.~~ **Credits against a category of capital facility defined in Section 3.18.030 C. shall be provided only for the same category of capital facility. For example, credits against library fees shall be provided only for library capital facilities.**

Sec. 3.18.060. - Impact fee trust fund.

A. *Establishment of trust fund and trust accounts.*

2. Establishment of accounts. The trust fund shall be divided into ~~three (3) Accounts: a library capital facilities account, a transportation capital facilities account, and a parks and trails capital facilities account.~~ **Separate capital facilities accounts for each of the capital facility categories defined in Section 3.18.030 C.**

B. *Deposit and management of accounts and trust fund.*

1. Managed in conformance with CRS § 29-1-801 et seq. The impact fee trust fund and the ~~five~~ **twelve** accounts shall be maintained as an interest bearing account and shall be managed in conformance with CRS § 29-1-801 et seq.

2. *Immediate deposit of fees in appropriate account in trust fund.* All impact fees collected by the city pursuant to this chapter shall be promptly deposited into the appropriate account in the trust fund. ~~The library fees shall be deposited into the library capital facilities account. The transportation fees shall be deposited into the transportation capital facilities account. The parks and trails fees shall be deposited into the parks and trails capital facilities account.~~ **The fees for each category of capital facilities defined Section 3.18.030 C. shall be deposited into the capital facilities account for that same category of capital facilitties. For example,the library fees shall be deposited into the library capital facilities account.**

Sec. 3.18.070. - Expenditure of impact fees.

~~*A. Library capital facilities fee.* The monies collected from the library fee shall be used only to acquire or construct library capital facilities within the city.~~

~~B. Transportation capital facilities fee. The monies collected from the transportation fee shall be used only to acquire or construct transportation capital facilities on the city's road system.~~

~~C. *Parks and trails capital facilities fee.* The monies collected from the parks and trails fee shall be used only to acquire or construct parks and trails capital facilities within the city.~~

A. *Capital facilities fees.* The monies collected from fees for each category of capital facility defined Section 3.18.030 C. shall be used only to acquire or construct that same category of capital facility within the city. For example, the monies collected from the library fee shall be used only to acquire or construct library capital facilities within the city.

~~D~~**. B.** *No monies spent for routine maintenance, rehabilitation or replacement of capital facilities.* No monies shall be spent for periodic or routine maintenance, rehabilitation, or replacement of any city ~~library capital facilities, transportation capital facilities, or parks and trails capital facilities.~~ **capital facility defined Section 3.18.030 C.**

~~E~~. **C.** *No monies spent to remedy deficiencies existing on effective date of chapter.* No monies shall be spent to remedy existing deficiencies in ~~library capital facilities, transportation capital facilities, or parks and trails capital facilities.~~ **capital facilities defined Section 3.18.030 C.**

~~F.~~ **D.** *Annual impact fee capital facilities budget.* At least once during each fiscal year of the city, the city manager or designee shall present to the city council a proposed impact fee capital facilities budget for **all capital facilities defined Section 3.18.030 C.** ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ This impact fee capital facilities budget shall recommend assigning monies from each impact fee trust account to specific ~~city library capital facilities, transportation capital facilities, and parks and trails capital facilities.~~ **each category of capital facility.** Based on this recommendation, the city council shall approve an annual impact fee capital facilities budget and assign monies from the trust accounts for the specific capital facilities identified. Any monies, including any accrued interest, not assigned to specific capital facility projects and not expended shall be retained in the same impact fee trust account until the next fiscal year.

Sec. 3.18.080. - Benefit districts.

A. *Establishment.*

~~1. *Library capital facilities.* Because all new impact-generating development will benefit from the library capital facilities funded by the library fees, the city shall contain one library capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

~~2. *Transportation capital facilities.* Because all new impact-generating development will benefit from the transportation capital facilities funded by the transportation fees, the city shall contain one transportation capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

~~3. *Parks and trails capital facilities*. Because all new impact-generating development will benefit from the parks and trails capital facilities funded by the parks and trails fees, the city shall contain one parks and trails capital facilities benefit district. The district boundaries are coterminous with the city's boundaries.~~

Capital facilities benefit districts. **All new impact-generating development will benefit from each category of capital facilities defined Section 3.18.030 C. to the extent determined by the most recent impact fee study. Because fees fund each category of capital facilities, the city shall contain one capital facilities benefit district for each category of capital facilities. The district boundaries are coterminous with the city's boundaries.**

B. *Expenditure.*

~~1. *Library fees.* Library fees collected shall only be spent within the library capital facilities benefit district. The expenditure of library fees shall be limited to library capital facilities.~~

~~2. *Transportation fees.* Transportation fees collected shall only be spent within the transportation capital facilities benefit district. The expenditure of transportation fees shall be limited to transportation capital facilities.~~

~~3. *Parks and trails fees*. Parks and trails fees collected shall only be spent within the parks and trails capital facilities benefit district. The expenditure of parks and trails fees shall be limited to parks and trails capital facilities.~~

Capital facilities fees. **Fees collected for each category of capital facilities shall only be spent within the benefit district for that category. The expenditure of fees for that category shall be limited to capital facilities of the same category. For example, library fees collected shall only be spent within the library capital facilities benefit district. The expenditure of library fees shall be limited to library capital facilities.**

Sec. 3.18.100. - ~~Review~~ **Update** every five years.

A. *Impact fee study.* The impact fees described in this chapter and the administrative procedures of this chapter shall be ~~reviewed~~ **updated in an impact fee study produced by an independent entity and guided by an Impact Fee Liaison Committee at least once every five years beginning no later than June 1, 2026.** ~~at least once every five years. by the city manager or the manager's designee~~ **The study will** ~~to~~ ensure that (1) the demand and cost assumptions underlying the impact fees are ~~still~~ valid, (2) the resulting impact fees do not exceed the actual costs of constructing capital facilities that are of the type for which the fees are paid and that are required to serve new impact-generating development, (3) the monies collected or to be collected in each impact fee trust account have been and are expected to be spent for capital facilities for which the fees were paid, and (4) the capital facilities for which the fees are to be used will benefit the new development paying the fees.

B. ***Impact fee liaison committee.*** **The Impact Fee Liaison Committee will be formed every 5 years beginning January 1, 2026 to advise city staff and consultants during the development of a new impact fee study by providing stakeholder input, reviewing key materials, and promoting transparency throughout the process. The committee will be formed from representatives from each of the advisory boards and commissions that provide input on the capital facilities defined in Section 3.18.030 C.**

WARNING:
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SUMMARY: This initiated ordinance amends Chapter 3.18 of the Louisville Municipal Code regarding the impact fees imposed on impact-generating development in the City. Currently, the City imposes impact fees for library capital facilities, transportation capital facilities, and parks and trails capital facilities. This initiated ordinance would impose impact fees for capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. This initiated ordinance also requires: the preparation of a new impact fee study by June 1, 2026; the preparation of an updated impact fee study by an independent entity at least once every five years; and the formation of an Impact Fee Liaison Committee to advise City staff and consultants during the development of the impact fee study.

1	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
2	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
3	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
4	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
5	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

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6	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
7	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
8	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
9	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
10	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

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11	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
12	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
13	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
14	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
15	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

WARNING:
IT IS AGAINST THE LAW:

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning

SUMMARY: This initiated ordinance amends Chapter 3.18 of the Louisville Municipal Code regarding the impact fees imposed on impact-generating development in the City. Currently, the City imposes impact fees for library capital facilities, transportation capital facilities, and parks and trails capital facilities. This initiated ordinance would impose impact fees for capital facilities in each of the following categories: library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. This initiated ordinance also requires: the preparation of a new impact fee study by June 1, 2026; the preparation of an updated impact fee study by an independent entity at least once every five years; and the formation of an Impact Fee Liaison Committee to advise City staff and consultants during the development of the impact fee study.

16	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
17	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
18	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
19	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
20	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

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21	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
22	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
23	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
24	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
25	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

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26	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
27	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
28	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
29	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed
30	Printed Name	Signature		
	Residence Address (Street # and Name)	City	County	Date Signed

Affidavit of Circulator			
Affiant's Printed Name			
Residence Address (Street # and Name)	City	County	Date Signed

a. That the affiant has read and understands the laws governing the circulation of petition;
b. That the affiant was eighteen years of age or older at the time the section of the petition was circulated and signed by the listed electors;
c. That the affiant circulated the section of the petition;
d. That each signature thereon was affixed in the affiant's presence;
e. That each signature thereon is the signature of the person whose name it purports to be;
f. That, to the best of the affiant's knowledge and belief, each of the persons signing the petition section was, at the time of signing, a registered elector; and
g. That the affiant has not paid or will not in the future pay and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the petition.

Affiant's Signature

Subscribed and sworn to me in the county of _______________, State of Colorado, this ______ day of ___________________, 20 __

Notary seal

____
Notary's Official Signature

____

Commission Expiration

BEFORE THE CITY CLERK
OF THE CITY OF LOUISVILLE, COLORADO

Re: Impact Fee Initiative Petition filed July 2, 2025

INITIAL STATEMENT OF PETITION SUFFICIENCY

The undersigned City Clerk of the City of Louisville, Colorado, hereby finds and states as follows:

1. On May 6, 2025, the City Clerk received written notice of a proposed initiated ordinance to amend Chapter 3.18 of the Louisville Municipal Code regarding the impact fees imposed on impact-generating development in the City (the “Impact Fee Petition”), and the form and first printer’s proof of petition. The two persons designated to represent the proponents of the petition are identified thereon as Janette Kotichas and Jean Morgan.

2. On May 15, 2025, the City Clerk approved the form and printer’s proof of the petition section for the Impact Fee Petition.

3. On July 2, 2025, the proponents filed with the City Clerk signed petition sections for the Impact Fee Petition.

4. Section 7-1(c) of the Louisville Home Rule Charter requires that an initiative petition be signed by at least five percent (5%) of the registered electors of the City on the date that the notice of the proposed ordinance is submitted to the City Clerk.

5. According to the Boulder County Clerk, the number of registered electors in the City on May 6, 2025 was 16,220. Therefore, the required number of signers on the Impact Fee Petition was 811.

6. Based upon my review of signatures, the Impact Fee Petition has more than 811 valid signatures. Accordingly, I hereby find that the Impact Fee Petition has a sufficient number of valid signatures.

7. C.R.S. § 31-11-104(1) requires that the signed sections of an initiative petition be filed with the City Clerk within one hundred and eighty (180) days of the Clerk’s approval of the petition form. Accordingly, I find that the Impact Fee Petition was timely filed.

8. C.R.S. § 31-11-110 provides for a protest period that must run before the City Council may act on an initiative petition. A protest may be filed by any registered elector who resides in the City within 40 days after the initiative petition is filed. After the protest period runs, or on the date on which any protest proceeding is

concluded, whichever is later, I will issue a final statement of petition sufficiency or insufficiency.

ISSUED this 24th day of July 2025.

CITY OF LOUISVILLE

G. Kline

Genny Kline, Interim City Clerk

CERTIFICATE OF MAILING

I hereby certify that true copies of the foregoing INITIAL STATEMENT OF PETITION SUFFICIENCY were sent via email and placed in the U.S. mail, postage prepaid, this 24th day of July 2025, addressed to:

Janette Kotichas
278 Juniper Street
Louisville, CO 80027

Jean Morgan
1131 Spruce Street
Louisville, CO 80027

By: G. Kline
Genny Kline, Interim City Clerk

BEFORE THE CITY CLERK OF THE CITY OF LOUISVILLE, COLORADO

In re: Initiative Petition to Amend Chapter 3.18, Louisville Municipal Code (Development Impact Fees)

PROTEST

Introduction

Protestors, Tim Bierman, Don P. Brown, Jr., and Karen Brown, registered electors of the City of Louisville, Colorado, hereby submit this Protest under C.R.S. § 31-11-110 against the sufficiency and validity of the initiative petition to amend Chapter 3.18 of the Louisville Municipal Code regarding development impact fees. This City Clerk has jurisdiction to hear this protest pursuant to C.R.S. § 31-11-110(1). Protestors have standing as residents and registered electors of the City and have timely filed this Protest within forty days of the petition's filing. Protestors respectfully request that the City Clerk conduct a hearing, declare the petition insufficient and invalid, and refuse to certify the proposed initiative to the ballot.

I. Background

On July 2, 2025, petition representatives filed an initiative petition seeking to amend Chapter 3.18 of the Louisville Municipal Code regarding the impact fees imposed on impact-generating development in the City. Under current ordinance, the City imposes impact fees for library capital facilities, transportation capital facilities, and parks and trails capital facilities. This initiative seeks to expand impact fees for capital facilities to include the following categories: library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. In addition to expanding the categories of capital facilities subject to impact fees, this initiative also seeks to make significant changes to how the City administers impact fees by mandating the preparation of a new impact study by Juned 1, 2026; mandating the preparation of an updated impact fee study by an independent entity at least once every five years; and mandating the formation of an Impact Fee Liaison Committee comprised of private individuals to advise City staff during the development of the impact fee study.

II. The Initiative Proposes an Administrative Measure, Not a Legislative Act, and Therefore Lies Outside the Scope of the Initiative Power

Under Colorado law, citizens' initiative power extends only to measures that are legislative in character; administrative or executive matters are not subject to initiative or referendum. *Vagneur v. City of Aspen*, 2013 CO 13, ¶ 33. The Colorado Constitution reserves to local electors the power to enact "municipal legislation" by initiative, but by the same token prohibits the exercise of administrative or executive powers by the electorate. This limitation is rooted in separation of powers principles: the people's reserved lawmaking power may be used to set general policies and laws, but not to interfere in the administration or execution of existing laws. *Id.* The Colorado Supreme Court has accordingly held that a proposed municipal initiative must be a valid exercise of legislative power; if it is administrative in character, it "**may not be placed on the ballot.**" *Id.*

A. Legal Standard

Colorado courts apply well-established tests to distinguish legislative proposals from administrative acts. An action is legislative if it formulates a policy or rule of general and permanent applicability, whereas actions taken to carry out already-established policies or that address only a temporary, specific, or managerial matter are *administrative. City of Aurora v. Zwerdlinger*, 194 Colo. 192, 196, 571 P.2d 1074, 1077 (1977); *Margolis v. District Court*, 200 Colo. 70, 75 (1980) (quoting *Zwerdlinger*). Thus, "acts constituting a declaration of public policy are deemed to be legislative," but acts "necessary to carry out existing legislative policies and purposes" are administrative. *City of Idaho Springs v. Blackwell*, 731 P.2d 1250, 1254 (Colo. 1987).

Likewise, measures dealing with subjects of a permanent and general character (affecting the community at large) tend to be legislative, whereas those that are episodic or directed at day-to-day operations are administrative. *Zwerdlinger*, 194 Colo. at 195–96. The fundamental inquiry is whether the proposal makes new law of general applicability (legislative) or instead meddles with the execution of existing law or policy (administrative). If a proposed initiative "exceeds the proper sphere of legislation and instead attempts to exercise administrative or executive powers," it is not a valid initiative and cannot be submitted to voters. *Blackwell*, 731 P.2d at 1253.

Colorado case law applying these tests has invalidated local initiatives that intrude into administrative matters. For example, in *Zwerdlinger,* the Colorado Supreme Court held that an ordinance setting municipal utility rates was administrative and not subject to referendum because it executed an existing policy (maintenance of a city utility) and involved complex fluctuating facts not suited to direct popular determination. In *Blackwell*, an initiated ordinance to block the City's chosen site for a new city hall was deemed administrative, since selecting a specific property to implement a voter-approved capital project was merely carrying out an existing legislative decision (the decision *to* build a city hall). And in *Witcher v. Canon City,* 716 P.2d 445, 449 (Colo. 1986), the Court warned that subjecting the routine decisions city officials must make in managing municipal assets to direct vote would "**result in chaos and bring the machinery of government to a halt.**" (Emphasis added.)

Likewise, in *Vagneur v. City of Aspen*, citizens attempted to initiate ordinances prescribing detailed requirements for the design and location of a highway project—thereby overruling prior administrative decisions and dictating future staff conduct. The Colorado Supreme Court held those initiatives improper, squarely concluding that they were "administrative in character and therefore are not a proper exercise of the people's initiative power." 2013 CO 13, ¶ 1. The initiatives in *Vagneur* sought to "mandate specifics" of an ongoing administrative project and "intrude[d] on administrative responsibilities of city staff," which the Court deemed a misuse of the initiative process. *Id.* ¶ 2. As the City of Aspen's hearing officer in that case aptly observed, to allow voters by initiative "to either dictate or negate administrative actions normally undertaken by city staff is a misuse of the process." *Id.* at ¶ 27.

Stated simply, an initiative that directs how city employees and officials perform their jobs, or that wrests control of administrative processes away from the City's executive branch, is not a valid legislative measure.

B. The Proposed Measure is Administrative, Not Legislative

Applying the above principles here, the initiative to amend Chapter 3.18 is *administrative* in nature. While cloaked as an ordinance, the measure does not primarily establish a broad policy of general applicability; rather, it prescribes *administrative machinery and directives* for the City's management of development impact fees. The existing Chapter 3.18 of the Louisville Municipal Code already establishes the legislative policy that new development should pay its proportionate share of certain capital facility costs (through impact fees). The proposed initiative does not reverse or reject that policy—instead, it would *extend and operationalize* it in a highly specific manner, specifying new categories of fees and prescribing detailed procedures on City staff. In substance, the measure would tell City officials what studies to perform, when to perform them, how to involve certain committees and consultants, and how to update fee calculations. These are details of implementation and administration, not fundamental policy choices.

The City of Louisville's Home Rule Charter reinforces the division between legislative and administrative functions. Louisville operates under a City Manager form of government. Louisville Home Rule Charter, § 2-3. The elected City Council (including the Mayor) is the City's legislative body, responsible for exercising all powers of local government not conferred on others and for making policy decisions via ordinances. A professional City Manager, in turn, is appointed by the Council to serve as the chief executive and "chief administrative official of the City." Louisville Home Rule Charter § 8-3(a)(2).

The Charter assigns the City Manager broad authority to implement the Council's laws and decisions and to manage the City's day-to-day operations—for example, the

Manager must enforce all ordinances and contracts, prepare budgets and reports, and "exercise supervision and control over all City personnel and departments." Correspondingly, the Charter explicitly prohibits Council members from interfering with the City Manager's discharge of these administrative duties. Louisville Home Rule Charter, § 8-5(b). Neither the Council nor any of its members may "dictate or interfere with the appointment of, or the duties of, any City employee" who is subordinate to the Manager, nor may Council members give any direct orders to such City employees. *Id.*

This structural separation of powers is intended to prevent exactly what the initiative here proposes to do—namely, allow those other than the City Manager to usurp or micromanage the City's administrative functions. In short, Louisville's Charter confines administrative tasks to the City Manager and her administration, while reserving legislative matters to the Council (or to the voters when acting in a legislative capacity), underscoring that an initiative must not cross into administrative territory.

Several features of the initiative confirm its administrative character. First, the measure mandates the preparation of a new impact fee study by a fixed deadline (June 1, 2026) and requires that impact fee studies be updated every five years thereafter. Establishing a recurring schedule for staff to update technical studies is a quintessential administrative directive—it concerns the ongoing management and evaluation of City programs. Setting timelines and requiring periodic consultant reports is part of executing policy, not making new policy. A voter initiative may properly decide whether the City should impose development fees in general (a policy question) but dictating when and how staff must conduct fee studies to keep data current is an intrusion into administrative planning. Here, the legislative policy was set by the original impact fee ordinance; the initiative's new study mandate would dictate the detailed execution of that policy, indicating an administrative measure.

Second, the initiative creates an "Impact Fee Liaison Committee" of citizen appointees to advise City staff and consultants during development of the impact fee study. This committee must be formed every five years and comprised of representatives from various City boards and commissions. The measure thus injects a new advisory body into the City's internal process of formulating impact fee recommendations. An initiative forcing the creation of a specific committee to oversee a staff function is, in effect, managing the municipality's internal workings by ordinance. This clearly crosses into the executive/administrative realm, much like the initiatives in *Vagneur* that attempted to manage city staff's project implementation tasks.

Third, and critically, the proposed ordinance delegates significant decision-making authority to a private consultant and a citizens' committee without meaningful standards or City Council control. The measure requires that the recurring impact fee study be "produced by an independent entity and guided by an Impact Fee Liaison Committee." In doing so, it removes the primary responsibility for updating impact fees from City Council and hands it to an outside "independent" consultant, while also empowering the committee of private (unelected) individuals to "guide" the study's development. Yet the ordinance provides no intelligible standards governing how the consultant is to determine appropriate fee levels, beyond generic goals that fees remain proportionate to costs.[1] Nor does it subject the consultant's recommendations or the committee's input to approval or modification by the elected City Council. This again underscores that the ordinance is primarily concerned with *how* impact fees are implemented (an administrative function) rather than the legislative choice of whether and to what extent to have such fees.

Finally, the initiative as a whole intrudes upon and redirects ordinary administrative duties of City staff. Under current practice, City staff (e.g., the Planning Department and Finance Department) would periodically work with consultants to review and update impact fees, presenting any recommended changes to City Council for legislative action. This is a normal administrative workflow. The proposed ordinance seeks to overhaul that workflow: it mandates when staff must conduct reviews, dictates that an outside entity perform the analysis, compels staff to work with a new committee at every step, and effectively preempts Council's discretionary role in adjusting fees (since the fees "described in this chapter" are to be kept updated per the independent studies). In doing so, the measure deeply "encroach[es] on ... future administrative responsibilities of city staff." *Vagneur,* at ¶ 27.

This is precisely the kind of interference that Colorado courts have found to lie beyond the initiative power. Just as the Aspen initiatives in *Vagneur* improperly attempted to manage a complex project by ordinance (thus "fundamentally" intruding on the city's administrative processes), the impact fee initiative here attempts to directly manage the City's internal process of updating fees. The initiative does not simply set a policy goal ("impose more types of impact fees")—it goes further to micromanage how the City studies, calculates, and implements those fees on an ongoing basis. This level of granular control over executive functions is a hallmark of an administrative measure, not a legislative one.

III. The Initiative Petition Violates the Single-Subject Rule of Colo. Const. art. V, § 1(5.5) by Combining Multiple Independent Subjects into One Measure

Separately and independently, the petition should be rejected because the proposed ordinance contains more than one subject. Louisville's Home Rule Charter requires the City Clerk to "reject" a proposed ordinance if it "contains more than one (1) subject" or if its provisions are "not necessarily or properly connected." Louisville Home Rule Charter § 7-1(b).

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[1] It is also important to note that Colorado law forbids such unchecked delegation of legislative authority. *City & Cnty. of Denver v. Denver Firefighters Loc. No. 858, AFL-CIO*, 663 P.2d 1032, 1036–37 (Colo. 1983) ("elected officials responsible for performing [a] legislative function may not constitutionally delegate their ultimate decision-making authority to persons who are unaccountable to the electorate."). The ordinance would independently fail on these grounds if it were to be placed on the ballot and passed by the voters.

Likewise, Article V, § 1(5.5) of the Colorado Constitution provides: "No measure shall be proposed by petition containing more than one subject, which shall be clearly expressed in its title ... If a measure contains more than one subject ... no title shall be set and the measure shall not be submitted to the people." The single-subject rule aims to prevent "logrolling" (packaging disparate proposals to secure support from different factions) and to avoid voter surprise or fraud caused by concealing substantive effects within a complex initiative. *Matter of Titles, Ballot Titles, & Submission Clauses for Proposed Initiatives 2021-2022 #67, #115, & #128*, 2022 CO 37, ¶ 15.

In other words, proponents may not combine "incongruous subjects in the same measure" to attract a wider coalition than either subject could achieve on its own, and voters must not find "surreptitious measures" tucked into an initiative unbeknownst to them. *In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-02 No. 43*, 46 P.3d 438, 441 (Colo. 2002), *disapproved of by Matter of Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 57.If an initiative has "at least two distinct and separate purposes which are not dependent upon or connected with each other," it violates the single-subject mandate and cannot proceed, *#30*, 959 P.2d at 825.

To be sure, the single-subject rule is construed liberally such that provisions necessarily or properly related to one overarching subject may be combined. But the relationship must be genuine: all provisions must be "necessary and proper" to each other or to the accomplishment of one objective, *In re Title, Ballot Title & Submission Clause for 2005-2006 #55*, 138 P.3d 273, 279 (Colo. 2006). Where an initiative's provisions are not interdependent and instead address discrete legislative purposes, the measure must be split—the proposal cannot be lumped into one question for a yes/no vote. *Matter of Title, Ballot Title, & Submission Clause, Summary for 1997-98 No. 30*, 959 P.2d 822, 826 (Colo. 1998).

The Colorado Supreme Court has not hesitated to strike down initiatives that "commingle" multiple subjects. For example, in *In re Title, Ballot Title & Submission Clause for 1997-1998 #30*, the Court refused to allow a single initiative that combined a local government tax cut with separate procedural changes affecting prior voter-approved revenues. *Id.* at 826. Cutting local taxes was one subject; altering revenue-spending rules was a second, independent subject—putting them together in one measure was held to be a single-subject violation. *Id.* Likewise, the Court has found that an initiative which both cuts local taxes and imposes new state spending limits or audit requirements contains multiple subjects: one cannot hitch a "mandatory restriction on state spending" or a sweeping auditing mandate to a tax-cut proposal without running afoul of the single-subject rule. *#172 & #173*, 987 P.2d at 246-47. Each idea must stand or fall on its own merits, rather than riding in tandem such that voters face an all-or-nothing choice on a grab-bag of provisions.

A. Multiple Independent Subjects in this Initiative

The proposed Louisville impact fee initiative plainly comprises two (or more) distinct subjects improperly rolled together. These can be summarized as: (1) a substantive expansion of the City's development impact fee regime (adding numerous new categories of fees on new development, such as for open space, recreation, emergency services, affordable housing, etc., which are not covered by the current law), *and* (2) the imposition of new detailed administrative requirements governing how impact fees are calculated and updated (mandating five-year independent studies and creating the Impact Fee Liaison Committee to oversee those studies). Each of these components has a different purpose, and neither is necessarily dependent on the other. Together, they do not serve one single unified purpose but rather two at once.

1. Expanding Impact Fee Categories.

One clear aim of the measure is to broaden the types of capital facilities for which the City must collect impact fees. Currently, Louisville's impact fees are limited to three categories (library, transportation, parks/trails). The initiative would add many new categories of fees: open space, recreation facilities, emergency services, municipal buildings, water, wastewater, storm sewer, flood control, and affordable housing. This represents a significant change—effectively a sizable increase in the financial obligations on new development and a redirection of how new development contributes to community infrastructure. A voter might support or oppose the inclusion of each new fee category on its own merits. In short, the first subject of the initiative is "increase the scope of development impact fees" to a much broader set of public facilities.

2. Mandating a Specific Update Process (Independent Studies & Committee)

Separately, the measure seeks to codify a particular process for regularly updating and justifying those fees that would lock in various administration procedures and *exclude* the City Council from participating in the setting of impact fees. This is a very different objective from the first topic of expanding impact fee categories. By requiring an independent consultant's study every five years and by forming a citizen committee to guide the outcome, the initiative's purpose here is to dictate the administration of how impact fees are reviewed and calculated. While this portion of the measure fails for the reasons stated above (i.e., it extensively intrudes on the City's administrative functions), it also creates an impermissible second subject within the measure.

A voter could logically favor expanding the fees to entirely new categories but disfavor the radical restructuring of *how* the City goes about setting such fees. These two components—one expanding the fee *substantively*, the other dictating the administration of the *process*—do not depend on one another. There is no *necessary* connection that requires these provisions to be passed in a single unified law.

Because these subjects are not "necessary and proper" to one another, combining them in one initiative constitutes classic logrolling. The initiative forces a single up-or-down vote on a package that appeals to different constituencies for different reasons. For example, proponents of growth management might strongly favor adding new impact fee categories (to make development pay for more things) but would be surprised to learn they had also voted to remove City Council from the process of setting the actual fees for the new categories.

By bundling the administrative provisions bypassing City Council with the fee category expansion, the measure's drafters can enlist a broader coalition than either change might draw on its own. This is precisely the "vote trading" mischief the single-subject rule is designed to prevent. Colorado law requires that different subjects must pass on their own merits—yet here, voters inclined to support one aspect must accept the other aspect to get it, or vice versa. This all-or-nothing presentation deprives voters of a clear, focused choice on each policy question.

Colorado Supreme Court precedents bolster this conclusion by analogy. In *In re Title, Ballot Title and Submission Clause for 1997-1998 #30*, the Court struck an initiative that combined a tax policy change with procedural rules about spending, calling it "a single subject violation by commingling a local tax cut with procedural changes" affecting other fiscal matters. The Louisville initiative does the same in reverse: it commingles a local fee increase (more categories of fees) with procedural changes (new study and committee requirements, exclusion of City Council) affecting how those fees are administered. Similarly, in *In re Proposed Initiatives 172 and 173* (1999), the Court found multiple subjects where the initiatives paired local tax cuts with a mandate that the state replace the lost revenue under certain spending limits. The tax cuts and the spending restrictions were deemed distinct subjects, improperly joined. Here, the expansion of fees parallels the tax change in those cases, and the imposition of an independent review/committee mechanism parallels the distinct spending or auditing rules – they are separate aims. Just as an "audit requirement" was not necessarily related to a tax cut in the 1999 case (and so was a second subject), the "impact fee liaison committee and study requirement" is not necessarily related to the inclusion of new fee categories, making it a second subject in the Louisville initiative. In fact, the lack of a necessary connection is even more evident here: one could remove the entire Section 3.18.100 (the five-year study and committee provisions) and still have a complete ordinance that imposes new impact fees, and conversely one could remove the fee-category expansions and still have a coherent (if administrative) ordinance mandating periodic reviews of existing fees. The two sets of provisions function independently.

Because the measure at issue contains multiple subjects, it violates Colo. Const. art. V, § 1(5.5). Therefore, even apart from the administrative nature discussed in Argument I, the petition must be rejected for the single-subject violation. It would be unlawful to present this multi-subject proposal to Louisville voters in its current combined form. The City Clerk, in ruling on this protest, should so hold.

IV. Conclusion and Request for Relief

For the foregoing reasons, Protestor respectfully urges that the initiative petition to amend Chapter 3.18 of the Louisville Municipal Code be declared insufficient and invalid. The proposed measure attempts to exercise powers beyond the scope of the initiative (administrative/executive powers) and bundles together multiple discrete subjects in contravention of constitutional requirements. Any one of these defects is a sufficient ground to invalidate the petition; here, both are present. The City Clerk should protect the integrity of the local lawmaking process by refusing to certify this improper initiative to the ballot.

WHEREFORE, Protestors request that the City Clerk enter a determination that the initiative petition is not sufficient and invalid, and that no election shall be held on the proposed ordinance. Protestors further request such other or further relief as is just and proper to effectuate the purposes of Louisville's Home Rule Charter, C.R.S. § 31-11-110 and Article V, § 1 of the Colorado Constitution.

Respectfully submitted this 8th day of August, 2025.

Shea Law, LLC

/s/ Michael Shea
Michael Shea, CO Bar # 33119
Shea Law, LLC
387 N. Corona St. #902
DENVER, CO 80218
Phone Number: 303-887-4505
E-mail: jmshealaw@gmail.com

Attorney for Protestors

I swear under oath that this protest is true and accurate to the best of my knowledge.

Tim Bierman
905 Lincoln Avenue
Louisville, Colorado 80027

STATE OF COLORADO
Boulder COUNTY

Subscribed and Sworn to me on this [SEAL]

7th day of August, 2025

CATHERINE S FELTMAN
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20164047704
MY COMMISSION EXPIRES DEC 19, 2028

Notary public: Catherine S Feltman

My commission expires: December 19, 2028

I swear under oath that this protest is true and accurate to the best of my knowledge.

Don P. Brown, Jr.
505 Grant St.
Louisville, Colorado 80027

STATE OF NEW HAMPSHIRE
GRAFTON COUNTY

Subscribed and Sworn to me on this [SEAL]

7TH day of AUGUST, 2025

Notary public:

My commission expires: 2/26/2030

George D. Sutcliffe, Jr.
Notary Public, State of New Hampshire
My Commission Expires Feb. 26, 2030

GEORGE D. SUTCLIFFE JR. NOTARY PUBLIC NEW HAMPSHIRE

I swear under oath that this protest is true and accurate to the best of my knowledge.

Karen Brown
505 Grant St.
Louisville, Colorado 80027

STATE OF NEW HAMPSHIRE
GRAFTON COUNTY

Subscribed and Sworn to me on this [SEAL]

7TH day of AUGUST, 2025

Notary public:

My commission expires: 2/26/2030

George D. Sutcliffe, Jr.
Notary Public, State of New Hampshire
My Commission Expires Feb. 26, 2030

GEORGE D. SUTCLIFFE JR. NOTARY PUBLIC NEW HAMPSHIRE

IN THE MATTER OF THE PROTESTS OF TIM BIERMAN, DON P. BROWN, JR., AND KAREN BROWN TO THE SUFFICIENCY DECISIONS OF THE CITY CLERK OF THE CITY OF LOUISVILLE PERTAINING TO REZONING AND IMPACT FEE INITIATIVE PETITIONS, FILED ON JULY 2, 2025

DECISION OF THE HEARING OFFICER

INTRODUCTION

A hearing on protests to two initiative petitions, one dealing with rezonings in certain areas of the City of Louisville, Colorado and the other dealing with impact fees was held on Thursday, August 28, 2025, at 9:00 a.m. The hearing officer was Karen Goldman, appointed by the City of Louisville. Assisting the hearing officer was legal advisor, Mark Grueskin.

BACKGROUND INFORMATION

The initiative petition was filed by a committee composed of Janette Kotichas and Jean Morgan ("Petitioners"). The two protests were filed by Tim Bierman, Don P. Brown, Jr. and Karen Brown, represented by Michael Shea ("Protesters").

The following actions took place prior to the hearing for the rezoning initiative:

1. On Jun 4, 2025, the petition was approved as to form by the city clerk.
2. The number of minimum signatures required on the initiative petition was 812.
3. The number of signatures filed was 1,141.
4. The deadline for filing the initiative petition was Dec 1, 2025 and the petition was filed on July 2, 2025.
5. The city clerk reviewed 941 of those signatures and upon review, on July 24 determined that 821 were valid, more than the minimum number required.
6. The deadline for filing a protest was Aug 11 and a protest was filed on Aug 8, 2025.
7. The hearing officer was appointed on Aug 5, 2025.

The following actions took place prior to the hearing for the impact fee initiative:

1. On May 15, 2025, the petition was approved as to form by the city clerk.
2. The number of minimum signatures required on the initiative petition was 811.
3. The number of signatures filed was 1,126.
4. The deadline for filing the initiative petition was Nov 11, 2025, and the petition was filed on July 2, 2025.
5. The city clerk reviewed 917 of the filed signatures and upon review, on July 24 determined that 832 were valid, more than the minimum number required.
6. The deadline for filing a protest was Aug 11, 2025 and a protest was filed on Aug 8, 2025.
7. The hearing officer was appointed on Aug 5, 2025.

Administrative notice was taken of the following documents filed in the proceeding and made part of the administrative record:

1. The Verified Election Protest filed with the City Clerk on August 8, 2025. (identified as Exhibit 3 in Protesters' Exhibit List).
2. Notice of Protest Hearing from the City Clerk sent August 18, 2025.
3. Corrected Notice of Protest Hearing sent August 19, 2025.
4. Joint Stipulations of Fact filed by the Protesters and Respondents August 21, 2025.
5. Motion to Dismiss and Response to Petition Protest filed by Respondents on August 21, 2025.
6. Protesters' Exhibit List filed August 21, 2025.
7. Protesters' Witness List filed August 21, 2025.
8. Respondents' Proposed Witness and Exhibits List filed August 21, 2025.
9. Pre-Hearing Order entered August 25, 2025.
10. Protesters' Response to the motions to deny the protest and certify the initiatives for the ballot.
11. Protesters' Reply to Petition Representatives' Response to Verified Protest filed August 25, 2025.

The protest to the Clerk's sufficiency decision as to the filed rezoning initiative made two arguments:

1. The initiative petition violates the single-subject rule in the Louisville Charter and the Colorado Constitution.

2. The initiative petition conflicts with state statutes on affordable housing.

The filed initiative petition regarding the impact fees seeks to amend an existing ordinance to provide impact fees for an expanded list of capital facilities, specifically library, transportation, parks and trails, open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. It requires a new impact fee study by June 1, 2026 and updated studies every five (5) years thereafter by an independent entity and the formation of an Impact Fee Liaison Committee.

The protest to the Clerk's sufficiency decision as to the filed impact fee initiative made two arguments:

1. That the initiative petition is administrative and not legislative and therefore lies outside the scope of the initiative power.
2. The initiative violates the single-subject requirement of the Louisville Charter and the Colorado Constitution, Art.V §1(5.5) by combining multiple distinct subjects.

Additionally, the Protesters filed a motion to limit evidentiary presentations by the Petitioners, and the petition committee filed a motion to deny the protest and certify these initiatives to the ballot. In turn, both of these motions were discussed with the parties at hearing.

ARGUMENTS – REZONING INITIATIVE

1. Michael Shea, representing the Protesters, stated that the rezoning initiative prohibits residential rezoning on three (3) parcels of land within the City of Louisville and allows exceptions to the prohibition if a proposed development in the affected areas dedicates at least 30% of its new housing units as deed-restricted affordable housing for households at or below 80% of area median income.
2. He stated that these two subjects were at odds: one portion restricts development and the other portion allows it with affordable housing. This was 'logrolling', presenting two different views so as to garner more votes.
3. Mr. Shea further stated that having these different views in one initiative creates confusion and can deceive voters; some may like restricting residential development and not at expense of affordable housing, while others may like the ability to create affordable housing

and not like residential development in the three parcels of land included in the initiative.

4. Mr. Shea stated that the Colorado General Assembly believed that affordable housing was its own issue and identified it as a statewide concern.
5. Mr. Shea clarified that the argument about a potential violation of state law was intended as a single subject argument, not a matter of resolving legal conflicts to be decided by the Hearing Officer.
6. Matt Jones, a resident of Louisville and a former Colorado Senator speaking in favor of the initiative, stated that, in his fourteen years in the State Senate, he had dealt with many bills and understood the single-subject requirement. He stated his belief that this initiative met the single-subject criteria.
7. Mr. Jones stated the main purpose of the initiative was rezoning, that residential rezoning cannot occur in three parcels in Louisville unless there is an exception made for a certain percentage of the housing to be affordable housing.
8. Tamar Krantz stated that the affordable housing exception is part of a legislative act.
9. Janette Kotichas, the Petitioner, said that all elements in the initiative relate to rezoning, including the exception, and the initiative does not violate the single-subject rule.

ARGUMENTS – IMPACT FEES

1. Mr. Shea stated that the two issues in the impact fee ordinance were single-subject and that the ordinance is administrative in that it expands the category of impact fees.
2. Mr. Shea stated that various court cases named tests that were used to determine whether an initiative was administrative or legislative and that *Vagneur v. City of Aspen* was the overarching case. That case determined that tests were rooted in the separation of powers, and that administration was an executive branch function. Mr. Shea stated that an initiative cannot be placed on a ballot if it is administrative.
3. Mr. Shea noted that the City Council hires and oversees the City Manager who is the chief administrative officer and the City Council cannot interfere with the City Manager’s procedures. Eliminating the role the City Manager plays in reviewing impact fee studies from the current ordinance crosses the line as redeployment of staff is an administrative matter.
4. Mr. Shea stated that the initiative contains more than one subject; the first is an expansion of the facilities subject to impact fees; the second is the creation of a committee to work with an independent contractor to study the appropriate level of impact fees; the third is an increase

in the number of impact fee studies. In response to a question from the Hearing Officer whether the initiative provides any detailed information as to how the committee and independent contractor will perform their responsibilities, Mr. Shea noted he was unaware of what the Petitioners had in mind.

5. In response to another question from the Hearing Officer, Mr. Shea stated that the administrative structure – committee and independent contractor – related to all the new proposed fees. He stated that, by divesting the City Manager of any authority in the process, the initiative thereby micromanages the process through exact schedules and identifying who must be worked with.
6. Petitioner Kotichas stated that there are already ordinances that allow for an outside person to provide study information, such as an outside auditor. She also noted that an independent contractor, TischlerBise, was hired in 2017 to assess impact fees. She stated the initiative did not take any authority away from staff.
7. Matt Jones again spoke on the topic of single-subject. He said the initiative was all about impact fees and expands what is to be covered. He noted the City was already doing impact fee studies; the initiative required they be done more often.
8. Mr. Jones stated that this initiative is a change to existing law and is a redeployment of resources. City Council still must vote on any future impact fee proposal.
9. In closing, Mr. Shea reiterated that the rezoning initiative violates the single-subject requirement and that the impact fee contained multiple subjects, micromanages City staff, and is an administrative, not a legislative, ordinance.
10. Ms. Kotichas stated that the last impact fee study was conducted in 2017, the citizens have a hallowed right to the initiative process, and the burden of proof is on the Protesters.

APPLICABLE LEGAL STANDARDS

A. Single subject standards

The single subject of an initiative is tested on a review of the measure's subject matter. If an initiative contains multiple purposes that are 'distinct and separate,' the measure violates the single subject requirement. *In re Title, Ballot Title & Submission Clause for 2015-2016 #73,* 369 P.3d 565, 568, 2016 CO 24, ¶14. This requirement means that 'an initiative's subject matter must be necessarily and properly connected rather than disconnected or incongruous. ' *Id.*

The single subject requirement does not prevent an initiative from having multiple purposes so long as those purposes are 'interrelated.' *In re Title, Ballot Title & Submission Clause for 2009-2010 #45,* 234 P.3d 642, 644 Colo. 2010). Similarly, '(a)n initiative is not transformed into a multi-subject proposal simply because it specifies mechanisms for carrying out the initiative's single subject.' *In re Title, Ballot Title & Submission Clause for 1999-2000 #200A,* 992 P.2d 27, 31, (Colo. 2000). Such permitted mechanisms include provisions for implementation or enforcement that are 'tied to an initiative's central focus.' *In re Title, Ballot Title & Submission Clause for 1999-2000 #258A,* 4 P.3d 1094, 1099 (Colo. 2000).

Reasonable limits on the single subject inquiry are consistent with the liberal construction of the fundamental right of initiative, as required by the Colorado Supreme Court. 'Multiple ideas might well be parsed from even the simplest proposal by applying ever more exacting levels of analytic abstraction until an initiative measure has been broken into pieces. Such analysis, however, is neither required by the single subject requirement nor compatible with the right to propose initiatives guaranteed by Colorado's constitution.' *In re Title, Ballot Title & Submission Clause for 1997-1998 #74,* 962 P.2d 927, 929 (Colo. 1998). Accordingly, an initiative must be viewed 'as a whole rather than piecemeal' in order to appropriately evaluate whether it has one subject or multiple subjects. *In re #45, supra, 234 P.3d at 646.*

B. Administrative vs. legislative initiative standards

The Supreme Court has identified three tests for determining whether an initiative is administrative or legislative in nature.

● First, 'action(s) that relate to subjects of a permanent or general character are legislative, while those which are temporary in operation and effect are not.'
● Second, 'acts that are necessary to carry out existing legislative policies and purposes…are deemed to be administrative, while acts constituting a declaration of public policy are deemed to be legislative.'
● Third, the courts presume that, 'where an original act is legislative, an amendment to that act is likewise legislative'.

Vagneur v. City of Aspen, 2013 CO 13, ¶¶39-40 (citations omitted).

Nevertheless, even with these three standards, there is not a single way of analyzing whether a measure is legislative or administrative in nature. Instead, this assessment requires a 'case-by-case inquiry.' *Id.* at ¶48. In so doing, the following concepts about 'legislation' apply.

> Legislative power is defined by the work product it generates, namely, the promulgation of laws of general applicability; when the government legislates, it establishes a generally applicable rule that sets the governing standard for all cases coming within its terms. Legislative power is also defined by the nature of legislative decision-making. When a government legislates, it weighs broad, competing policy considerations, not the specific facts of individual cases.

Id. at ¶46 (citations omitted).

DISCUSSION – REZONING INITIATIVE

The initiative petition filed by Petitioners has, as its purpose, to amend the Louisville Municipal Code, Chapter 17.16, by adding a section prohibiting residential rezoning for property located within the Centennial Valley, Redtail Ridge, and Avista Adventist Hospital zoning districts which are covered by the General Development Plans in each location. The initiative petition further creates exceptions to this prohibition in these three areas only for development of market-rate housing that includes 30% on-site deed-restricted affordable housing. This on-site option is the only option to satisfy the requirements for this exception.

Protesters argued that combining these two items, restricting residential rezoning with exceptions for affordable housing in the restricted areas, are two separate and opposite topics and violate the single-subject rule found in Article 7, Section 7-1(b) of the Louisville Charter:

> *When an initiative petition is presented to the City Clerk for approval as to form, the City Clerk shall reject the form and disapprove its circulation if, in addition to any other applicable grounds, the proposed ordinance contains more than one (1) subject. The City Clerk shall determine that the ordinance contains more than one (1) subject if the matters addressed in the ordinance are not necessarily or properly connected, or are disconnected or incongruous.*

Protesters argued that both restricting residential rezoning and allowing rezoning under specific circumstances are actually two separate subjects and each can stand alone. Protesters further argued that linking them together could be confusing to the voters: those who are in favor of the rezoning restriction might be dismayed to find out they are also voting ‘no’ on affordable housing; those who are in favor of affordable housing might not know that an affirmative vote also allows rezoning in the designated areas.

Protesters also argued that combining these two separate subjects is 'logrolling', a term used to indicate that unrelated subjects are combined in order to gain voters' support.

Protesters clarified that they were not seeking a decision by the Hearing Officer that the 30% affordable housing mandate would violate affordable housing statutes if it became law. Instead, they were identifying its interplay with state law as evidence of a second subject and impermissible logrolling

If Petitioners had submitted an initiative petition containing two subjects, one dealing with proposed rezoning prohibition and the other having nothing at all to do with the rezoning, that would clearly be a violation of the single-subject requirement in the Louisville Charter. A violation of the Charter would also occur if the submitted initiative included a restriction for residential rezoning throughout the entire corporate boundaries of Louisville with an exception for affordable housing in only three areas located within Louisville. Neither is the case for this initiative. There is a very clear connection between restricting residential rezoning in only three areas of Louisville with an exception to that restriction only within the same three areas of Louisville if affordable housing is created. This prohibition and the exception to this prohibition are clearly 'interrelated' which is consistent with an initiative's single subject. *See In re #45 supra,* 234 P.3d at 644. Therefore, the single-subject provision of the Louisville Charter has not been violated.

As to whether or not an initiative's interplay with state law is a second subject, the Supreme Court has been clear. An initiative's impacts on other laws is not a second subject. 'The effects of this measure could have on Colorado…law if adopted by voters are irrelevant to our review of whether (the proposed initiative) and its Titles contain a single subject'. *In re Title, Ballot Title & Submission Clause for 2011-2012 No. 3,* 2012 CO 25, ¶20 n.2. '(T)he fact that the provisions of a measure may affect more than one other statutory provision does not itself mean that the measure contains multiple subjects.' *In re Title, Ballot Title & Submission Clause for 1999-2000 #255,* 4 P.3d 485, 496 (Colo. 2000). That includes whether local laws would conflict with state law under a proposed initiative. *In re Title, Ballot Title & Submission Clause for 2013-20014 #90,* 2014 CO 63, ¶19. Regardless, the Hearing Officer in this proceeding does not decide if state laws would be violated by this initiative. As such, this ground does not warrant reversal of the Clerk's sufficiency decision.

Regarding Protesters' concern about voter confusion by having two opposite subjects contained in the initiative, these two parts of the initiative are not contradictory. One part sets a general prohibition; the other establishes an exception to that prohibition. Voters are not confused by a single subject initiative that contains related provisions. *See In re Title, Ballot Title & Submission Clause for 2013-2014 #89,* 2014 CO 25, ¶19 ('there is no serious risk that the voters will be unaware of the primary effects of (the) initiative) because each of the sections relates to the same subject'). Article 11 of Title 31, Municipal Initiatives, Referenda, and Referred Measures, provides the means for ensuring voter understanding of an initiative. In accordance with C.R.S. 31-11-111(1), when an initiative petition election date has been set, the legislative *body 'shall promptly fix a ballot title for each initiative or referendum'.* C.R.S. 31-11-111(3) further states:

> *In fixing the ballot title, the legislative body or its designee shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a 'yes' or 'no' vote would be unclear…The ballot title shall correctly and fairly express the true intent and meaning of the measure.*

Thus, while the measure addresses only one subject and will not confuse voters, the City Council can clearly communicate the initiative's prohibition and exception when setting the ballot title so voters have an additional tool to understand the meaning.

DISCUSSION - IMPACT FEE INITIATIVE

The initiative petition filed by Petitioners increases the number and type of capital facilities subject to impact fees beyond those currently identified in Chapter 3.18 of the Louisville Municipal Code. Additionally, the ordinance would require the preparation of a new impact fee study by June 1, 2026 and updated studies every five (5) years performed by an independent entity, as well as an Impact Fee Liaison Committee to advise City staff and consultants during the development of the impact fee study.

Protesters argued that combining these three items violate the single-subject rule found in Article 7, Section 7-1(b) of the Louisville Charter:

> *When an initiative petition is presented to the City Clerk for approval as to form, the City Clerk shall reject the form and disapprove its circulation if, in addition to any other applicable grounds, the proposed ordinance contains more than one (1) subject. The City Clerk shall determine that the ordinance contains more than one (1) subject if the matters addressed in the ordinance are not necessarily or properly connected or are disconnected or incongruous.*

Protesters argued that there are two separate subjects in the initiative: 1) the expansion of fees of new development which are not covered by current law; and 2) the imposition to new detailed administrative requirements governing how impact fees are calculated and updated and that each of these subjects has a different purpose, not necessarily dependent on the other.

Under current law, impact fees are imposed for only three (3) types of capital facilities – libraries, transportation, and parks and trails. Under the Impact Fee initiative, nine (9) additional capital facilities are added to this list – open space, recreation, emergency services, municipal buildings, water, wastewater, sewer, flood control, and affordable housing. Protesters do not dispute that adding these additional impact fees to the list of capital facilities is a single subject, nor could they. *See In re Proposed Petition to amend TABOR No. 32,* 908 P.2d 125, 129 (Colo. 1995) (concluding that an initiative met the single-subject requirement even though it applied a tax credit to six different taxes).

If Petitioners had submitted an initiative petition containing two subjects, one dealing with increasing the number of capital facilities subject to impact fees and the other having nothing at all to do with imposing impact fees, that would clearly be a violation of the single-subject requirement in the Louisville Charter. The original ordinance on impact fees defines a 'Fee schedule or impact fee schedule' in Section 3.18.030(M) of the Louisville Municipal Code, such schedule attached as Appendix A. The proposed initiative seeks to quadruple the categories of capital facilities to the schedule. It also includes a definition of 'Impact Fee Study' in Section 3.18.030(N), the frequency of which the initiative seeks to increase. Section 3.18.303(O) defines 'Independent fee calculation study' as a study prepared by a fee payer. The initiated ordinance does not change that definition other than to add the newly-designated capital facilities so that they are covered by the mandated, periodically conducted study. It is clear that all of the additions and changes in the initiative directly relate to the expanded imposition of impact fees and thus are part of the initiative's single subject. *See In re Title, Ballot Title & Submission Clause for 1999-2000 No. 200A,* 992 P.2d 27, 31 (Colo. 2000) (provisions relating to 'information delivery, data gathering, and reporting requirements' are not a separate subject but instead implement an initiative as 'mechanisms for carrying out the initiative's single subject'). Imposition of new impact fees and setting forth the general means by which they are to be evaluated to meet proponents' intended goals are interrelated purposes and thus comprise a single subject. *See In re #45, supra,* 234 P.3d at 644.

In the alternative, Protesters argued that the proposed initiative is administrative in nature because it does not primarily establish a broad policy of general applicability given that it changes the City's scheme for calculating and regularly updating certain impact fees, including those affected by this initiative. They argue it would extend and operationalize the policy in a highly specific manner, specifying new categories of fees and prescribing detailed procedures on city staff.

Imposing new fees on certain parties or activities is a legislative policy change. *See Bloom v. City of Ft. Collins,* 784 P.2d 304, 308 (Colo. 1989) ('the particular mode adopted by a city in assessing the fee is generally a matter of legislative discretion'). The process employed in this initiative applies across the board to all the capital facilities funds affected by the measure. It does not make the administrative decision of the dollar level of any particular fee but leaves that to a public process to be conducted by persons with substantive background in related fields.

Protesters complain that the initiative dictates 'when and how staff must conduct fee studies to keep data current.' But given the unquestioned testimony at the hearing that the last impact fee study was conducted eight (8) years ago in 2017, it seems the initiative's requirement of having an impact fee study once every five (5) years is much more than an administrative detail. Instead, it is a new policy to require a regular, predictable updating of fee levels to meet then-current needs.

Protesters also argue that the initiative's Impact Fee Liaison Committee to advise City staff and consultants is an incursion into current administrative processes. But this aspect, too, is a generally applicable feature of the fee setting done under this measure. The initiative leaves it to this Committee to perform fact-specific duties in terms of evaluating the various fees and revenues generated rather than asking voters to pass on such fee levels themselves. As such, creation of the Committee with its limited scope is a legislative act.

Section 3.18.020 of the current ordinance identifies the policy goals in creating impact fees. The first two portions of that statement of intent are as follows:

A. *Development bears proportionate share of costs of capital facilities*. The intent of this chapter is to ensure that new development bears a proportionate share of the cost of city library capital facilities, transportation capital facilities, and parks and trail capital facilities.
B. *Bear proportionate share of costs through impact fees.* It is the further intent of this chapter that new development pay for its fair

share of the costs of these library capital facilities, transportation capital facilities, and parks and trail capital facilities.

These wider policy goals are retained, but under the initiative, they would apply to a wide group of impact fees and capital facilities. In determining whether the initiative is administrative or legislative, one consideration is whether the *original* ordinance was administrative or legislative. If an adopted ordinance is legislative, then any amendments or changes to that ordinance are also legislative subject to the initiative powers granted to the citizens. *Margolis v. v District Court of County of Arapahoe,* 638 P.2d 297, 304 (Colo. 1981) ('since the original act of zoning is legislative, the amendatory act of rezoning is likewise legislative').

Ordinance. No. 1506-2006, § 2, adopted on December 19, 2006, effective Feb. 11, 2007, created the current chapter in the Louisville Municipal Code regarding impact fees. It was adopted through a legislative process and derived its authority pursuant to Article XX, § 6 of the Colorado State Constitution, the city's home rule Charter, the city's general police powers, and other relevant laws of the State of Colorado.

The ordinance sets general policy relating to impact fees, including a requirement for impact fee studies, and an independent impact fee study to be conducted by an independent entity. These elements are not eliminated from ordinance by the initiative petition; they remain in the Louisville Municipal Code but are extended to the additional capital facilities identified in the initiative. The expansion of this provision does not dictate the results of the proposed decision-making process or make a case-specific determination about such fees. It simply provides a new, generally applicable structure for conducting it.

Protesters argued that the City Manager's role in reviewing the study is removed from the current ordinance. The current ordinance only authorizes the City Manager to 'review' impact fees and the sufficiency of the revenues they generate. This initiative authorizes the Impact Fee Liaison Committee 'to advise city staff and consultants' in the fee-setting process. 'Advise' means 'to give (someone) a recommendation about what should be done; to give advice to'. *Advise,* Merriam-Webster Dictionary, https:www.merriam-webster.com/dictionary/advise. The City Manager or her designee are therefore not entirely preempted from being involved in this process.

Protesters further argued that the initiative usurped or micromanaged the City's administrative process, but this initiative does not dictate the fees to be set or the conclusions to be reached under the impact fee study. Neither does it prohibit any review or discussion by City staff.

Chapter 2.20 of the Louisville Municipal Code governs Boards and Commissions. Louisville currently has fourteen (14) boards and commissions. All members are both appointed and removed by the City Council. They are advisory in nature and their rules and procedures are established by the City Council by resolution. Staff are generally assigned to support them. Nothing in the initiative petition indicates any different processes to be followed if an Impact Fee Liaison Committee is established and, as noted above, City staff may continue to be involved in this process after being advised by the Committee.

CONCLUSION

Regarding the rezoning initiative, the Hearing Officer hereby finds that the initiative does not violate the single-subject requirement of the Louisville Charter and thus the City Clerk's initial determination of petition sufficiency is upheld.

Regarding the impact fee initiative, the Hearing Officer hereby finds that the initiative does not violate the single-subject requirement of the Louisville Charter and that the initiative is legislative in nature and thus the City Clerk's initial determination of petition sufficiency is upheld.

Accordingly, the Hearing Officer further finds that both initiatives are eligible to be placed on the ballot for consideration of the registered electors of the City of Louisville, Colorado.

/s/ Karen B. Goldman
Hearing Officer

CERTIFICATE OF SERVICE

I, Karen Goldman, hereby certify that on this 2nd day of September, 2025, a true and correct copy of the foregoing was served on the Parties, via email, addressed as follows:

Janette Kotichas
Janettekotichas@me.com

Jean Morgan
Missjeanbee322@gmail.com

Micheal Shea
jmshealaw@gmail.com

Kathleen Kelly
kathleen@kellypc.com

Melinda Culley
melinda@kellypc.com

Genny Kline
gkline@louisvilleco.gov

/s/ Karen B. Goldman