



ORDINANCE No. 4565

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES
ORDAIN AS FOLLOWS:**

Section 1: Chapter 17.19 of Title 19 of the El Dorado County Ordinance Code is hereby added to read as follows:

CHAPTER 17.19

MISSOURI FLAT PLANNING COST REIMBURSEMENT FEE

17.19.010 Title, Purpose and Intent. This chapter shall be known as the Missouri Flat Planning Cost Reimbursement Fee ordinance. It authorizes a Missouri Flat Master Circulation and Funding Plan Reimbursement Fee, as described in the Missouri Flat Master Circulation and Funding Plan. It is the intent of this chapter to establish equity among future developers who derive benefit from the Master Circulation and Funding Plan, and its supporting documents (including California Environmental Quality Act compliance), by reimbursing El Dorado County for the costs incurred in the preparation and adoption of the Missouri Flat Master Circulation and Funding Plan and related activities. El Dorado County, in turn, may use fees collected pursuant to this chapter to reimburse initial participating developers for their financial contributions toward adoption of the Missouri Flat Master Circulation and Funding Plan. Any such reimbursement commitments shall be documented in written agreements between the County of El Dorado and the specific developers.

17.19.020 Definitions.

A. "Initial Participating Developers" shall mean those persons or entities who participated in funding the development and preparation of the Missouri Flat Master Circulation and Funding Plan pursuant to the Cooperative Funding Agreement.

B. "Cooperative Funding Agreement" shall mean that certain Missouri Flat Road Circulation Plan Funding Agreement dated April 15, 1997, by and between the County of El Dorado, Sundance Plaza Associates, Ltd., Wal-Mart Stores, Inc., and Village/El Dorado Partners, L.P., as amended.

C. "Eligible Costs" shall mean all costs incurred by the County in the preparation of the MC&FP including, but not limited to, costs for environmental, engineering, traffic engineering, financial, economic, drafting and legal consulting services. Eligible costs shall include, but are not limited to, those costs for which funding was provided under the Cooperative Funding Agreement. Eligible costs may also include legal costs incurred in any action in which the validity of the MC&FP is challenged.

D. "Missouri Flat Area" shall mean that area identified as the Missouri Flat Road Project Area in Exhibit "A" to Ordinance No. 4556.

E. "Missouri Flat Master Circulation and Funding Plan" or "MC&FP" shall mean the Missouri Flat Master Circulation and Funding Plan adopted by the Board of Supervisors on December 15, 1998, as amended.

17.19.030 Findings of Board of Supervisors. In establishing the MC&FP Reimbursement Fee, the Board of Supervisors finds as follows:

A. The Missouri Flat Master Circulation and Funding Plan was prepared and adopted by the County in order to provide a comprehensive and coordinated approach to address both existing traffic congestion in the Missouri Flat Area and the issue of providing capacity for future development in the Missouri Flat Area. Attempting to address these issues on a project-by-project basis as development occurs would be uneconomic and may be infeasible.

B. Substantial costs were incurred by the County in preparing the MC&FP and supporting documents including, but not limited to, a Program Environmental Impact Report. Certain private entities bore a portion of the costs incurred by the County pursuant to the terms of the Cooperative Funding Agreement.

C. Persons or entities seeking to develop non-residential projects in the Missouri Flat Area will derive substantial benefits from the preparation and adoption of the MC&FP in that: (1) environmental documents prepared in connection with the MC&FP, including the Program EIR, substantially reduce the scope and cost of environmental review otherwise required in connection with subsequent development projects; (2) preparation of the MC&FP substantially reduces the scope and cost of planning review otherwise required in connection with subsequent development projects; (3) the MC&FP provides a mechanism for addressing both existing traffic congestion and future capacity needs in a comprehensive manner not feasible in the context of individual project review; (4) the MC&FP provides a mechanism to mitigate certain traffic impacts of future non-residential development in a manner not feasible in the context of individual project review; (5) the MC&FP may reduce or eliminate the need to consider implementation of discretionary review procedures for development to ensure that potential traffic impacts of development otherwise requiring only ministerial approvals are addressed; and, (6) the MC&FP will enable necessary road improvements and thereby will facilitate future economic development in El Dorado County and the Missouri Flat Area.

D. The establishment of the fee provided in this chapter is based upon the lawful exercise of the County's police power and is consistent with all applicable state laws.

17.19.040 Fee Requirement. A Missouri Flat Planning Cost Reimbursement Fee is established to reimburse the County and/or private parties for expenses associated with preparing

and adopting the Missouri Flat Master Circulation and Funding Plan. The Reimbursement Fee shall be applicable to all non-residential development requiring a building permit within the Missouri Flat Area, except as otherwise provided in this chapter.

17.19.050 Amount of Fee. The Reimbursement Fee will be established by a Resolution adopted by the Board of Supervisors pursuant to this chapter. The Resolution shall describe and document the costs to be reimbursed, the allocation of the costs, and the resulting amount of the Fee. The fee amount included in the Resolution shall be supported by a report, which fully documents costs included and the allocation method used.

17.19.060 Time of Payment; Refunds. The Reimbursement Fee shall be payable as a condition of any development approved or permit and is payable prior to the issuance of a building permit. The Reimbursement Fee is a permit processing fee to reimburse the County for costs incurred, and is not a monetary exaction for the purposes of defraying the cost of public facilities. No applicant shall be entitled to a refund of the Reimbursement Fees collected, if, for any reason development subject to the Reimbursement Fee does not proceed.

17.19.070 Uses of Fee Revenue. Revenue generated from the Reimbursement Fee shall be used only to reimburse the County and Initial Participating Developers for Eligible Costs incurred in the preparation and adoption of the Missouri Flat Master Circulation and Funding Plan and the supporting documents and in related activities.

17.19.080 Creation of Fee Account. Reimbursement Fee proceeds shall be deposited in a restricted account maintained by El Dorado County. Revenue within this account, and any interest accrued thereon, shall be used solely for the purpose set forth in section 17.19.010. Once moneys in the account are disbursed from the account to reimburse County for its costs incurred, those moneys shall be unrestricted revenue of the County.

17.19.090 Fee Credits. The following credits shall be available:

A. The Initial Participating Developers, or their assignees, if they are applicants for building permits, shall be granted a credit against the Reimbursement Fee in an amount up to the amount contributed by the applicant under the Cooperative Funding Agreement, less any reimbursements previously received. Such credits received shall be deemed reimbursement for purposes of calculating future credits and reimbursements. The Fee Credit shall not exceed the Reimbursement Fees levied by Resolution pursuant to this chapter at the time the Fee Credit is applied for.

B. Any applicant shall receive a credit against the Reimbursement Fee in an amount equal to Reimbursement Fees previously paid for development approvals or permits on the same property if the development for which the prior Reimbursement Fees were paid did not occur and all permits and entitlements for such development have expired or are relinquished.

17.19.100 Fee Exemptions. Public park sites and public buildings and structures including libraries, schools, fire stations, and public utility structures are exempt from the Reimbursement Fee

17.19.110 Separability. The provisions of this chapter are separable, and the invalidity of any phrase, clause, or part shall not affect the validity of the remainder.

Section 2. This Ordinance shall take effect and become effective thirty (30) days after its adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published one time in the Mountain Democrat, a newspaper of general circulation published in the County of El Dorado, State of California, with the names of the members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 24TH day of OCTOBER, 2000, by the following vote of said Board:

Ayes: SUPERVISORS: WILLIAM S. BRADLEY,
RAYMOND J. NUTTING, J. MARK NIELSEN,
PENNY HUMPHREYS, DAVID A. SOLARO

ATTEST

DIXIE L. FOOTE

Clerk of the Board of Supervisors

By Margaret E. Moody
Deputy Clerk

Nones NONE
Absents NONE
William S. Bradley
Chairman, Board of Supervisors

I CERTIFY THAT:

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date _____

ATTEST: DIXIE L. FOOTE, Clerk of the Board of Supervisors
of the County of El Dorado, State of California.

By _____
Deputy Clerk