

CHAPTER 7 PLANNING, DEVELOPMENT AND BUILDING

ARTICLE 7 SUBDIVISION REGULATIONS

PART 19 BANNING LEWIS RANCH ANNEXOR FEES AND REIMBURSEMENTS

SECTION:

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7.7.1901: **PURPOSE AND APPLICABILITY:** In compliance with the Banning Lewis Ranch ("BLR") Annexation Agreements (collectively, the "annexation agreement"), the settlement agreements in District Court Case numbers 99-CV-1944 and 01-CV 0566 and City Council resolution 146-06, the annexors and City have prepared a BLR Annexor Shared Obligation Study¹. The purpose of the Shared Annexor Obligation Study was to identify the annexors' shared infrastructure obligations and to determine an equitable and proportional method for cost sharing and reimbursement among the annexors. This part establishes the BLR cost sharing/reimbursement program and shall apply to all property contained within the annexation plats of the BLR annexations, filing numbers 1 through 20, except for the property commonly known as BLR Village One. (Ord. 07-85)

7.7.1902: **BLR FEES:** The BLR general annexor shared obligation fee, BLR Parkway and Interchange fees shall be set by City Council resolution and shall be based upon the findings of the BLR Annexor Shared Infrastructure Study. The BLR fee resolution may be amended in accord with section 7.7.1903 of this part. (Ord. 07-85)

7.7.1903: **FEE ADJUSTMENT:** The general annexor shared obligation fee and the BLR Parkway and Interchange fees may be modified by City Council as follows:

A. General Annexor Shared Obligation Fee:

1. The land dedication element of this fee shall be adjusted annually to reflect any adjustment in the fee in lieu of park/school land dedication established in accord with part 12 of this article (the "park/school fee"). Use of the City adopted park/school fee is not intended to reflect the actual market value of land, but rather to be a fair and equitable method of reimbursement for land dedications that have been identified as shared annexor obligations.

2. The cost to construct and equip the five (5) fire stations required by the BLR Annexation Agreement will be evaluated annually by the Colorado Springs Fire Department. The general annexor shared obligation fee will be adjusted to reflect the Fire Department's revised estimates for the cost for these facilities.

3. All other elements of the general annexor shared obligation fee identified in the BLR Annexor Shared Obligation Study shall remain fixed until the study is amended.

B. Parkway Fee: The construction element of this fee shall be adjusted annually to reflect changes in construction costs as determined by the Colorado Springs Construction Index. Annexors may independently commission engineering studies regarding BLR Parkway design and construction costs at their own expense. Any annexor engineering studies shall be subject to review and approval by the City and may be used by the City to adjust the BLR Parkway fee.

C. Interchange Fee: The construction element of this fee shall be adjusted annually to reflect changes in construction costs as determined by the Colorado Springs Construction Index. Annexors may independently commission engineering studies regarding BLR Parkway design and construction costs at their own expense. Any annexor engineering studies shall be subject to review and approval by the City and may be used by the City to adjust the BLR Interchange fee. (Ord. 07-85)

¹. Resolution 92-07 approved the Banning Lewis Ranch Annexor Shared Obligation Study on May 22, 2007.

7.7.1904: FEE PAYMENT:

A. **Payment With Subdivision Platting:** The BLR general annexor obligation fee and the BLR Parkway and Interchange fees shall be paid in conjunction with the recording of any subdivision plat, recorded after the date of the BLR Annexor Shared Infrastructure Study was adopted and approved by City Council, for property contained within the BLR. The BLR general annexor obligation fee and the BLR Parkway and Interchange fees shall apply to all acreage contained within the plat, with the following exceptions:

1. **Park Sites And Trail Corridors:** Park sites and trail corridors, including those owned by districts, for which park land dedication credit will be granted by the City.

2. **School Sites:** School sites for which school land dedication credit will be granted by a public school district.

3. **Public Facility Sites:** Public facility site dedication required by the annexation agreement and identified within the approved BLR Annexor Shared Obligation Study.

4. **Rights Of Way:** Right of way dedicated for arterial roadways or the BLR Parkway and Interchange.

5. **Property South Of Drennan Road:** Property within the BLR located south of Drennan Road shall not be subject to the BLR Parkway fee.

6. **BLR Village One:** All properties located within BLR Village One development plans and/or subdivision plats, in accord with City Council condition of approval of an amendment to the Banning Lewis Ranch master plan (CPC MPA 05-140), dated February 14, 2006.

B. **Platting Fee Credit:** Annexors who have received reimbursement credits for constructing shared infrastructure, or for fulfilling shared obligations identified as reimbursable shared obligations by the BLR Annexor Shared Obligation Study, may apply reimbursement credit against platting fees owed, except for the BLR Parkway Interchange fee as set forth in subsection 7.7.1905F of this part.

C. **Payment Prior To Platting:** The general annexor obligation fee and the BLR Parkway or Interchange fees may be paid prior to platting at the

annexor's option. Payment prior to platting shall be subject to a twenty percent (20%) early payment surcharge.

D. **Escrowed Fees:** The City shall escrow all general annexor obligation fees and BLR Parkway or Interchange fees collected into a separate "BLR reimbursement fund" to be used for the sole purpose of reimbursing those annexors who construct shared infrastructure or who fulfill annexation agreement obligations identified as reimbursable shared obligations by the BLR Annexor Shared Infrastructure Study. Any interest or investment income that accrues on these funds will benefit the fund. (Ord. 07-85)

7.7.1905: REIMBURSEMENT:

A. **Eligibility:** Annexors who construct shared infrastructure, or who fulfill shared obligations identified as reimbursable shared obligations by the BLR Annexor Shared Obligation Study, shall be eligible for reimbursement from the "BLR reimbursement fund" or receive credit against general annexor obligation and/or BLR Parkway fees owed. Any shared annexor obligation fulfilled after the approval date of the BLR Annexation Agreement (September 23, 1988) shall be eligible for reimbursement, with the exception of the prior dedication of the Jimmy Camp Creek Regional Park site.

B. **Credit/Reimbursement For Public Facility Dedications:** Annexors dedicating land for any of the following public facility sites as required by the annexation agreement, and identified as reimbursable shared obligations by the BLR Annexor Shared Obligation Study, shall be eligible for a reimbursement or credit against general annexor obligation and/or BLR Parkway fees owed:

1. Park and ride site,
2. Air monitoring stations,
3. City service center,
4. Police substation sites,
5. Street sweeping disposal sites,
6. Well sites,
7. Water storage tank sites,

- 8. Electric substation sites,
- 9. Electric service center,
- 10. Fire stations.

The reimbursement or credit against general annexor obligation and/or BLR Parkway fees owed associated with these public land dedications shall be calculated by multiplying the City adopted park/school fee in effect as of the date of the site dedication or acceptance of the deed by the City, by the acreage of the public site dedication.

- C. **Credit Or Reimbursement For Constructing And Equipping Fire Stations:** Annexors constructing and equipping fire stations required by the annexation agreement, and identified as a reimbursable shared obligation by the BLR Annexor Shared Obligation Study shall be eligible for a reimbursement or credit against general annexor obligation and/or BLR Parkway fees owed. Reimbursement shall be based upon actual construction and equipment costs incurred by the constructing annexor to the degree said construction and equipment expenditures received the prior approval of the Fire Department.
- D. **Creditor Reimbursement For Other Shared Annexor Obligations:** Annexors fulfilling any obligations listed below and identified as a reimbursable shared obligation by the BLR Annexor Shared Obligation Study shall be eligible for a reimbursement or credit against general annexor obligation and/or BLR Parkway fees owed. The value of these obligations shall be as set forth within the BLR Annexor Shared Obligation Study. These reimbursable shared obligations include:
 - 1. BLR Annexor Shared Infrastructure Study,
 - 2. Sand Creek Drainage Basin Restudy,
 - 3. Jimmy Camp Creek Drainage Basin Study,
 - 4. Payment for a radio repeater station.
- E. **Credit Or Reimbursement For Dedication Of Right Of Way And/Or Construction Of BLR Parkway:**
 - 1. Annexors dedicating right of way and/or fulfilling parkway construction responsibilities for the segment of the BLR parkway located north of

Drennan Road as set forth in the annexation agreement shall be eligible for a reimbursement or credit against general annexor obligation and/or BLR parkway fees owed. The value of these obligations shall be as follows:

a. The reimbursement value of the BLR Parkway right of way dedication shall be calculated by multiplying the City's park/school fee in effect as of the date of the right of way dedication by the acreage of the dedication.

b. A preliminary reimbursement shall be determined for BLR Parkway construction based upon the cost estimate for parkway construction approved by the City in conjunction with the posting of the financial security for the parkway construction. The final reimbursement amount shall be determined based upon actual construction costs submitted by the constructing annexor and accepted by the City. Adjustments in reimbursement, or fees owed, will be made if the final reimbursement amount differs from the preliminary estimate.

2. Annexors dedicating right of way and/or fulfilling BLR Parkway construction responsibilities for the segment of the BLR Parkway located south of Drennan Road shall not be eligible for a reimbursement from other annexors, or receive credit against general annexor obligation and/or BLR Parkway fees owed except as follows:

a. BLR Parkway constructed on the boundary of another annexor's property shall be subject to cost recovery from the annexor having frontage on the other side of the arterial in accord with subsection 7.7.705D of this article.

b. Annexors required by the City to construct the BLR Parkway through property owned entirely by another annexor shall be eligible for cost recovery from those annexors having frontage along the BLR Parkway in accord with subsection 7.7.705D of this article.

- F. **Credit Or Reimbursement For BLR Parkway Interchange Construction:** Any annexor or other construction entity fulfilling the BLR Parkway/Highway 24/Constitution Avenue Interchange construction obligation as set forth in the annexation agreement shall be eligible for a reimbursement or credit against BLR Interchange fees owed. The value of the BLR Interchange construction shall be equal to the cost estimate for the BLR Parkway/Constitution Ave-

nue/Highway 24 Interchange provided by the constructing annexor/entity and accepted by the City in conjunction with the approval of the interchange design. The final reimbursement amount shall be determined based upon actual construction costs submitted by the constructing annexor/entity and accepted by the City.

- G. **Reimbursement Or Platting Fee Credit:** Annexors who construct shared infrastructure or who fulfill obligations identified as reimbursable shared obligations by the BLR Annexor Shared Obligation Study, shall be eligible for reimbursement or credit against general annexor obligation and/or BLR Parkway fees owed. In conjunction with a request for reimbursement, the annexor may choose to be reimbursed from the "BLR reimbursement fund" or choose to have the reimbursement applied to current or future general annexor obligation and/or BLR Parkway fees owed.

In conjunction with the filing of each subdivision plat, the City shall calculate all platting fees and reimbursements associated with the plat and determine the net platting fees owed or reimbursement due. In the event that platting fees are owed, the annexor may apply reimbursement to cover these fees as set forth above.

- H. **Payment Of Reimbursement Owed:** The City shall process all annexor reimbursement requests in a timely manner and shall pay approved reimbursement requests from the BLR reimbursement fund on a quarterly basis. All reimbursement payments will be processed on a first in, first paid basis and shall be paid to the extent that monies are available in the fund.
- I. **Transfer Of Reimbursement Or Credit:** The City will process reimbursements from the "BLR reimbursement fund", and/or apply credits owed to the annexors who have constructed shared infrastructure, or who have fulfilled obligations identified as reimbursable shared obligations within the adopted BLR Annexor Shared Obligation Study. The City shall recognize the transfer of reimbursements to other parties subject to the filing, and City acceptance, of an "Assignment of Reimbursements" form. (Ord. 07-85)

7.7.1906: CHARGE FOR REIMBURSEMENT, CREDIT AND PLATTING FEE PROCESSING: The City may impose a fee or charge to cover any cost not ordinarily incurred by, nor compen-

sated to, the City through the City's development fees in providing the shared annexor cost allocation functions as set forth in the BLR Annexor Shared Obligation Study. (Ord. 07-85)

7.7.1907: BLR ANNEXATION AGREEMENT IMPACT FEES: The BLR general annexor obligation fee, and the BLR Parkway and Interchange fees shall be separate from, and in addition to, the "off site roadway improvement fee" and the "urban service extension fee" as set forth in the BLR Annexation Agreement. (Ord. 07-85)