



TOWN OF PAGOSA SPRINGS, COLORADO

Ordinance No. 662
(Series 2006)

**AN ORDINANCE REPEALING AND READOPTING
ARTICLE 12, CHAPTER 21 OF THE PAGOSA
SPRINGS MUNICIPAL CODE REGARDING
DEVELOPMENT IMPACT FEES AND FEES IN LIEU
OF PUBLIC LAND DEDICATION.**

WHEREAS, the Town of Pagosa Springs, Colorado, ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003 ("Charter"); and

WHEREAS, the Town, by virtue of its Home Rule status, may adopt such ordinances relative to local municipal matters as are necessary to effectuate the purposes and intent of the powers granted to municipalities; and

WHEREAS, the Town is experiencing high rates of population growth, increased population density and increased demand for public services as a result of land development within the Town; and

WHEREAS, the construction of new developments within the Town is creating significant additional demand for and threatens the provision of adequate school, emergency, water conservation and other public services and facilities; and

WHEREAS, the demand for public services and facilities is immediate upon development of residential and commercial units even though the Town's funding from tax revenues often accrues after the demand for services exists; and

WHEREAS, the Town Council finds and determines that one of the primary roles of building, subdivision and development review is to ensure availability of essential public services and facilities, and that in order to promote and protect the convenience, order, prosperity and welfare of present and future inhabitants of the Town, a rational system is necessary to identify growth-related costs incurred by public agencies in providing new and expanded services made necessary by expanded population and economic activity levels generated by new development, and a fee structure directly related to such costs and method for collection of such fees, should be adopted; and

WHEREAS, requiring residential, commercial and industrial developments to pay impact fees or fees in lieu of reservation or dedication of sites for public schools as established herein will ensure that development pays no more nor less than its

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proportional share of the cost of providing new and enhanced services necessary to accommodate such new development; and

WHEREAS, the Local Government Land Use Control Enabling Act (the "Act"), Sections 29-20-101, *et seq.*, C.R.S., Article 23 of Title 31, and other applicable law grant broad authority to the Town to plan for and regulate the development of land on the basis of the impacts thereof on the community and surrounding areas; and

WHEREAS, Section 29-20-104.5 authorizes counties and municipalities to impose an impact fee as a condition of issuance of a development permit to offset the costs of providing any capital facility directly related to any service the county or municipality is authorized to provide, that has a useful life of at least five years, and is required by charter or general policy of the county or municipality; and

WHEREAS, Sections 29-1-801, *et seq.*, C.R.S., concerning land development charges, recognize that local governments may collect charges imposed on land development as a condition of the approval of development, if such charges relate to an expenditure for an improvement, facility, or piece of equipment necessitated by land development that is directly related to a local governmental service; and

WHEREAS, Section 22-54-102, C.R.S., concerning school funding charges, recognizes that local governments may require the reservation or dedication of sites and land for schools or the payment of moneys in lieu thereof to fund school development activity necessitated by land development; and

WHEREAS, the Act authorizes and encourages local governments to cooperate or contract with other units of government for the purpose of regulating the development of land and the impacts thereof; and

WHEREAS, Section 11.2, B) of the Charter directs that the Town's land use and subdivision ordinances include such fees as are necessary to ensure that the cost of necessary public improvements and the use or depletion of public resources created by a specific development or project are paid for by that particular development or project; and

WHEREAS, the Town Council has ordered Economic & Planning Systems ("EPS") to conduct and EPS has completed a Joint Impact Fee Analysis ("Analysis") analyzing the extent of the impact of development on public services throughout Archuleta County and the fees necessary to mitigate the impact; and



WHEREAS, the Town Council has previously adopted Article 12, Chapter 21 of the Pagosa Springs Municipal Code regarding impact fees and finds and determines that the repeal and readoption of Article 12 to implement the EPS Analysis is necessary for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town and carry out the direction, goals, policies and plans contained in the Town Charter, land use and subdivision ordinances and master plan, and the Act and other land use statutes of the State of Colorado; and

WHEREAS, The Town Council finds that taking legislative action regarding impact fees and school fees in lieu of public land dedication pursuant to the Charter as set forth in this Ordinance is necessary to protect the health, safety and welfare of the Town's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

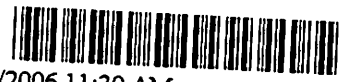
Section 1. Repeal and Readoption, Article 12, Chapter 21. Article 12 of Chapter 21 of the Pagosa Springs Municipal Code is hereby repealed and readopted in full as follows:

Article 12. Impact Fees

- Sec. 21.12.1. Purpose**
- Sec. 21.12.2. Use of Fees**
- Sec. 21.12.3. Payment of Fees**
- Sec. 21.12.4. Timing of Payment**
- Sec. 21.12.5. Alternative Fee Calculation**
- Sec. 21.12.6. Credit for Improvements**
- Sec. 21.12.7. Refund of Paid Fees**
- Sec. 21.12.8. Lien for Unpaid Fees**
- Sec. 21.12.9. Exemption from Payment of Fees**
- Sec. 21.12.10 Impact Fee and Fee in Lieu of Public Land Dedication Schedule**
- Sec. 21.12.11 Annual Adjustment**

Sec. 21.12.1. Purpose

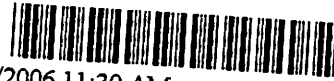
- A.** The Town requires that areas chosen for development shall be capable of being provided within a reasonable period of time with an adequate level of public facilities, including but not limited to:



- (1) Roadway facilities;
- (2) Regional public buildings;
- (3) Regional recreation facilities;
- (4) Park and trail systems;
- (5) Fire protection facilities;
- (6) School facilities;
- (7) Water conservation and storage facilities.

B. This Section is intended to:

- (1) Provide a rational system for identifying and mitigating costs associated with growth and development and the expansion of public services and facilities made necessary by land development activities, a growing population and economic activity levels.
- (2) Ensure that the impact fees and fees in lieu of public land dedication established by this Article are based on, and do not exceed, the cost of providing additional capital facilities necessitated by new development.
- (3) Regulate the use and development of land to ensure that new development pays no more nor less than its fair share of the cost of capital expenditures necessary to provide adequate public services to developments within the Town.
- (4) Assure that the system of impact fees and fees in lieu of public land dedication implemented in this Article is linked to a capital facilities program designed to provide the facilities and equipment for which the impact fees and fees in lieu of public land dedication are imposed.
- (5) Ensure that the impact fees and fees in lieu of public land dedication established by this Article are not used to offset existing deficiencies in capital facilities necessary to serve pre-existing development.
- (6) Ensure that new development that adequately mitigates or reduces the impact it creates on public services through site-specific dedications or improvements receives offsetting credit against its impact fee obligation.



Sec. 21.12.2. Use of Fees.

A. All fees collected pursuant to this Article shall be accounted for in the manner required by 29-1-801, *et seq.*, C.R.S., and other applicable law. Fees shall be deposited in an interest-bearing account which clearly identifies the lot, development activity and development approval for which the impact fee or fee in lieu of public land dedication was collected and the associated category, account or fund of capital facility, by either aggregate or individual land development. Each such category, account, or fund shall be accounted for separately. Any interest or any income earned on moneys deposited in said interest-bearing account shall be credited to the account.

B. Revenues from impact fees and fees in lieu of public land dedication shall be used exclusively for capital facilities, as defined by Section 29-20-104.5, C.R.S.

C. No fees shall be used for periodic or routine maintenance, personnel costs or operational expenses.

D. In the event that bonds or similar financing instruments are used for the advanced provision of any capital facilities for which impact fees or fees in lieu of public land dedication are required, fee revenues may be used to pay debt service on such bonds or similar financing instruments.

E. The Town may enter into an intergovernmental agreement with any public agency or local government to jointly fund expenditures and provide capital facilities needed to serve the development for which the impact fees or fees in lieu of public land dedication were imposed. To the extent such intergovernmental agreements utilize revenues from the fees imposed by this Article, they shall include such terms requiring compliance with this Article and Colorado law regarding impact fees, including Part 8, Article 1, Title 29 and Sections 29-20-103 and 29-20-104.5, C.R.S., and auditing of accounts and compliance as deemed appropriate by the Town Council.

F. In the event this Ordinance is repealed or any such intergovernmental agreement is terminated, such capital facilities during their useful life shall continue to be utilized to provide services to the development for which the impact fees were imposed.

Sec. 21.12.3. Payment of Fees.

- A.** As used in this Article and as defined in this Land Use and Development Code, the term “development approval” shall constitute a “development permit” as that term is used in Sections 29-20-103 and 29-20-104.5, C.R.S.
- B.** A developer requesting a development approval shall pay the impact fees and fees in lieu of public land dedication established by this Article upon the submittal of a complete application and all submittal requirements
- C.** Where previous development activity has occurred prior to the imposition of the impact fees and fees in lieu of public land dedication established by this Article, or for which impact fees and fees in lieu of public land dedication were previously paid, impact fees and fees in lieu of public land dedication for subsequent development activity on the same lot shall be based on the net increase, if any, in the impact fee and fees in lieu of public land dedication based on the demand for capital facilities created by the new development activity as compared to the previous development activity.
- D.** For applications for an amendment or change to a development approval previously obtained, but for which the development activity was not completed, the amount of the impact fee and fees in lieu of public land dedication for the subsequent development approval shall be based on the net increase, if any, in the demand for capital facilities created by the new development approval as compared to the impact fee and fees in lieu of public land dedication paid for the previous development approval.
- E.** School fees in lieu of public land dedication shall be paid as a condition of subdivision approval and in lieu of land dedication requirements for school purposes.

Sec. 21.12.4. Timing of Payment.

- A.** Where development activities may result in multiple levels of development approvals, such as annexation, zoning, subdivision and building permit approval, impact fees shall be paid upon the earliest development activity to occur for which the amount of impact fees can be reasonably calculated.
- B.** If for any reason, the amount of the impact fee cannot be calculated at the time of the initial level of development approval, the Town may defer computation and payment of all or a part of the impact fee until a subsequent level of development approval, or the Town may require that an estimated fee be paid. If

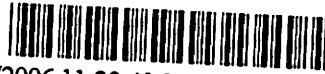
an estimated fee is paid, any underpayment shall be recovered at the time of the next development approval at which the impact fee can be reasonably calculated. In the event an over-payment is made, such over-payment shall be refunded, without interest, within thirty (30) days following the date the impact fee can be completely computed.

C. School fees in lieu of public land dedication shall be paid at the time of subdivision approval.

Sec. 21.12.5. Alternative Fee Calculation.

A. In lieu of payment of impact fee amounts set forth in this Article, the developer may prepare and submit to the Administrative Officer a site-specific fiscal impact and fee calculation study for the development approval that is requested. The site-specific fiscal impact and fee calculation study shall follow the prescribed methodologies and formats established by the Administrative Officer. The fiscal impact study submitted shall show the basis upon which the site-specific fee calculation was made. The site-specific fiscal impact and fee calculation study shall be prepared and presented by professionals qualified in their respective fields. The Administrative Officer shall consider the documentation submitted by the developer, but is not required to accept such documentation reasonably deemed to be inaccurate or not reliable, and may, in the alternative, require the developer to submit additional or different documentation for consideration. If an acceptable site-specific fiscal impact and fee calculation study is not presented, the developer shall pay the impact fee set forth in this Article. Determinations made by the Administrative Officer pursuant to this paragraph may be appealed to the Board of Adjustment by filing a written request with the Town Manager within ten (10) days of the Administrative Officer's determination. Following the submittal of such request, the Board of Adjustment shall hold a public hearing to determine the amount of the impact fee, which shall be paid prior to the development approval. The decision of the Board of Adjustment shall be a final quasi-judicial decision for purposes of Rule 106(a)(4) and (b), C.R.C.P.

B. As an alternative to paying school fees in lieu of public land dedication, the developer may dedicate sites and land areas for schools that are acceptable to the Town. Such dedication shall only be effective if approved by the Town during subdivision approval.



Sec. 21.12.6. Impact Fee Credit for Improvements.

Upon approval by the Town Council, any developer obligated to pay an impact fee or fee in lieu of public land dedication shall receive a credit against the amounts due or to become due for any site-specific dedication or improvement provided by the developer to meet the same need for capital facilities for which the impact fee or fee in lieu of public land dedication is imposed.

Sec. 21.12.7. Refund of Paid Fees.

A. If a development approval expires without commencement of construction or development, the developer shall be entitled to a refund, without interest, of the impact fee or fee in lieu of public land dedication paid as a condition for development approval, except when the fee has been expended or encumbered in advance of and in anticipation of development. The developer must submit an application for such refund to the Town Manager within thirty (30) days of the expiration of the development approval. The Town shall have no obligation to refund any fee that has been expended or encumbered in advance of and in anticipation of the development.

B. Any fee not expended or encumbered by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid by a developer shall, upon application of the then current landowner to the Town Manager, be returned to the landowner with interest earned on the fee, within one hundred eighty (180) days of the expiration of such ten (10) year period. Provided, however, that the Town Council, in its discretion, for good cause shown, may extend such period of time for an additional period as the Town Council deems reasonable and necessary.

Sec. 21.12.8. Lien for Unpaid Fees.

All impact fees and fees in lieu of public land dedication shall constitute a prior, perpetual lien upon each lot or parcel subject to the development approval for which the fees are imposed from the due date thereof, until paid. If such fee is not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent fee to the Treasurer of Archuleta County, and the fee shall be collected in the same manner as though it were part of the taxes. The Town may withhold or revoke any development approval, including certificates of occupancy, for which payment of fees is delinquent.

Sec. 21.12.9. Exemption from Payment of Fees.

The Town Council may, by resolution, grant an exemption from all or any part of the impact fee or fee in lieu of public land dedication upon a finding that such exemption is in the best interest of the public by encouraging activities that provide significant social, economic or cultural benefits. The costs of capital facilities necessary to serve development for which the Town Council grants an exemption from impact fees or fees in lieu of public land dedication shall be funded by other available revenues and shall not be imposed upon other development either directly or through a general impact fee increase.

Sec. 21.12.10. Impact Fee and Fee in Lieu of Public Land Dedication Schedule.

The following impact fees and fees in lieu of public land dedication are established and imposed. The impact fee and fee in lieu of public land dedication amounts and rates are deemed to fairly, equitably and proportionately mitigate the impacts on public facilities created by development within the Town:

A. Road Impact Fee:

- (1) Lodging: \$1,604 per 1,000 square feet.
- (2) Retail: \$3,669 per 1,000 square feet.
- (3) Office/Industrial: \$1,421 per 1,000 square feet.
- (4) Single Family Residential Development: \$818 per Residential Unit.
- (5) Multi-Family Residential Development: \$574 per Residential Unit.

B. Regional Public Building Impact Fee:

- (1) Single- or Multi-Family Residential Development: \$450 per Residential Unit.
- (2) Non-Residential Development: \$564 per 1,000 square feet.

C. Regional Recreation Facilities Impact Fee:

- (1) Single- or Multi-Family Residential Development: \$859 per Residential Unit.

D. Park Impact Fee:



- (1) Single- or Multi-Family Residential Development: \$368 per Residential Unit.

E. Trails Impact Fee:

- (1) Single- or Multi-Family Residential Development: \$464 per Residential Unit.

F. Emergency Service Provider Impact Fee:

- (1) Single- or Multi-Family Residential Development: \$574 per Residential Unit.
- (2) Non-Residential Development: \$741 per 1,000 square feet.

G. Water Storage Impact Fee:

- (1) Single- or Multi-Family Residential Development: \$1,129 per Residential Unit.

H. School Fees in Lieu of Public Land Dedication:

- (1) Single- or Multi-Family Residential Development: \$283 per Residential Unit.

Sec. 21.12.11. Annual Adjustment.

The impact fee and fee in lieu of public land dedication shall be reviewed and may be administratively adjusted without further Town Council action annually for inflation, beginning January 15, 2007 and annually on each anniversary date thereafter. Any such adjustment shall be based upon the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index, or an equivalent index applicable to Archuleta County.

Section 2. EPS Analysis Approval. The Town Council hereby approves and adopts the EPS Analysis as the basis for the impact fee and fee in lieu of public land dedication program established by this Ordinance.

Section 3. Public Inspection. The full text of this Ordinance and the Pagosa Springs Municipal Code being amended hereby, are available for public inspection at the office of the Town Clerk.




Section 4. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 5. Public Hearing. A public hearing on this Ordinance shall be held on the _____ day of _____, 2006, at 5:00 p.m. at the Pagosa Springs Town Hall, 551 Hot Springs Boulevard, Pagosa Springs, Colorado.

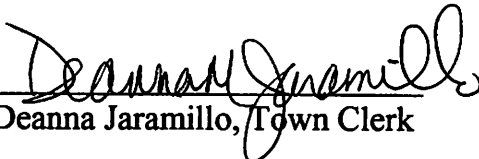
Section 6. Effective date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 2 DAY OF May, 2006.

TOWN OF PAGOSA SPRINGS, COLORADO

By: 
Ross Aragón, Mayor

ATTEST:

By: 
Deanna Jaramillo, Town Clerk





FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 6 DAY OF June, 2006.

TOWN OF PAGOSA SPRINGS, COLORADO

By: Ross Aragón
Ross Aragón, Mayor

ATTEST:

By: Deanna Jaramillo
Deanna Jaramillo, Town Clerk

