

ORDINANCE 481

AN ORDINANCE OF THE TOWN OF BAYFIELD, COLORADO REGARDING RATIFYING FEES IN LIEU OF LAND DEDICATIONS FOR THE BAYFIELD SCHOOL DISTRICT UNDER ADDED SECTION 5-15 OF THE LAND USE CODE AND DECLARING AN EMERGENCY

WHEREAS, residential development in the Town imposes impacts on the School District Facilities; and

WHEREAS, Ordinance 309 was adopted August 15, 2005 regarding fees in lieu of land dedication; and

WHEREAS, Ordinance 309 identified the fee amount as five hundred twenty-five dollars (\$525) per unit; and

WHEREAS, Ordinance 309 did not identify a Land Use Code Section therefore was not codified; and

WHEREAS, on September 9, 2005 the Board of Trustees entered an Intergovernmental Agreement with the School District regarding the imposition of the fees in lieu of land dedication requirements; and

WHEREAS, on September 5, 2006 the Board of Trustees approved per motion a fee increase from five hundred twenty-five dollars (\$525) to Seven hundred ninety-four dollars (\$794) per unit; and

WHEREAS, the Town imposed the Seven hundred ninety-four dollars (\$794) fee per new unit, however failed to amend the fee increase by ordinance; and

WHEREAS, the Board of Trustees determined that it was necessary to ratify the September 5, 2006 fee amendment per ordinance within new Land Use Code Section 5-15; and

WHEREAS, the Town Board of Trustees have determined that declaring an emergency is in the best interest of public health and order.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BAYFIELD, COLORADO AS FOLLOWS:

Section 5-15 Bayfield School District Fees in Lieu of Land Dedication:

A. Regulation for the dedication of land to the School District and for the payment of fees in lieu thereof.

- (1) Each development containing residential land uses shall pay fees in lieu of land

dedications, or, if appropriate based upon the size of the development, shall dedicate to the Bayfield School District No. 10 Jt-R ("District") school sites in accordance with the provisions of this section. The District shall determine school needs in proximity to the proposed development area, and shall make the determination whether fees should be levied or actual land dedication should be made in accordance with the provisions of this section.

- (2) Fees in lieu of land dedication shall be assessed as part of the Development Plan approval process. For any existing development for which a Development Plan has been approved prior to the date hereof, cash in lieu shall be required as hereinafter set forth. If it is determined that the particular development should dedicate land rather than pay fees in lieu, the determination of the amount of land to be dedicated, and the criteria applicable to determine land to be dedicated shall be in accordance with, formulas and standards established by District policy and procedure, provided, however, that the District shall not require land dedication for any purposes other than construction of school buildings, athletic fields, bus garages, maintenance buildings, or any other bona fide District facilities.
- (3) Fee determination and collection
 - a. The Town shall notify the District in writing of any Development Plan approval process that is initiated within the Town, providing copies of any available submittals and information that the Town has received concerning the project. Within thirty (30) days of such notification, the District shall notify the Town in writing whether the District intends to require land dedication in connection with the particular development. Unless the Town receives such notice from the District, it will be assumed that District will not require land dedication, and the Town shall require payment of a fee in lieu of land dedication. The amount of the fee shall be Seven hundred ninety-four dollars (\$794) per unit. The amount of the fee may be updated from time to time by amendment to this Ordinance, upon mutual agreement of the District and the Town.
 - b. The fee in lieu requirement shall apply to new residential construction within the Town. The term "new residential construction" as used herein shall include all types of construction, as well as the assembling or placement of modular, pre-constructed and mobile homes. The term "new residential construction" shall not include any type of replacement structure, or addition/remodel, on the site of a pre-existing residential unit of any kind.
 - c. The per unit fee shall be paid to the District prior to the issuance of a building permit or equivalent authorization for an individual unit, and the District's receipt evidencing payment of such fee shall be a condition precedent to the issuance of a building permit or equivalent authorization.

- d. Fees shall be payable to the District as undesignated contributions to the District's general fund and shall be accounted for and used as the School District deems appropriate for land and capital facilities. The payer shall have no control over the use of such funds.
 - e. The Town will not entertain any requests for waiver of the fee in lieu of land dedication. Any such requests for waiver shall be made to the District, and the District shall have the sole authority whether to grant a waiver in a specific case.
 - f. In the event that the District has required land dedication in accordance with paragraph 2 above, but the developer and the District are unable to come to agreement within sixty days as to the amount or location of land to be dedicated, the Town shall have the authority, upon written notice to the District, to terminate negotiations and require imposition of the fee in lieu in accordance with subsection 3.a. above. Such sixty day negotiation period shall commence on the date the District notifies the Town of its intention to require land dedication in accordance with subsection 3.a.
- (4) The following land uses within the Town's boundaries are exempt from fees in lieu of land dedication: (1) non-residential building construction; (2) construction of buildings for assisted living, family care and group homes, halfway houses, nursing homes, housing designated for older persons as defined by federal law, and hospices; this exception does not include structures used primarily to house school age children.
- (5) Any person or entity that is issued a building permit or equivalent authorization without dedication of land or payment of the land dedication fee shall be liable to the District for such fee plus all costs of collection including but not limited to a reasonable attorney fee; and the District shall have the standing and authority to use any and all creditor's remedies and other legal means to effectuate such collection.

Effective upon adoption.

ADOPTED AND ORDERED PUBLISHED THIS 15th DAY OF November 2022

The Town of Bayfield, Colorado

MAYOR:



Ashleigh Farkington

ATTEST:



Kathleen S. Cathcart, Town Clerk