RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS,
SAN MIGUEL COUNTY, COLORADO,
MODIFYING RESOLUTION #2022-31 AND APPROVING AN AMENDMENT TO THE
LAND USE CODE SECTION 5-13 AFFORDABLE HOUSING TO INCREASE
RESIDENTIAL FLOOR AREA EXEMPTION AND AMEND MITIGATION RATE

Resolution 2023-09

WHEREAS, in in July 2022, the San Miguel County Commissioners (BOCC) in Resolution 2022-31 adopted Land Use Code amendments to implement an amended residential development employee housing mitigation fee method and fee schedule that went into effect July 15, 2022; and

WHEREAS, the employee housing mitigation fee threshold was discussed within a work session by the BOCC on October 5, 2022, and wherein direction was given to staff to prepare Land Use Code amendments to increase the residential floor area exemption and to amend the mitigation rate, and further discussed at a joint County Planning Commission (CPC) and BOCC work session on January 10, 2022 at which the public was allowed to comment on the current mitigation fee method; and

WHEREAS, at the direction of the Board of County Commissioners (BOCC), the Planning staff has prepared proposed Land Use Code (LUC) amendments, amending Section 5-13, Affordable Housing, to increase the Floor Area exemption and to revise the mitigation rates associated with residential development; and

WHEREAS, the draft amendment was referred to the County Attorney; County Manager; County Assistant Manager; County Building Official, San Miguel Regional Housing Authority; Town of Telluride; Town of Mountain Village; Town of Sawpit; Town of Ophir; Town of Norwood; and Telluride Association of Realtors for review and comment; and

WHEREAS, at a Planning Commission meeting held on Thursday, February 9, 2023, following its consideration of the proposed LUC Amendment, the CPC unanimously recommended approval of the Land Use Code Amendment and proposed that the implementation of the impact fee be phased in over a period of one and a half years; and

WHEREAS, in making its recommendation to the Board of County Commissioners, the CPC made the finding that the proposed amendment complies with the standards of Land Use Code Section 5-1802, Land Use Code Amendments, is consistent with Land Use Code Section 1-4, Purposes of the Land Use Code, and

WHEREAS, a Public Hearing Notice for the proposed Land Use Code Amendment and the Board of County Commissioners meeting to be held on March 1, 2023 was published in the Norwood Post and the Telluride Daily Planet on February 15, 2023; and

WHEREAS, a list of the items included in the Public Hearing Record is attached to this resolution as Exhibit A; and
WHEREAS, the Board of Commissioners of San Miguel County, Colorado, considered this Land Use Code amendment, along with relevant evidence and testimony, at a public hearing on Wednesday, March 1, 2023.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of San Miguel County, Colorado, approves and adopts the amendments to San Miguel County Land Use Code (LUC) Section 5-13, Affordable Housing:

Additions to the following section are indicated with underline. Deletions are indicated with strike-through.

SECTION 5-13: ACCESSORY DWELLING UNITS AND AFFORDABLE HOUSING

5-1303 G. Employee Housing Impact Fee/Mitigation

XI. Exemptions to the Employee Housing Impact Fee/Mitigation. An employee housing Impact Fee/Mitigation will not be required to be paid or constructed for the following categories of Development:

a. Any Single-family Residence, Duplex, Multi-family unit or Lot that is Deed-Restricted under the County R-1 Housing Deed Restriction, Covenant or other restriction approved by the Board of County Commissioners is exempt from paying the Impact Fee.

b. Change of Use. Change of use without adding additional Square Footage of Floor Area or without increasing employee generation as determined herein will not result in the assessment of an employee housing Impact Fee/Mitigation.

c. Residential or Commercial Remodels. Commercial or Residential interior remodels that do not involve the construction of additional Square Footage or do not increase employee generation as determined herein will not result in the assessment of an employee housing Impact Fee/Mitigation.

d. Affordable Housing in Subdivisions. Existing or proposed subdivisions that include deed-restricted affordable housing units properly restrained through deed-restrictions from open market sale or use to ensure that it is properly characterized as affordable housing, as such term is defined by this Code, may be given a level of credit to offset or mitigate the total employee housing Impact Fee assessed, unless there is an increase in the density or a change in use that increases employee generation. To evaluate and determine the level of credit assessed, the percent of deed-restricted, affordable housing units will be evaluated in relation to the impact mitigation required of that Development when approved.
Single-family Dwelling less than one thousand eight hundred (1,800) two thousand (2,000) sq. ft. square feet or less of Floor Area. The Board of County Commissioners finds that residential improvements two thousand (2,000) one thousand eight hundred (1,800) sq. ft. or less are presumed to be occupied by local employees, and only residential improvements with a Floor Area of greater than two thousand (2,000) one thousand eight hundred (1,800) sq. ft. or larger should pay employee housing Impact Fees. This is based on the fact that residential improvements above greater than two thousand (2,000) one thousand eight hundred (1,800) sq. ft. of Floor Area have a strong tendency for non-resident occupancy, and the employee generation for non-resident occupied residential structures (second homes) is significantly greater than that for resident-occupied improvements creating impacts beyond the County’s ability to mitigate without a fee assessed for the development.

Other Exemptions. The Board of County Commissioners may grant additional exemptions and waivers of the employee housing Impact Fee/Mitigation when deemed to be in the public interest due to special circumstances or unique situations where the Development provides community benefit(s), or where the value of such benefit(s) meets or exceeds the mitigation that would otherwise be required.

Right to Appeal Employee Housing Impact Fee Determination to Board of County Commissioners. Any person aggrieved by the decision of the Planning Office with respect to the administration of the employee housing Impact Fee under this Code will have the right to appeal such decision to the Board of County Commissioners pursuant to the Section 1-1903 of this Code. In addition, a developer may present alternative calculations of employee generation to the Board of County Commissioners for review and consideration.

Future Revisions to Employee Housing Impact Fee Regulations. The employee housing Impact Fee regulations may be reviewed periodically and relevant mitigation requirements adjusted as determined appropriate by the Board of County Commissioners.

Employee Housing Impact Fee Calculation for Residential Development. The employee housing Impact Fee shall apply to the Development of Residences, as defined in this Code, whose housing impacts have not previously been mitigated. The employee housing Impact Fee also applies to:

New additions to existing detached Single-family Buildings. The fee shall be assessed only for the additional square footage beyond the
where the total Floor Area is greater than the two thousand (2,000) one thousand eight hundred (1,800) s.f. exemption threshold;

b. New additions to existing Multi-Family Buildings that are two (2) units or less;

c. Accessory Dwelling Units (regardless of size), unless the unit is subject to the County R-1 Housing Deed-Restriction (see Sections 5-1304 and 5-1305) and ADU Deed Restriction Covenant; and

d. Caretaker units (regardless of size), unless the unit is subject to the County R-1 Housing Deed-Restriction (see Sections 5-1304 and 5-1305) and ADU Deed Restriction Covenant.

XV. Employee Housing Impact Mitigation Rate. All new Residential Development shall be assessed the Impact Mitigation Rate as set forth in the table below based on the size (square feet of Floor Area) of the unit approved for each Development to mitigate for the employees generated, as shall be amended from time to time by the Board of County Commissioners.

a. Impact Mitigation Rate summary table.

<table>
<thead>
<tr>
<th>Square Footage</th>
<th>Mitigation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 1,799-2,000</td>
<td>0%</td>
</tr>
<tr>
<td>1,800 2,500</td>
<td>30%</td>
</tr>
<tr>
<td>2,501-3,000</td>
<td>42%</td>
</tr>
<tr>
<td>3,001-5,000</td>
<td>(ResFlrArea*0.00024)-0.3</td>
</tr>
<tr>
<td>5,001-12,000</td>
<td>66%</td>
</tr>
<tr>
<td>12,001-25,000</td>
<td>90%</td>
</tr>
</tbody>
</table>

XVI. Generation rate of Employees for Single Family Residential and Duplex Dwellings.

a. Generation Rate = 0.070174(e)^0.000322 X New Floor Area + 0.11(New Floor Area/1000)

XVII. Market-Affordability Gap Fee. The formula to calculate the market-affordable price gap involves a three-step process:

a. Calculate the amount that households in a certain income category can afford to pay for housing.

b. Determine the market price for housing using available previous home sales data.
c. Compare market price to the affordable amount calculated to determine the gap. Use conversion factors to express the gap in per-unit, per employee and per square foot amounts.

d. Appendix E of this Code sets forth the procedures that shall be used by County Planning staff to calculate the Employee Housing Impact Fee, which shall be calculated by April 30 of each calendar year.

e. Appendix E, Table 2, of this Code sets forth the Impact Fee Calculation each year for residential development.

XVIII. Calculation for the Residential Employee Housing Impact Fee. The amount of Impact fee shall be calculated using the following formula, based on (A) the number of Employees generated by the development, as determined under XVI above (“Employees Generated”), multiplied by (B) the provision of four hundred (400) square feet of space per employee generated by the development as determined under 5-1303 E. I above (“Minimum Mitigation Unit Size”), and multiplied by (C) the Required Employee Housing Mitigation Rate as determined under XV above for single-family and duplex uses, multiplied by (D) the Market-Affordability Gap Fee per square foot.

Employees Generated X 400 sq. ft. X Required Percentage Mitigation Rate X Market-Affordability Gap Fee Per Square Foot

XIX. Credit for the construction of a Deed-restricted Accessory Dwelling Unit (ADU) / Caretaker Units that is subject to the County R-1 Housing Deed-Restric tion (see Sections 5-1304 and 5-1305) and ADU Deed Restriction Covenant will be granted as follows: Affordable Housing Unit Floor Area to be constructed X Impact Fee/SF. The amount of credit shall not exceed the amount of impact fee owed by residential developer.

BE IT FURTHER RESOLVED, this resolution is adopted based on the finding that that the proposed amendments comply with the standards of Land Use Code Section 5-1802, Land Use Code Amendments, is consistent with Land Use Code Section 1-4, Purposes of the Land Use Code, and implements the Land Use Code Policies for Housing as contained in Section 2-29.

BE IT FURTHER RESOLVED, that this amendment is effective as of July 15, 2022 and shall be phased in starting with fifty percent (50%) of the impact fee assessed for complete applications submitted between July 15, 2022 and May 31, 2023, and then assessing one hundred percent (100%) of impact fee to all building permit applications submitted and/or made complete starting June 1, 2023.

BE IT FURTHER RESOLVED, that the 2022 Market-Affordability Gap Fee fee rate shall remain in effect through 2023.
BE IT FURTHER RESOLVED, that this amendment is effective as of July 15, 2022 and that that staff is directed where applicable to recalculate and issue refunds to the people who have already paid the updated fee.

DONE AND APPROVED by the Board of County Commissioners of San Miguel County, Colorado, on March 1, 2023.

SAN MIGUEL COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS

By: [Signature]
Hilary Cooper, Chair

Vote: Lance Waring
      Hilary Cooper
      Kris Holstrom

      Aye    Nay    Abstain    Absent

ATTEST:

By: [Signature]
Carmen Warfield, Chief Deputy Clerk

EXHIBIT A – Public Hearing Record list
EXHIBIT A
PUBLIC HEARING RECORD

San Miguel County Board of Commissioners
Application: San Miguel County Planning Department
Amendment to the San Miguel County Land Use Code Section 5-13, Affordable Housing
Date: March 1, 2023

1. San Miguel County Land Use Code (Adopted 11/30/90) with all amendments to date (By Reference Only).

2. San Miguel County Comprehensive Development Plan (Adopted 8/3/78) with all amendments to date (By Reference Only).

3. San Miguel County Affordable Housing Fee Methodology Report (By Reference Only).

4. Draft BOCC Resolution 2023-09 of the County Board of Commissioners, San Miguel County, Colorado, Approving an Amendment to the Land Use Code Section 5-13 Affordable Housing.

5. Memorandum to the San Miguel County Board of Commissioners from John Huebner, Senior Planner dated March 1, 2023.


AGENCY COMMENTS


PUBLIC COMMENT


11. Email and Attachments from Shelly Duplan, Aldasoro Ranch Director of Operations, to Kaye Simonson, County Planning Director dated February 8, 2023.

12. Letter and spreadsheet from Wally Pfennig, County resident, to Board of County Commissioners dated February 24, 2023.