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 Janice Ward CLK&REC Mesa County, CO
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**RESOLUTION INCORPORATING,
 AMENDING and EXTENDING
 RESOLUTION #MCM 2000-156(a)**

RESOLUTION #MCM 2005-198

This Resolution shall be known and may be cited as the "Mesa County School Land Dedication Fee Extension Resolution". This Resolution shall apply in all unincorporated areas of Mesa County which are within the jurisdictional boundaries of School Districts 51 and 50. This provides for the collection of fees in lieu of school land dedication by Mesa County for School District 51 and School District 50 (hereafter the School Districts).

WHEREAS, on February 28, 2000, Mesa County approved and adopted revisions to the Mesa County Land Development Code, which revised Code in section 7.21.2, contains provisions for the collection of fees in lieu of school land dedication in Mesa County pursuant to section 30-28-133(4), C.R.S.; and

WHEREAS, the School Districts have commissioned studies to determine the need or demand for school lands generated by proposed developments and/or anticipated population growth in Mesa County, Colorado, and to determine the average cost per acre of suitable school lands; and

WHEREAS, said studies, titled "Sales Research Summary Report", dated January 5, 1996 and, titled Master Plan for facilities and dated April 30, 2004 have been considered and approved by the School Districts; and

WHEREAS, the School Districts have considered their long-range capital improvement plans and have concluded that the dollar amount per parcel of school land dedication fees currently being collected by Mesa County pursuant to section 7.21.2 of the Mesa County Land Development Code and 4.3.6.B of the prior Mesa County Land Development Code is adequate to meet the needs of the School Districts; and

WHEREAS, a public hearing is scheduled before the Mesa County Board of County Commissioners for Tuesday, December ~~21~~²⁰ 2005, to consider authorizing Mesa County's collection of school land dedication fees; and

WHEREAS, the School Districts have waived the 60 days' written notice (required by section 7.21.2.B.2 of the 2000 Mesa County Land Development Code) of the public hearing; and

WHEREAS, section 7.21.2. of the 2000 Mesa County Land Development Code, attached hereto as Exhibit 1, sets forth the formula for the calculation of fees in lieu of school land dedication; and

WHEREAS, the School Districts and developers in Mesa County desire Mesa County to

continue to collect fees in lieu of school land dedication using the formula set forth in section 7.21.2 of the 2000 Mesa County Land Development Code;

NOW, THEREFORE, THE MESA COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF COLORADO, FINDS AS FOLLOWS:

That the hearing before the Board was held after proper notice.

That the Mesa County Land Development Code, as amended, contains a reasonable and rational methodology for calculating the amount of fee in lieu of school land dedication to be charged pursuant to C.R.S. §30-28-133(4). The methodology takes into account the student generation rates of new development, the quantity of land required to build new schools on a per pupil basis, and the anticipated cost of suitable school lands in the participating school districts.

That there is a rational and reasonable connection between the amount of the fees that would be collected from new residences and the cost of acquiring suitable school lands needed.

That the Mesa County Land Development Code, as amended, (Code) section 7.21.2, concerning the standards for School Land Dedications and Fees In Lieu thereof are attached hereto as Exhibit 1. Such section of the Code:

- a. Are designed to apply to all school districts within Mesa County which request school land dedications and School Land Dedication (SLD) Fees pursuant to the Code and enter into an intergovernmental agreement with Mesa County regarding such dedications and fees;
- b. Expand the existing requirements for school land dedication with respect to new residential subdivision development within the boundaries of participating school districts so as to require in most cases payment of a fixed SLD Fee for each new residential building lot before a residential building permit may be issued for such lot;
- c. Provide for credits to developers desiring to donate other suitable school lands to a participating school district in lieu of paying the SLD Fee;
- d. Allow developers to prepay SLD Fees at the time a development permit is issued and the plat filed for a residential subdivision;
- e. Exempt housing for senior citizens, nursing and group homes, residential development on unsubdivided land, non-residential developments, and most alterations and additions to existing homes;
- f. Require the Board to determine the amount of the SLD Fee after public hearing;
- g. Provide a mechanism for review and modification of the SLD Fee

structure and methodology on a periodic basis, based on changes in the average cost per acre of suitable school lands, and on other grounds;

h. Require that SLD Fees be refunded to the persons who paid them if the money is not used by the participating school district within five (5) years from the date of collection, with limited exceptions and a provision for a one-time five (5) year extension at the require of the participating school district; and

i. Provide that SLD Fees are collected for the benefit of each participating school district, but can be used only for purchase of real property needed by the district from which the fees were collected.

That the fees to be established by this Resolution will be derived from, based upon, and will not exceed the full market value of sites and land areas which would otherwise be dedicated pursuant to C.R.S. §30-28-133(4).

NOW LET IT THEREFORE BE RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF MESA, AS FOLLOWS:

That the School Land Dedication Fee for School Districts #50 (Plateau Valley) and #51 (Mesa County Valley School District) shall be as follows:

Year	Land Value	School Land Dedication Fee per Acre of Land
2006	\$20,000	\$460
2007	25,000	575
2008	30,000	690
2009	35,000	805
2010	40,000	920

The numbers contained in the schedule are based upon approximate land values. If the land values decrease below those set in the schedule, the School Land Dedication Fee per Acre of Land will be decreased accordingly. However, the Fee will not increase beyond that shown in the schedule above without action by the Mesa County Board of County Commissioners.

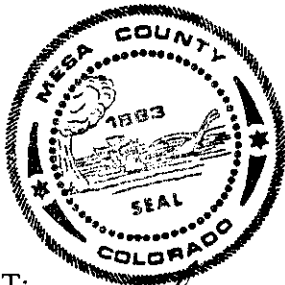
This schedule shall be applied unless there is an exemption under Section 7.21.2.D of the Mesa County Land Development Code, or unless the school land dedication is required, or permitted, in accordance with to all Section 7.21.2

This Resolution shall expire five years from the date of its adoption, unless it is renewed or extended by the Board upon the request School Districts #50 (Plateau Valley) and/or District #51 (Mesa County Valley School District).

If any subsection, paragraph, subparagraph, phase, sentence, or portion of this Resolution is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Resolution.

That Resolution 2000-156(a) is hereby terminated and the fees provided therein are hereby replaced by this Resolution, beginning immediately upon passage.

PASSED AND ADOPTED this 20th day of December, 2005, in Grand Junction, Mesa County, Colorado.



THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF MESA, COLORADO

By: Tilman M. Bishop
Tilman M. Bishop, Chair

ATTEST:

Janice Ward
Janice Ward
Clerk and Recorder

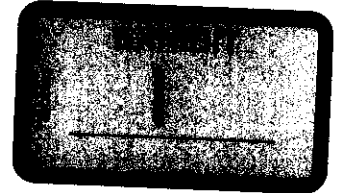
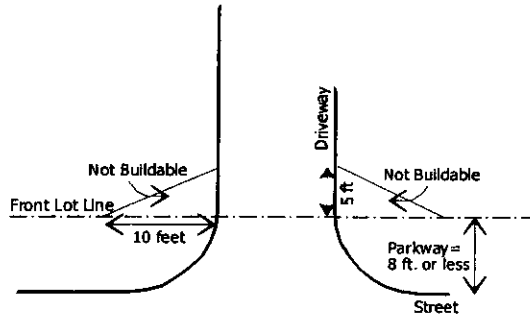
property lines and extending 25 feet from their point of intersection, as shown on the following illustration:

Visibility triangle requirements may be increased when deemed necessary for traffic safety.

7.20.2 | Driveways

On front (or other street side) property lines, no structure, fence, wall, hedge, or planting that will obstruct vision between a height of three feet and eight feet shall be erected, placed or maintained within the triangular area formed by the edge of the driveway and the front lot line as shown on the following diagram:

Visibility Triangle at Driveway



The provisions of this section shall be waived for fences, walls, hedges or other plantings if it can be shown that visibility will not be restricted either because of a turnaround driveway or a parkway greater than eight feet.

7.20.3 | Dedication Required

The above visibility standards shall apply to all Street or Road intersections with public Streets and Roads in Mesa County. The area within required intersection visibility triangles shall be dedicated to the County at the time of development approval.

7.20.4 | Enforcement

Upon official written notification of noncompliance, the property owner shall remove any obstructions. If the owner has not done so within a reasonable time as determined by the Public Works Department, Mesa County shall take steps to have the obstruction removed.

13 §7.21 | Land Dedications and Fees In-Lieu

7.21.1 | Park Land (see Section 7.5 - Open Space/Parks Standards) *

- A. **Land Dedications**
Dedication of land for park purposes shall be required of any development if such development includes within it land that is necessary for implementing an adopted park, bikeway, or open space plan, provided that every land dedication shall be roughly proportional both in nature and extent of the proposed development.
- B. **Fees In-Lieu of Land Dedications**
A fee in lieu of park land dedication shall be paid by all developments except those required to dedicate park land in accordance with this section. Revenues from such fees shall be used only to acquire park land or construct park or recreation related capital improvements that are necessary to serve the fee-paying development and other developments within the area. Fees are payable upon the filing of a final plat for a platted residential development. Developments containing residential and other uses shall pay the appropriate fees on each part of the development.
- C. **Required Fees**
The required fees for all types of development shall be calculated in an amount roughly proportional to the need or demand generated by the proposed development, as determined by one or more studies commissioned and approved by the Board of County Commissioners.

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- D. **Credit Permitted Against Fee**
The development shall be allowed credit against any fees due for the actual costs of any park related capital improvements constructed by the applicant, for the development, at the request of Mesa County that are not on or directly adjacent to land owned by the applicant.

7.21.2 | Schools

- A. **Land Dedications**
Dedication of Suitable School Lands for school purposes shall be required of any development if the affected School District determines that such development includes within it land that is necessary for implementing a school plan, provided that every land dedication shall be roughly proportional both in nature and extent of the proposed development, in accordance with the requirements of this section.

- B. **Fees In-Lieu of Land Dedications**
A fee in-lieu of school land dedication shall be paid by all residential developments except those required to dedicate land for schools in accordance with this section. The fee per dwelling unit shall be determined by resolution of the Board of County Commissioners, calculated in an amount roughly proportional to the need or demand generated by the proposed development, as determined by one or more studies commissioned and approved by the School District. School Land Dedication (SLD) fees shall be collected by the County for the exclusive use and benefit of the School District in which such development is located, and shall be expended by the School District solely to acquire real property or interests in real property reasonably needed for development or expansion of school sites and facilities, or to reimburse the School District for sums expended to acquire such property or interests.

1. School Land Dedication (SLD) Fees shall be collected and held in trust for the use and benefit of the School District containing the Residential Development for which the fee is collected. Such fees shall be expended by such School District to acquire additional real property for expansion of school facilities and construction of new school facilities necessitated by new Residential Development in such School District, or to reimburse the School District for sums expended to acquire such property. The amount of the SLD Fee shall be based on a methodology which takes into account the student generation rates of new Residential Development, the quantity of land required to build new school facilities on a per pupil basis, and the anticipated cost of acquiring Suitable School Lands in the School District to expand existing school facilities and construct new school facilities to accommodate new Residential Development without decreasing current levels of educational services.
2. At the time SLD Fees are initially adopted and once every five years thereafter, the Board of County Commissioners shall determine the average cost per acre of Suitable School Lands, after a public hearing. The County shall give each School District of the County 60 days' prior written notice of the hearing. Such hearing shall consider the School Districts' long range capital improvement plans and any other evidence, comments or recommendations submitted by the School Districts and the public in making such determination.
3. The SLD Fee shall then be set, by resolution of the Board of County Commissioners, in accordance with the following formula:

Cost per Acre of Suitable School Lands within each School District	×	Student Generation Fee Factor of .023*	=	SLD Fee Per Dwelling Unit
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[For example, if the average cost of Suitable School Lands is \$15,000 per acre, the SLD Fee per Dwelling Unit would \$15,000 X .023, or \$345.] See Section 7.21.2.B above for determination of factor.

The student generation fee factor may also be modified at the hearing, provided that either the subject School District gives notice to the Board of County Commissioners that it requests such a modification at least 30 days prior to the hearing, or the Board adopts a motion providing for consideration of a modification of said fee factor, and its hearing notice to the subject School District pursuant to this subsection. Said hearing shall consider the School District's school facilities plan currently in place, the methodology and data supporting the proposed modification, and any

evidence, comments or recommendations submitted by the County Planning Department, the subject School District and interested members of the public.

C. Payment of School Land Dedication Fee

1. No building permit shall be issued for a dwelling unit or a multi-family dwelling structure that is or contains one or more dwelling units, until the SLD fee in effect at the time the permit is applied for has been paid.
2. Nothing in this section shall preclude a holder of a Development Permit for a Residential Development or Mixed Use Development containing a Residential Development component from pre-paying the SLD fees to become due under this section for one or more Dwellings, Multiple-Family Dwellings or Multi-Family Dwellings to be constructed in such development. Such prepayment shall be made upon the filing of a final plat for a platted Residential Development, at the SLD fee rate then in effect and in the amount which would have been due had a building permit application for such dwellings been pending at the time of prepayment. A subsequent building permit for a Dwelling, Multiple-Family Dwelling or Multi-Family Dwelling that is, or contains, one or more Dwelling Units for which the SLD fees have been prepaid shall be issued without payment of any additional SLD fees. However, if such permit would allow additional Dwelling Units for which SLD fees have not been prepaid, the permit shall not be issued until the SLD fees for the additional Dwelling Units have been paid at the rate per Dwelling Unit in effect at the time the building permit application was made.
3. Any prepayment of SLD fees in accordance with this section shall be documented by a Memorandum of Prepayment that contains the following minimum components:
 - a. The legal description of the real property subject to Residential Development for which an SLD fee is being prepaid.
 - b. A description of the development permit issued concerning such real property, and a detailed statement of the SLD fees being prepaid.
 - c. The notarized signatures of the owners of record or their duly authorized agents.
 - d. The notarized signature of the County Administrator, indicating approval of the prepayment plan.

D. Exemptions

The following shall be exempted from payment of SLD fee:

1. alterations or expansion of existing buildings except where the use is changed from nonresidential to residential and except where additional Dwelling Units result;
2. the construction of accessory buildings or structures;
3. the replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use;
4. the installation of a replacement mobile home on a lot or other parcel when a fee in lieu of land dedication for such mobile home has previously been paid pursuant to this section or where a residential mobile home legally existed on such site on or before the effective date of this section;
5. nonresidential buildings, nonresidential structures, or nonresidential mobile homes;
6. nursing homes, Adult Foster Care Facilities, or Specialized Group Facilities;
7. county approved Residential Developments that are subject to recorded covenants restricting the age of the residents pursuant to the Federal Fair Housing Amendments Act of 1988; and
8. residential construction on unsubdivided land.

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E. Credits

- 1. An applicant for a development permit (or a holder of such a permit) who owns other Suitable School Lands within the same School District in which the development is located may offer to convey such lands to such district in exchange for credit against all or portion of the SLD fees otherwise due or to become due. the offer must be in writing, specifically request credit against fees in lieu of SLD, and set forth the amount of credit requested. If the County and the School District in which the development is located accept such offer, the credit shall be in the amount of the value of the Suitable School Lands conveyed, as determined by written agreement between the County, the School District and the permit holder or applicant.
- 2. Credit against SLD fees otherwise due or to become due will not be provided until good and sufficient title to the property offered under this subsection is conveyed to and accepted by the School District in which the development is located. Upon such conveyance, the School District in which the development is located, and the County, shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and a description of the project or development to which the credit shall be applied.
- 3. Credits shall not be transferable from one project or development to another.

F. Refund of Fees Paid

- 1. Any SLD fee which has not been expended by a School District within five years of the date of collection shall be refunded, with interest at the rate of five percent per annum compounded annually, to the current owner of the land for which the fee was paid. Prior to such refund, such amount shall be reduced by an amount equal to two percent of the principal amount to be refunded, for the costs incurred by the County in the refund of such fee. The County shall give written notice by first class mail to the person who paid the fee at his or her address as reflected in the records of the Mesa County Clerk and Recorder. If such person does not file a written claim for such refund with the County within 90 days of the mailing of such notice, such refund shall be forfeited and shall be retained and used for the purposes set forth in this Section 7.21.
- 2. The Board may, upon a School District's request, extend the 5-year period of time upon a showing that such extension is reasonably necessary in order for the School District to complete or close a purchase transaction entered into in writing by such district prior to expiration of such period, or to give such district an opportunity to exercise a purchase option it acquired prior to expiration of such period. Such request shall be made at a public hearing of the Board. In no event shall any extension of time exceed an additional 5-year period.

13 §7.22 | Fees In Lieu of Improvements

7.22.1 | Escrow of Funds in Lieu of Improvements *

When specific public improvements are required by the Board of County Commissioners and/or identified in the County's Capital Investment Program and/or any adopted Transportation Plan, a fee (based on the cost of design construction and construction administration) may be collected in lieu of improvement construction. The County may hold funds for up to seven years,.

7.22.2 | Use of Funds

Fees paid pursuant to this section shall be deposited in an escrow account held by the Mesa County Treasurer. Fees shall be expended by Mesa County only to construct the specific improvement for which the fee was collected.

7.22.3 | Credit Permitted Against Fee for Certain Off-Site Improvements *

Any development shall be allowed credit against any fees or funds due under this section for actual costs of any public improvements constructed by the applicant for the development at the request of Mesa County, which are not on or directly adjacent to land owned by the applicant.

7.22.4 | Impact Fees *

All traffic-generating developments are subject to assessment and payment of a Transportation Impact Fee (TIF) The TIF fees are based on one or more studies commissioned and approved by the Board of County Commissioners. The