

CITY OF LEADVILLE, COLORADO
Ordinance No. 5
Series of 2021

**AN ORDINANCE AMENDING TITLE 16 OF THE LEADVILLE
MUNICIPAL CODE TO ADD A NEW CHAPTER 16.40
CONCERNING SCHOOL LAND DEDICATION**

WHEREAS, the City Council of the City of Leadville ("City Council") possesses the authority pursuant to C.R.S. § 31-15-401 and its general police powers to pass and enforce regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the citizens of Leadville; and

WHEREAS, local governments are encouraged and authorized to cooperate or contract with other units of government, pursuant to § 29-20-105 of the Colorado Revised Statutes ("C.R.S."), for the purpose of planning or regulating the development of land, including but not limited to the joint exercise of planning, zoning, subdivision, building and related regulations; and

WHEREAS, C.R.S. § 22-54-102(3)(a) recognizes the authority of local governments and school districts to cooperate through intergovernmental agreements to fund, construct, maintain and manage capital construction projects, provided that funding is derived from a source of local government revenue that is otherwise authorized by law; and

WHEREAS, the growth in residential land development in the City creates for the Lake County School District R-1 ("School District") the need to build additional school facilities or to expand existing school facilities in order to accommodate the corresponding increases in the student population, which requires, in connection with such new development within the City, the dedication of land for new school facilities or the payment of an in-lieu fee to be used to buy the needed land or to expand existing school facilities ("In-Lieu Fee") to help to meet such demand; and

WHEREAS, the School District has adopted a methodology for calculating the School District's need for additional land or expanded School Facilities that will result from proposed land-use approvals by the City; and

WHEREAS, there is an essential nexus between the need for the dedication of land for school facilities or the payment of an In-Lieu Fee for the legitimate public purposes of promoting and preserving the public health, safety and welfare of the residents living in the boundaries of the City; and

WHEREAS, in order to provide adequate school facilities to serve new residential land developments, it is imperative that the School District be consulted regarding land dedication or the payment of an In-Lieu Fee for school facilities in order to achieve rational and cost-effective planning and to assure that the requirements for land dedications or payment of an In-Lieu Fee are sufficient to serve student populations in areas that are experiencing new development; and

WHEREAS, land dedication for school purposes or payment of an In-Lieu Fee serve to

implement the City's Comprehensive Plan by making provisions for public improvements in a manner appropriate for a modern, efficiently functioning municipality and by implementing those provisions of the Comprehensive Plan that are intended to ensure new development does not negatively impact the provision of municipal services; and

WHEREAS, the City, upon consideration of the effect of residential land developments and the ability of the School District to provide school facilities within the City, has determined that it is in the best interests of the City and its residents to adopt a new Chapter 16.40 in the City's Municipal Code for the purpose of providing for the dedication of land for school facilities or the payment of an In-Lieu Fee as set forth in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, AS FOLLOWS:

Section 1. **Recitals.** The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. **Chapter 16.40 Added.** Title 16 of the Leadville Municipal Code is hereby amended to add a new Chapter 16.40, titled "Dedication of Land for School Sites or Payment of In-Lieu Fee," to read as follows:

Chapter 16.40 – DEDICATION OF LAND FOR SCHOOL SITES OR PAYMENT OF IN-LIEU FEE

16.40.010 – Establishment of land dedication requirements or payment of fee in-lieu.

In accordance with and pursuant to the Intergovernmental Agreement Concerning Land Dedications or Payment of a Fee in Lieu of Land Dedication for School Purposes entered into by the city and Lake County School District R-1, the city hereby establishes school land dedication requirements, or payments of an in-lieu fee, for residential land development projects located in the city. Dedication of land or payment of an in-lieu fee shall be a condition of final approval of any land development project, as that term is defined in this chapter.

16.40.020 – Definitions.

"Community housing" means residential dwelling units within the city that are deed-restricted to the housing size and type for individuals and households meeting income, occupancy and employment guidelines approved by the city for a land development project.

"Developer" means the person or entity seeking land-use approval from the city for a land development project or the person or entity otherwise responsible for school land dedication or payment of an in-lieu fee under this chapter.

"Dwelling unit" shall have the same meaning as defined in the chapter 17.08 of the city's code.

"Land development project" means any proposed land development project for which a development application or development application for permitted use has been filed with the city under the city code or any subsequent amendment to a previously approved subdivision and which, if approved, could result in the construction of new dwelling units.

"In-lieu fee" means the payment of a fee in lieu of the dedication of land pursuant to this chapter, which fee shall be used to buy the needed land for new school district facilities or to expand existing school district facilities to help to meet such demand.

"Intergovernmental agreement" shall mean that certain Intergovernmental Agreement Concerning Land Dedication or Payment of a Fee in Lieu of Land Dedication for School Purposes by and between the city and the school district, dated April 16, 2021, as may be amended from time to time.

"School district" shall mean the Lake County School District R-1.

16.40.030 – Exemptions and in-lieu fee waiver.

- A. The following land development projects shall be exempted from the school land dedication requirements and payments of an in-lieu fee for school purposes as established by this chapter:
1. Previously approved and recorded land development projects, except those phases of a land development project for which final plats have not been approved;
 2. The installation of any mobile home that replaces a previously existing mobile home on an existing mobile home lot under Chapter 17.56 of the city code;
 3. Alteration or expansion of a dwelling unit;
 4. Replacement of a dwelling unit;
 5. Construction of an accessory building or structure other than an accessory dwelling unit;
 6. Group homes, as defined in the city's code; and
 7. Land development projects or portions thereof that are subject to recorded covenants permanently restricting the age of all residents to 18 years of age or older and permanently restricting the affordability for all residents of all dwelling units and which combine the housing with services that help people who face the most complex challenges to live with stability, autonomy and dignity, such that the dwelling units may be classified as permanent supportive housing.
- B. Unless the land dedication requirement or in-lieu fee payment is prohibited by law, any claim for exemption as set forth herein must be made no later than at the time of the submission of the land development project to the city for approval. Any claim not so made may be deemed by the city to have been waived by the developer.
- C. The city may, in consultation with the school district, upon application of a developer at the time of submission of the developer's application for a land development project, waive the requirement to dedicate land or pay an in-lieu fee under this chapter or reduce such

requirement for any portion of a land development project for which the dwelling units constructed thereon will be a community housing project or “housing for older persons,” as that term is used and defined in the Federal Fair Housing Act of 1988, 42 U.S.C. § 3607, as may be amended from time to time. The city may impose reasonable conditions on such waiver or reduction.

16.40.040 – Land dedication and in-lieu fee calculations.

The calculations set forth in this section shall be used to determine the land dedication or in-lieu fee requirements for a land development project within the city and is consistent with the intergovernmental agreement between the city and school district.

Land Dedication/Payment in Lieu of Dedication Calculations	
Single-Family Dwelling Unit	[.0151] acre/[\$1,032.36] per unit
Multi-Family Dwelling Unit	[.0025] acre/[\$1,032.36] per unit
Mobile Home Park	[.0151] acre/[\$636.68] per space

The dollar amounts set forth in the table above shall be adjusted annually for inflation beginning January 1, 2022, which annual adjustment shall be based on the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood, All Urban Consumers, or its successor index, or an equivalent index applied to the city.

16.40.050 – Requirements and procedure for land dedication or payment of in-lieu fee.

The following shall apply to all land development projects that are not exempt from the land dedication or in-lieu fee requirements of this chapter:

- A. Time of dedication. Dedication of land by a developer to the school district shall occur no later than the date of final approval of the land development project and shall be evidenced by dedication language set forth in the final plat for the land development project.
- B. Requests for information. Prior to or at the time that a developer submits an application to the city for any land development project, developer shall comply with all reasonable requests from the school district for information that the school district deems reasonably necessary for the purpose of determine whether the school district desires the dedication of any land or payment of an in-lieu fee for school facilities related to the land development project.

- C. Negotiation. If the school district determines that it would be beneficial for a developer to dedicate land or pay an in-lieu fee, the school district may negotiate with the developer for such dedication or payment of an in-lieu fee.
- D. Agreement Between Developer and School District. If the developer and the school district agree regarding the dedication of land, the school district shall so notify the city in writing. Thereafter, the city shall accept the final plat for the land development project, or any portion of it, for recording only if such plat provides for the contemporaneous land dedication and conveyance of such land to the school district.
- E. No Agreement Between Developer and School District.
1. If the school district determines that it would be beneficial for a developer to dedicate land, but no agreement is reached between the school district and developer for land dedication by the deadline for the school district to submit its comments regarding land dedication or an in-lieu fee to the city, the school district shall so notify the city in writing, and the city shall defer action on the land development project's application until a specified future date to allow the city, school district and developer to negotiate further. In no event shall the city be required to defer action on the application beyond an additional ninety (90) days.
 2. Upon receipt of such notification, and provided that the school district's land dedication requirement is substantially in accordance with the calculations set forth in section 16.40.040, the city shall adopt the school district's determination to the extent permitted by law and shall reject the final plat for the land development project, or any portion of it, as applicable. Thereafter, the final plat for such land development project shall be accepted by the city for recording only if such plat provides for the contemporaneous dedication and conveyance of land acceptable to the school district.
- F. Payment of In-Lieu Fee. If the school district determines that it wishes to receive a payment of the in-lieu fee instead of requiring developer to dedicate land, then the amount of the payment by developer to the school district shall be determined according to the section 16.40.040 of this code. Developer shall pay such in-lieu fee to the school district.
- G. Issuance of Building Permits.
1. The city shall not issue any building permit for a land development project for which a developer is required to dedicate land to the school district pursuant to this chapter until the developer completes of the following:
 - a. The developer shall convey to the school district title to the land dedicated to the school district by general warranty deed, free and clear of all liens, encumbrances and exceptions (except those approved in writing by the school district), including, without limitation, real property taxes, which will be prorated and paid as of the date of conveyance. The developer shall also provide the school district with a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property.

- b. The developer shall complete overlot grading, provide direct access to publicly dedicated street or streets improved according to city standards, and stub utilities to such dedicated land.
2. If the school district determines to receive an in-lieu fee instead of requiring land dedication, the city shall not issue any building permit for a land development project unless and until such in-lieu fee has been paid to the school district by the developer.

16.40.060 – Revision of land dedication requirements or in-lieu fees.

The city council, in coordination with school district, may from time to time review and update the land dedication requirements and the in-lieu fee schedule requirements set forth in the intergovernmental agreement between the city and school district. Within a reasonable time thereafter, the city shall codify such changes through the adoption of an ordinance updating the applicable regulations set forth in this chapter. Such changes shall not be effective until the ordinance codifying such changes in the city code becomes effective

Section 3. Remaining Provisions. Except as specifically amended hereby, all other provisions of the Leadville Municipal Code shall continue in full force and effect.

Section 4. Codification Amendments. The codifier of Leadville’s Municipal Code is hereby authorized to make such numerical, technical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Leadville Municipal Code.

Section 5. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

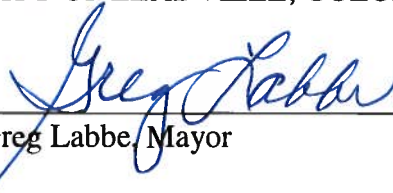
Section 6. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

Section 7. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Leadville, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 8. Effective Date. This ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 6th day April, 2021.

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:



Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on the 1st day of April, 2021.


PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED, with any amendments, this 20th day of April, 2021.

CITY OF LEADVILLE, COLORADO:



Greg Labbe, Mayor

ATTEST:



Deputy City Clerk

PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, following final reading on this 29th day of April, 2021