



**COUNTY OF PLACER**  
**Community Development Resource Agency**

John Marin, Agency Director

**ADMINISTRATION**

**MEMORANDUM**

**TO:** Honorable Board of Supervisors  
**FROM:** John Marin, CDRA Director  
**DATE:** December 9, 2008  
**SUBJECT:** DEVELOPMENT IMPACT FEE DEFERRAL PROGRAM/  
ADOPTION OF URGENCY ORDINANCE

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**ACTION REQUESTED:**

The Placer County Community Development Resource Agency respectfully requests your Board adopt an urgency ordinance adding Article 15.70, Deferral of Certain Impact Fees, to Chapter 15, Building and Development, of the Placer County Code allowing for the deferral of certain impact fees for residential and nonresidential development projects through December, 2010.

**BACKGROUND:**

On November 25, 2008, your Board was presented with a discussion item related to fee deferral programs. In response to the pressing need for economic recovery outlined by the Placer County Contractors Association and Builders Exchange (PCCA), the Board directed staff to return with an ordinance for consideration that would implement, as quickly as reasonably practical, a fee deferral program for both residential and nonresidential development in the unincorporated areas of the County. Staff was also requested to provide an urgency ordinance provision as part of the package.

The Community Development Resource Agency has received a request from the (PCCA) to consider fee deferrals for single-family residences as well as non-residential and multi-family developments in response to the statewide slowing of the housing market. County Code currently requires all development impact fees and building permit fees be paid in full at issuance of a building permit.

Over the past year, several surrounding municipalities have approved some type of development impact fee deferral program including the cities of Elk Grove, Folsom and Roseville. The County of Sacramento has had a fee deferral program in place for several years. Typically, the fee deferral program allows the deferral of certain impact fees until the occupancy of the residence or business.

## **PROGRAM OPTIONS**

The fee deferral program is being considered to respond to the current market conditions of single-family residential and nonresidential development. Therefore the program being developed is intended to be temporary.

The following summarizes the elements of the fee deferral program options for both residential and nonresidential projects. Eligible impact fees include:

- Sewer Impact Fees
- Traffic Impact Fees
- Capital Facilities Fees
- Park Fees

### *Single-Family Residential Fee Deferral Program*

#### Option 1 - Fee deferral to building final inspection:

1. Available to all new single-family residences;
2. Deferral will apply to County-controlled fees;
3. The deferred fees will be paid to the County prior to the final building inspection on the home;
4. Any fees deferred would be paid at the rate in effect at the time of application;
5. Property tax obligations on all properties owned by applicant must be paid; and
6. The deferral program will end December 31, 2010. Complete applications must be received before this date to participate in the program;

#### Option 2 - Fee deferral to close of escrow:

1. Available to all new single-family residences;
2. Deferral will apply to County-controlled fees;
3. Execution of a note disclosing the obligation to pay fees and recordation of a first deed of trust in favor of the County in the amount of fees being deferred for the respective lot;
4. Payment of a \$500.00 one-time service fee for staff time to administer the program
5. The deferred fees will be paid to the County at close of escrow or within one year of the deed of trust being recorded, whichever occurs first;
6. Any fees deferred would be paid at the rate in effect at the time of application;
7. Property tax obligations on all properties owned by applicant must be paid; and
8. The deferral program will end December 31, 2010. Complete applications must be received before this date to participate in the program.

#### Option 3 - No Residential Fee Deferral Program

### *Multi-family Residential or Nonresidential Fee Deferral Program*

#### Option 1 - Fee deferral to building final inspection:

1. Available to all new multi-family residential and new nonresidential projects
2. Deferral will apply to County-controlled fees;

3. The deferred fees will be paid to the County prior to the issuance of a Certificate of Occupancy;
4. Any fees deferred would be paid at the rate in effect at the time of application;
5. Applicants for a fee deferral must have an approved project, defined as a project that has received final discretionary action by the Board of Supervisors including completion of all environmental compliance requirements;
6. Property tax obligations on all properties owned by applicant must be paid; and
7. The deferral program will end December 31, 2010. Complete applications must be received before this date to participate in the program.

#### Option 2 - Fee deferral to close of escrow:

1. Available to all new multi-family residential and new nonresidential projects
2. Deferral will apply to County-controlled fees;
3. The deferred fees will be paid to the County prior to the issuance of a Certificate of Occupancy;
4. Payment of a \$500.00 one-time service fee for staff time to administer the program
5. Any fees deferred would be paid at the rate in effect at the time of application;
6. Applicants for a fee deferral must have an approved project, defined as a project that has received final discretionary action by the Board of Supervisors including completion of all environmental compliance requirements;
7. Property tax obligations on all properties owned by applicant must be paid; and
8. The deferral program will end December 31, 2010. Complete applications must be received before this date to participate in the program.

#### Option 3 - No Multi-Family Residential or Nonresidential Fee Deferral Program

Fees to be deferred are those that are within the County's control. Some regional fees are collected by the County and are required to be passed through directly to our regional partners and are therefore not eligible to be included in the program. A typical single-family residential permit in Placer County is approximately \$40,000.00 and approximately \$21,000.00 may be eligible for deferral through the proposed program. A requirement of the program would be that all property tax payments be paid in full at the time of deferral application.

The program is recommended as temporary expiring at the end of the calendar year 2010. The County could extend the program should circumstances warrant. The urgency ordinance would become effective immediately upon adoption by your Board.

#### **FISCAL IMPACT:**

Implementing the program is expected to result in costs to the County. The additional costs to implement the program are a result of:

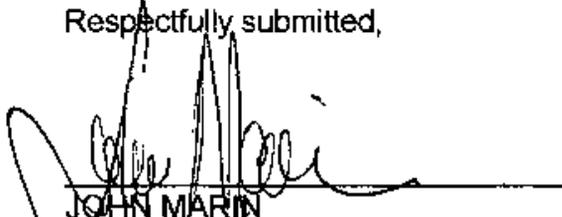
- Increased staff demand to service the program; and
- Lost interest over the life of the deferments

While not quantifiable, it is expected that returns to the County will be in the form of increased economic activity.

**STAFF RECOMMENDATION:**

Staff recommends your Board adopt an urgency ordinance adding Article 15.70, Deferral of Certain Impact Fees, to Chapter 15, Building and Development, of the Placer County Code allowing for the *Single-Family Residential and Multi-Residential/Nonresidential Fee Deferral Program - Options 1*.

Respectfully submitted,



JOHN MARIN  
Director - Community Development Resource Agency

Attached to this report for the Board's information/consideration are:

**ATTACHMENTS:**

- Exhibit 1: Comparison of Fee Deferral Options
- Exhibit 2: Urgency Ordinance Adopting Article 15.70

cc: Tom Miller, Placer County Executive Officer  
Michael Johnson, Planning Director  
Jeff Henry, Director of Business Development, PCCA  
Darin Gale, Executive Director North State BIA  
Jim Durfee, Director of Facilities  
Ken Grehm, Public Works Director

### Comparison of Fee Deferral Payment Options

Option	1	2	3
Payment Process	Pay portion at issuance of permit and balance deferred to request for building final or certificate of occupancy	Pay a portion at the issuance with the balance deferred to close of escrow	As is. No change.
Application for Deferral	Yes	Yes	No
Fee for processing	\$0	\$500.00	No
Additional submittal materials	None	Preliminary title report	No
Processing materials required	None	Signed and notarized recording documents	No
New departments involved in permit issuance	Tax Assessors Office	Tax Assessors Office, County Counsel, County Clerk.	None

#### Option 1 (Residential or Nonresidential)

- Submit permit application.
- Submit application for fee deferral until final or certificate of occupancy.
- Pay all fees not eligible for deferral.
- Permit issued.
- Prior to request for final inspection or certificate of occupancy, pay balance of building permit fee.
- Final Inspection or Certificate of Occupancy.

#### Option 2 (Residential or Nonresidential)

- Submit permit application.
- Submit application for fee deferral to close of escrow. Requires submittal of a preliminary title report for reach lot that is requesting fee deferral.
- County prepares documents for recordation and forwards documents to applicant.
- Applicant returns executed recording documents with notarized signature and proof of title insurance.
- Pay all fees not eligible for deferral.
- Permit issued.
- City records first deed of trust.
- During escrow, title company forwards demand for payments to County. County responds with preparation of a reconveyance and a demand statement. Title Company distributes funds to County.

# Before the Board of Supervisors County of Placer, State of California

In the matter of:

An Urgency Ordinance adding Article  
15.70, Deferral of Certain Development  
Impact Fees, to Chapter 15, Building and  
Development, of the Placer County Code

Ordinance No.: \_\_\_\_\_  
FIRST READING: \_\_\_\_\_

The following Urgency Ordinance was duly passed by the Board of Supervisors of the  
County of Placer at a regular meeting held December 9, 2008, by the following vote on  
roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:  
Clerk of said Board

Chairman, Board of Supervisors

\_\_\_\_\_  
Ann Holman

\_\_\_\_\_  
Jim Holmes

**WHEREAS**, national and international financial events have lead to an unprecedented slowdown in the California housing market, and have materially impacted the ability of builders to finance residential and commercial projects in Placer County.

**WHEREAS**, the Placer County Code requires that most building and development related fees be paid at or before issuance of a building permit.

**WHEREAS**, the Placer County Contractors Association and Builders Exchange (PCCA) has requested on behalf of its members for the County to defer until after issuance of a building permit certain building and development fees for single-family residences as

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well as non-residential and multi-family developments in response to the statewide slowing of the housing market.

**WHEREAS**, a further slowdown in the delivery of new residential and commercial building projects in Placer County threatens the ability of the County in the short term to produce new sources of revenue to pay for essential County services and therefore potentially threatens the public peace, health or safety.

**WHEREAS**, immediate relief from payment at building permit is needed on a temporary basis to ensure the continuing delivery of new housing for the benefit of the new and existing residents of Placer County.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1:**

Article 15.70, Deferral of Certain Development Impact Fees, is hereby added to Chapter 15, Building and Development, of the Placer County Code as shown on Exhibit A, attached hereto and incorporated herein by reference.

**SECTION 2:**

This Ordinance shall be effective immediately upon adoption as necessary for the immediate preservation of the public peace, health or safety.

## Chapter 15 BUILDING AND DEVELOPMENT

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### Article 15.70 FEE DEFERRAL PROGRAM ORDINANCE

- 15.70.010 Title
- 15.70.020 Purpose
- 15.70.030 Applicable Fee Programs
- 15.70.040 Definitions
- 15.70.050 Fee Deferral Program
- 15.70.060 Administrative Processing Fees and Fee Deferral Program Application
- 15.70.070 Security
- 15.70.080 Penalty and Interest
- 15.70.090 Payment of Deferred Fees as Adjusted
- 15.70.100 Recordation Costs
- 15.70.110 Property Tax Obligations
- 15.70.120 Expiration

#### 15.70.010 Title

This Article shall be known and cited as the "Fee Deferral Program Ordinance".

#### 15.70.020 Purpose

The Placer County Board of Supervisors desires to encourage the construction of residential and nonresidential development projects within the County. The Board of Supervisors finds that the early payment of certain impact fees for new development under current financial conditions creates a barrier to such development and desires, by the adoption of this Article, to ease such barrier by deferring on a temporary basis the time for payment of certain development impact fees.

#### 15.70.030 Applicable Fee Programs

Notwithstanding any other provision of this Code, upon application and approval pursuant to this Article, an Approved Development Project shall pay the following fees as allowed in accordance with the provisions of this Article:

- (1) Sewer Connection Fees imposed pursuant to Section 13.12.270 of this Code;
- (2) Traffic Impact Fees imposed pursuant to Section 15.28.030 of this Code;
- (3) Public Facility Fees imposed pursuant to Section 15.30.020 of this Code; and
- (4) Parks and Recreation Facilities Fees imposed pursuant to Section 15.34.060 of this Code.

#### 15.70.040 Definitions

- A. "Applicant" means the owner or owners of record of the real property with an Approved Development Project for which a fee deferral is sought pursuant to this Article.
- B. "Approved Development Project" means a project that has received final discretionary action by the County and which has completed all environmental compliance requirements.
- C. "Agency Director" means the Director of the Community Development Resource Agency, or his or her designee.

### **15.70.050 Fee Deferral Program**

- A. At the time of building permit issuance or the time of improvement plan approval, an Applicant of an Approved Development Project may file a written application with the County to request deferral of any of those fees enumerated in Section 15.70.030 of this Article.
- B. Deferral of fees pursuant to this Article shall be acknowledged by an agreement or other writing satisfactory to the Agency Director and approved by County Counsel. Said agreement may be executed by the Agency Director.
- C. All of the following requirements must be satisfied prior to execution of a fee deferral agreement by the Agency Director: (1) Submittal to the County of a complete application; (2) Deposit of all fees pursuant to Sections 15.70.060 and 15.70.100; (3) Deposit of security for the payment of those fees to be deferred pursuant to Section 15.70.070, and ; (4) Submittal of evidence that all property tax obligations of the Applicant are paid in full for the Approved Development Project and all other property owned by the Applicant in unincorporated Placer County.
- D. Fees that are approved for deferral for a single-family residential development project pursuant to this Article shall be due and payable for each individual lot within the Approved Development Project upon the earlier of (1) a request for final inspection under a building permit; (2) the close of escrow, if the security provided pursuant to Section 15.70.070 is the senior lien on the property, or (3) the end of the Maximum Fee Deferral Period as set forth in the agreement required pursuant to subsection (B), above.
- E. Fees that are approved for deferral for a multi-family residential project or a nonresidential development project pursuant to this Article shall be due and payable for each building within the project upon request of issuance of a Certificate of Occupancy.
- F. The "Maximum Fee Deferral Period" for any development project is twenty-four (24) months from the date of any agreement for a fee deferral required pursuant to subsection (B), above. If not paid within the twenty-four (24) month fee deferral period, a penalty and interest shall accrue on any unpaid balance pursuant to Section 15.70.080.
- G. The approval of a fee deferral pursuant to this Article for any Approved Development Project shall not be transferable to another project regardless of whether the Applicant is the same for both projects or whether the other project is also a qualified project.
- H. The Agency Director is authorized to administer this Fee Deferral Program Ordinance consistent with the intent of this Article.

### **15.70.060 Administrative Processing Fees and Fee Deferral Program Application**

If an Applicant requests deferral to final inspection or certificate of occupancy, no administrative processing fees will apply. If an Applicant requests deferral to close of escrow, a non-refundable administrative processing fee of \$500.00 is hereby established for payment at the time of each individual program application for the purpose of funding the costs of administering the fee deferral program established by this Article. The application for fee deferral may be submitted concurrently with or in advance of any application for building permits for the subject property and shall be accompanied by any security and application fees required by this Article. In no event, however, shall a building permit be issued until one of the following has occurred;

- (1) Payment of all applicable fees due in accordance with this Code; or
- (2) Execution of a fee deferral agreement in accordance with this Article.

### **15.70.070 Security**

At the time of application for deferral to close of escrow, the Applicant shall provide security for the payment of those fees to be deferred. Such security shall be subject to the approval of the County and shall consist of one or more of the following:

- (1) Assigned passbook or certificate of deposit;

- (2) Irrevocable letter of credit;
- (3) Surety bond;
- (4) Lien against the property; or
- (5) Negotiable securities if approved by the Board of Supervisors

#### **15.70.080 Penalty and Interest**

For all Approved Development Projects which have been executed an agreement for a deferral of fees pursuant to this Article, no interest shall accrue during the period of deferral. However, in the event the deferred fees are not paid at the time required by the agreement, a one-time penalty equal to the annual rate of interest earned by the County of Placer on the investment of pooled funds computed on the unpaid balance from the date of execution of the deferral agreement to time of payment due, shall be imposed and payable, and interest shall thereafter accrue on the balance of the unpaid deferred fees and penalty at the rate set forth in Code of Civil Procedure Section 685.010.

#### **15.70.090 Payment of Deferred Fees as Adjusted**

Deferred fees shall be paid at the rate or rates applicable at the time of payment.

#### **15.70.100 Recordation Costs**

All costs of recordation of documents required pursuant to this Article shall be paid by the Applicant at the time of execution of any Fee Deferral agreement pursuant to Section 15.70.050(B)

#### **15.70.110 Property Tax Obligations**

At the time of application, the Applicant shall provide evidence that all property tax obligations of the Applicant for all property owned by the Applicant in unincorporated Placer County are paid in full at the time of execution of any fee deferral agreement pursuant to Section 15.70.050(B)

#### **15.70.120 Expiration**

This Article shall remain in effect until December 31, 2010, and as of that date is repealed. Any fee deferred agreement entered into prior to the date of repeal shall remain in full force and effect in accordance with its terms.