

RESOLUTION NO. xxxxxxxx It was moved by Commissioner _____ and duly seconded by Commissioner _____ to adopt the following Resolution:

WHEREAS, pursuant to Section 29-20-104.5, Colorado Revised Statutes (“CRS”), a board of county commissioners is authorized to adopt impact fees and other similar development charges to fund expenditures on capital facilities needed to serve new development in the County; and

WHEREAS, pursuant to Section 29-20-104.5(1), no impact fee shall be imposed except pursuant to a schedule that is: (a) legislatively adopted; (b) generally applicable to a broad class of property; and (c) intended to defray the projected impacts on capital facilities caused by proposed development; and

WHEREAS, Arapahoe County is experiencing increasing oil and gas development in the unincorporated areas of the County generally east of Gun Club Road; and

WHEREAS, the protection of the health, safety, and general welfare of the residents of Arapahoe County requires that the County road system in those areas of the County that are experiencing or can be expected to experience increased oil and gas development is adequate to meet the demands of new oil and gas development and able to accommodate the impacts to the system caused by such oil and gas development; and

WHEREAS, it is the desire and intent of the Board of County Commissioners for Arapahoe County, Colorado that all new oil and gas development pay its proportionate and equitable share of the costs to defray the impacts of such new oil and gas development on the County road system; and

WHEREAS, impact fees imposed on the development of new oil and gas facilities within the unincorporated territory of Arapahoe County would apply to a broad class of property as required under CRS 29-20-104.5; and

WHEREAS, oil and gas transportation impact fees for those areas of the unincorporated County that are experiencing or can be expected to experience new oil and gas development are necessary to defray the impacts on the road system directly caused by the large amount of heavy truck traffic that is generated by the installation of an oil and gas facility; and

WHEREAS, the Board retained the consulting firm of Felsburg, Holt and Ullevig to evaluate potential oil and gas development in the eastern portion of Arapahoe County and to quantify the associated impacts of such expected development on capital road facilities and the transportation system, all of which is set forth in the Felsburg, Holt and Ullevig (“FHU”) Arapahoe County Oil and Gas Transportation Impact Study dated August 2019, (“the FHU study”); said Study is incorporated into this Resolution by this reference and is available at the Arapahoe County Department of Public Works and Development; and

WHEREAS, the FHU Study and the Public Works and Development Department staff have identified those areas and County roads within the unincorporated areas of the County that are likely to experience the greatest impacts from oil and gas and other energy development over the next ten years to the year 2030, and developed a recommended service area and accommodating such oil and gas development on these affected County roads, and the Study established Districts (“the West, East Central and Far East Districts”) to define the areas in which the fees would be imposed; and

WHEREAS, Public Works and Development staff prepared a Board Summary Report (“BSR”), dated December 17, 2019, which summarizes and explains the FHU Study and the proposed impact fees and calculated a fee option that treats “roto-paved” roads as asphalt and, as such, reduced the amount of the recommended impact fees across the Impact Fee Areas; said BSR is incorporated into this Resolution by this reference and is available at the Arapahoe County Department of Public Works and Development; and

WHEREAS, the FHU Study considered the average amount and type of truck traffic associated with the life cycle of a new oil and gas well and utilized a load based fee calculation for recovering road deterioration costs and improvement based costs for paving gravel roads and improving shoulders for multimodal safety reasons to quantify the impacts to the County road system of an oil and gas facility and to establish a fee amount to defray the costs of such impacts; this methodology is set forth in the FHU Study and, and a reduction in that the FHU recommended fee amounts was achieved by treating the “roto-paved” roads as asphalt as set forth in the December 17, 2019 BSR ; and

WHEREAS, the FHU Study further considered the use of pipelines in the development and operation of a new oil and gas well and the reduction in truck traffic that would result from use of pipelines, and established reductions in the fee amounts calculated for each District to account for the reduced impact to the road when pipelines are used at an oil and gas facility; and

WHEREAS, using this methodology, the FHU Study establishes a recommended impact fee schedule that is calculated to be proportionate and reasonably related to the cost of defraying the impacts of new oil and gas development on the County road system and to accommodate the increased use of the County road system by such new oil and gas development in eastern Arapahoe County; and

WHEREAS, Public Works and Development staff recommends that the Board adopt oil and gas impact fees in the amounts set forth in the FHU Study and the Board Summary Report, with “roto-paved roads treated as asphalt, and that such impact fees be charged to new oil and gas development in the recommended fee service areas for the West, East Central, and Far East Districts; and

WHEREAS, the Board finds that the recommended impact fees for new oil and gas wells as calculated in the FHU Study are established at an amount no greater than necessary to defray the costs of the impacts of such new oil and gas development on the County road system to accommodate the oil and gas facilities’ traffic that will use such County roads; and

WHEREAS, the Board finds that tax and other revenues that will be generated from such new oil and gas development will not generate sufficient funds to provide for the road system capital facility improvements necessary to safely accommodate and serve such new development; and

WHEREAS, on October 1, 2019, November 4, 2019, and December 17, 2019, the FHU Study and the Public Works and Development, Transportation Division staff's recommendations for oil and gas impact fees were also previously presented to the Board as set forth in the associated Board Summary Reports; and

WHEREAS, on December 13, 2018, March 26, 2019 and June 4, 2020, Public Works and Development staff conducted public outreach and information meetings on the proposed impact fees and at which the FHU Study and the Public Works and Development Department's projections, estimates and recommendations were presented to the public in attendance; and

WHEREAS, on *[date of BOCC meeting to adopt impact fees]*, the Board considered at its regular public meeting the adoption of impact fees for new oil and gas development, and at which the FHU Study and the Public Works and Development Department's projections, estimates and recommendations were presented, and at which the Board heard and considered such public comment as was presented; and

WHEREAS, even though the FHU Study quantifies the impacts to the County road system of new oil and gas development and recommends a fee schedule in amounts that are no greater than necessary to defray the costs to the road system of such new oil and gas development, in consideration of the responses from the public outreach and comments that have been presented to the Board and due to the current economic conditions and the down market for oil and gas , the Board finds that it is appropriate initially to reduce the amount of the impact fees as calculated in the FHU Study across all uses subject to periodic evaluation as provided in this Resolution; and

WHEREAS, the Board further finds that it is appropriate to periodically evaluate the existing economic conditions in the oil and gas industry, the rate of oil and gas development in the eastern County and such other factors as may reasonably be appropriate and consider whether adjustments to the reduced impact fee amounts should be made consistent with the FHU Study recommendations; and

WHEREAS, the Board finds that adopting impact fees for new oil and gas development in the amounts as approved in this Resolution will serve the public health, safety, and welfare and is in the public interest of the residents of Arapahoe County and all users of the Arapahoe County road system.

NOW, THEREFORE, the Board of County Commissioners of Arapahoe County hereby resolves:

1. That the Full Schedule of Impact Fees as established in the FHU Study, with "rotopaved" roads treated as asphalt, fairly and proportionately quantifies the reasonable impacts of oil and gas development on existing capital road facilities in unincorporated rural eastern Arapahoe County and are established at a level no greater than necessary to

defray the impacts directly related to such new development. This Full Schedule of Impact Fees is as follows:

O&G Impact Fee – Horizontal Well (Roto-pave treated as asphalt)

Pipeline Scenario			12-17-19 BOCC Guidance Version		
			West	East-Central	Far East
Fresh Water Pipeline	Produced Water Pipeline	Product Pipeline			
Per Pad Fees					
n/a	n/a	n/a	\$ 1,112	\$ 2,495	\$ 468
Per Well Fees					
-	-	-	\$ 35,835	\$ 51,663	\$ 48,976
x	-	-	\$ 34,322	\$ 49,355	\$ 46,739
-	-	x	\$ 20,928	\$ 31,078	\$ 36,224
-	x	-	\$ 20,421	\$ 29,999	\$ 34,909
x	-	x	\$ 19,414	\$ 28,769	\$ 33,986
x	x	-	\$ 18,907	\$ 27,690	\$ 32,671
-	x	x	\$ 4,606	\$ 9,414	\$ 22,157
x	x	x	\$ 2,958	\$ 7,105	\$ 19,920

- That the Board hereby approves the adoption of Impact Fees in the amounts as set forth in Paragraph No. 3 below, with reductions for use of pipelines as indicated, for new oil and gas wells or well facilities in the West, East Central and Far East Districts and with the initial percentage reductions specified in the next Paragraph No. 3. As used in this Resolution “oil and gas facility” means an oil and gas facility as is defined in the Arapahoe County Land Development Code.
- That in consideration of the current economic conditions and market for oil and gas, the Board elects to apply a percentage reduction of forty percent (40%) across the fee categories for horizontal wells, vertical wells, and re-fracked wells from what was recommended in the FHU Study, without reduction for recommended well pad fees, and hereby establish the Impact Fees for new oil and gas facilities in the following amounts (hereinafter “the Reduced Impact Fees”):

O&G Impact Fee – Horizontal Well with 40% Reduction

			60% of Fee Recommendation		
Pipeline Scenario			11-09-20 BOCC Desire		
			West	East-Central	Far East
Fresh Water Pipeline	Produced Water Pipeline	Product Pipeline			
Per Pad Fees					
n/a	n/a	n/a	\$ 1,112	\$ 2,495	\$ 468
Per Well Fees					
-	-	-	\$ 21,501	\$ 30,998	\$ 29,386
x	-	-	\$ 20,593	\$ 29,613	\$ 28,043
-	-	x	\$ 12,557	\$ 18,647	\$ 21,734
-	x	-	\$ 12,253	\$ 17,999	\$ 20,945
x	-	x	\$ 11,648	\$ 17,261	\$ 20,392
x	x	-	\$ 11,344	\$ 16,614	\$ 19,603
-	x	x	\$ 2,764	\$ 5,648	\$ 13,294
x	x	x	\$ 1,775	\$ 4,263	\$ 11,952

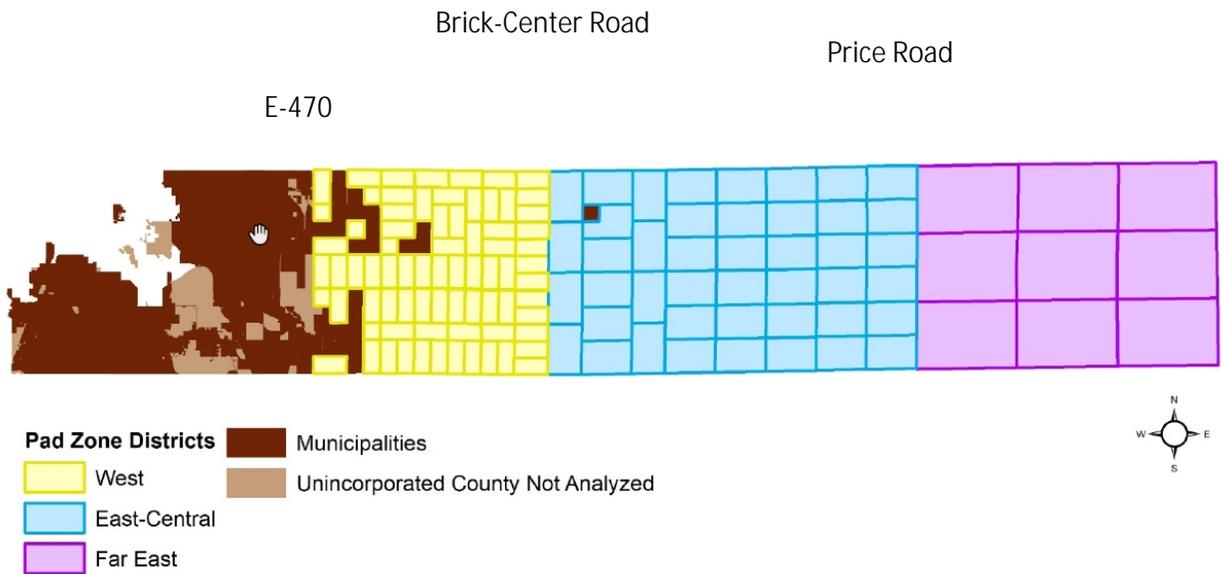
O&G Impact Fee – Vertical Wells with 40% Reduction

			Vertical Well - 60% of Fee Recommendation		
Pipeline Scenario			Aug 2019 Report Version		
			West	East-Central	Far East
Fresh Water Pipeline	Produced Water Pipeline	Product Pipeline			
Per Pad Fees					
n/a	n/a	n/a	\$ 1,085	\$ 2,434	\$ 457
Per Well Fees					
-	-	-	\$ 17,482	\$ 24,877	\$ 23,825
x	-	-	\$ 16,592	\$ 23,463	\$ 22,736
-	-	x	\$ 10,174	\$ 15,401	\$ 17,621
-	x	-	\$ 9,985	\$ 14,660	\$ 16,982
x	-	x	\$ 9,403	\$ 13,763	\$ 16,533
x	x	-	\$ 9,217	\$ 13,600	\$ 15,893
-	x	x	\$ 2,258	\$ 4,561	\$ 10,778
x	x	x	\$ 1,442	\$ 3,417	\$ 9,690

Oil and Gas Impact Fee – Re-Frack Well with 40% Reduction

			Re-Frack Well - 60% of Fee Recommendation		
Pipeline Scenario			Aug 2019 Report Version		
			West	East-Central	Far East
Fresh Water Pipeline	Produced Water Pipeline	Product Pipeline			
Per Pad Fees					
n/a	n/a	n/a	\$ 210	\$ 472	\$ 89
Per Well Fees					
-	-	-	\$ 16,984	\$ 24,168	\$ 23,145
x	-	-	\$ 16,119	\$ 23,608	\$ 22,088
-	-	x	\$ 9,884	\$ 14,962	\$ 17,119
-	x	-	\$ 9,700	\$ 14,242	\$ 16,498
x	-	x	\$ 9,135	\$ 13,371	\$ 16,061
x	x	-	\$ 8,954	\$ 13,211	\$ 15,440
-	x	x	\$ 2,194	\$ 4,401	\$ 10,471
x	x	x	\$ 2,416	\$ 3,320	\$ 9,414

- That the Reduced Impact Fees shall be imposed and collected in the amounts specified in above Paragraph No. 3 as applicable for all applications for a new oil and gas facility proposed to be located within the areas of eastern Arapahoe County designated as the West, East Central, and Far East Districts defined in the FHU Study (the “Impact Fee Areas”) and in this Resolution. These Impact Fee Areas are shown generally on the following map:



- That the Impact Fees imposed under this Resolution are not imposed for and shall not be used to remedy any deficiency in capital facilities that exists without regard to such new oil and gas development.
- That the Impact Fees imposed by this Resolution and collected by the County shall be expended for the purposes set forth in the FHU Study, which includes: asphalt overlays, increase cost of gravel maintenance, paving gravel roads and shoulder Improvements as provided in the Study.
- That in accordance with CRS 29-20-104.5(7), any person or entity that owns or has an interest in land that is or becomes subject to the Impact Fees imposed under this Resolution may file for a declaratory judgment in a court of competent jurisdiction and proper venue to determine whether such impact fees comply with the requirements of CRS 29-20-104.5, and that, in accordance with CRS 29-20-104.5(7), an applicant for a development permit from Arapahoe County for which the Impact Fees have been charged, may pay the fees imposed and proceed with the development without prejudice

to the applicant's right to challenge such fees in a proceeding under Rule 106 of the Colorado Rules of Civil Procedure.

8. That all Impact Fees collected under this Resolution shall be collected and accounted for separately in an interest bearing accounts in accordance with the Land Development Charges Statute, CRS 29-1-801, *et seq.*, as same may be amended from time to time. All such collected Impact Fees and the accrued interest thereon shall only be expended in the Impact Fee Areas and used for the purposes consistent with those state in the FHU Study.
9. That, in accordance with CRS 29-20-104.5(3), no single oil and gas facility applicant will be required to provide any site specific dedication or improvement to meet the same needs for which these Impact Fees are imposed, and that Public Works and Development staff is directed to establish procedures for the implementation and collection of the Impact Fees as adopted herein, including a site-specific credit or developer reimbursement process for development of all or any portion of any of the particular improvement, overlay or road impact costs stated in the FHU Study and that are required by reason of a specific development approval within the Impact Fee Area.
10. That the Board directs that the Department of Public Works and Development evaluate annually, following the date of adoption hereof, the economy and market conditions for oil and gas, the rate of oil and gas development in the Impact Fee Area, and any other relevant factors as determined by the Board or such staff, and make recommendations whether the amount of such Reduced Impact Fees should be modified or adjusted, within the limit of the calculated Full Schedule of Impact Fees stated in Paragraph No. 1 above and proportionally for the fee amounts for vertical and re-fracked wells as recommended in the FHU Study (with roto-paved roads treated as asphalt); and the Board reserves the right to increase such Reduced Impact Fees accordingly.
11. That the Board directs the Department of Public Works and Development to evaluate and make recommendations for impact fees for other new energy uses such as solar, wind, bio-fuels, injection wells, or other energy development uses within the Impact Fee Areas at levels no greater than necessary to defray the costs of the impacts on the County road system from such other energy uses development.
12. That in administering the Impact Fees program adopted through this Resolution, the Director of the Public Works and Development Department is authorized to take all further actions as are necessary to carry out the intent and purposes of this Resolution.
13. That if any part or parts of this Resolution or the Impact Fees adopted hereunder are for any reason held to be invalid by a court of competent jurisdiction, such invalid part or parts shall be severed from and not be deemed to affect the validity of the remaining parts of this Resolution and the Impact Fees adopted hereunder not so held to be invalid. The Board declares that it would have passed this Resolution and the Impact Fees adopted hereunder and each separate part thereof regardless of the subsequent declaration of the invalidity of any one part or parts.

14. That this Resolution shall take effect February 1, 2021 and that the required amount of Impact Fees due under this Resolution shall be paid prior to approval of a land use application for any new oil and gas well or well facility permit for a location occurring within any of the Impact Fee Areas on or after this effective date.

The vote was:

Commissioner Baker, ; Commissioner Conti, ; Commissioner Holen, ; Commissioner Jackson, ; and Commissioner Sharpe, .

The Chair declared the motion carried and so ordered.