

ORDINANCE #2008-4

**AN ORDINANCE AMENDING THE TOWN OF PONCHA SPRINGS LAND USE CODE
REGARDING FAIR CONTRIBUTION FOR PUBLIC SCHOOL SITES AND
AUTHORIZATION FOR THE MAYOR TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT**

WHEREAS, the City of Salida, the Town of Buena Vista and the Town of Poncha Springs (collectively, the “Municipalities”), the Salida School District R-32-J and the Buena Vista School District R-31 (collectively, the “School Districts”) and Chaffee County have been working together to develop a plan for managing the orderly growth of the community by identifying the adequacy of sites and land areas for public schools; and

WHEREAS, growth in residential land development and the construction of new residential dwellings in the County necessitates the acquisition of additional public school capital facilities to accommodate the increases in the student population; and

WHEREAS, requiring land dedication or conveyance for public school capital facilities, or payments in-lieu of land dedication or conveyance for public school sites, (collectively referred to as "Fair Contribution for Public School Sites"), will provide a portion of the resources to meet such demand; and

WHEREAS, to provide adequate public school capital facilities to serve the residents of newly constructed residential dwelling units within the Municipalities or the County, it is appropriate that the School Districts, the Municipalities and the County cooperate in the area of public school capital facilities acquisition by use of Fair Contribution for Public School Sites; and

WHEREAS, requiring Fair Contribution for Public School Sites in a manner appropriate for an efficiently functioning Municipality and County will help ensure that new development does not negatively impact the provision of services; and

WHEREAS, requiring Fair Contribution for Public School Sites for new residential construction and development is reasonable and necessary to protect, enhance, and preserve the public health, safety, and welfare of the citizens in the Town of Poncha Springs; and

WHEREAS, the Board of Trustees has determined that it would be in the best interests of the citizens of Poncha Springs that the fee in lieu be allowed to be paid with a building permit application, but be adjusted for inflation.

NOW THEREFORE BE IT ORDAINED, the following section of the Land Use Code is hereby added:

4.17 Fair Contribution for Public School Sites

4.17.1 GENERAL PROVISIONS

Growth in residential land development and the construction of new residential dwellings in the Town necessitates the acquisition of additional public school capital facilities to accommodate the increases in the student population. Requiring land dedication or conveyance for public school capital facilities, or payments in-lieu of land dedication or conveyance for public school sites, (collectively referred to as "Fair Contribution for Public School Sites"), is intended to provide a portion of the resources to meet such demand.

4.17.2 REFERRAL

All residential subdivision applications and planned unit developments creating residential dwelling units shall be referred to the applicable School District for review and comment concerning impact of the development on the School District and the adequacy of public school sites and facilities. If a nonresidential land development application may have influence or effect on property owned by or activities of either of the School Districts, the information pertaining to that application shall also be referred to the affected School District for review and comment.

4.17.3 FAIR CONTRIBUTION FOR PUBLIC SCHOOL SITES REQUIREMENT

- (a) If recommended by the affected School District, the applicant shall dedicate or convey land for a public school facility to the applicable School District based on .0138 acres per residential dwelling unit. Otherwise, the applicant shall agree to a payment in lieu of land dedication or conveyance in the amount of \$354 per residential dwelling unit. Such amount shall be adjusted annually for inflation beginning January 1, 2009. Such annual 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 Chaffee County. From time to time, the school district shall recalculate the payment in lieu of land dedication as provided in the Intergovernmental Agreement with Chaffee County, City of Salida, Town of Buena Vista, Salida School District R-32-J and the Buena Vista School District R-31, and certify such calculation to the Town of Poncha Springs. The Town of Poncha Springs will adopt such fee change by Ordinance. The applicant may elect for such amount (as adjusted) to be paid by the owner of a particular lot at the time a residential building permit is obtained. Such requirement shall be noted on the underlying plat.
- (b) If the Fair Contribution for Public School Sites includes the dedication or conveyance of land, prior to recording the final plat, the applicant shall provide proof that the dedication has been made to the applicable School

District in a manner and on terms satisfactory to the School District and in accordance with the following requirements:

- (1) Title shall be conveyed 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 to the date of conveyance or dedication. The land to be conveyed shall be conveyed pursuant to a contract for the sale and purchase of real property containing customary terms for the land which is being conveyed to the School District.
 - (2) At the time of dedication or conveyance, the applicant shall provide a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property. The applicant shall also have furnished any off-site easements which the School District needs to develop the site.
 - (3) The lands being dedicated or conveyed to the School District shall be located and configured as directed by the School District.
 - (4) The person or entity conveying the land to the School District shall satisfy the Town's water rights requirements prior to conveying the property to the School District.
- (c) In addition to conveyed or dedicated lands, the School District shall be given the right to purchase adjacent lands owned by the developer at its fair market value so that the dedicated or conveyed and purchased lands together form a contiguous parcel which meets the School District's land area requirements.

4.17.4 EXEMPTIONS FROM FAIR CONTRIBUTION FOR PUBLIC SCHOOL SITES

The following uses shall be exempted from Fair Contribution for Public School Sites:

- (a) Construction of any nonresidential building or structure;
- (b) Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;
- (c) Construction of any building or structure for limited term stay or for long term assisted living in which a provider undertakes to provide life care to three or more adult residents unrelated to the owner of the building or structure, including, but not limited to, bed and breakfast establishments, boarding or rooming houses, family-care homes, group-care homes,

halfway houses, nursing homes, or hospices, except where such building or structure will be used primarily to house school aged children;

- (d) Construction of any residential building or structure classified as housing for older persons, pursuant to the Federal Fair Housing Act in effect;
- (e) The construction of accessory buildings or structures; and
- (f) Construction of any low-income housing unit, on lots designated as such by the Town.

BE IT FURTHER ORDAINED, that the Mayor is authorized to sign the “Intergovernmental Agreement Concerning Fair Contributions for Public School Sites Among the City of Salida, the Town of Buena Vista, the Town of Poncha Springs, Chaffee County, The Salida School District R-32-J and the Buena Vista School District R-31.”

PASSED AND APPROVED THIS 24th DAY OF March 2008, BY THE BOARD OF TRUSTEES OF THE TOWN OF PONCHA SPRINGS, COLORADO.

/s/ _____
Mark F. Thonhoff, Mayor

Attest:

/s/ _____
Diana K. Heeney
Clerk/Treasurer