



COUNTY OF PLACER
Community Development Resource Agency

PLANNING

Michael J. Johnson, AICP
Agency Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP, CDRA Director

DATE: December 14, 2010

SUBJECT: DEVELOPMENT IMPACT FEE DEFERRAL PROGRAM -
TWO YEAR EXTENSION

ACTION REQUESTED:

The Placer County Community Development Resource Agency respectfully requests your Board take the following action: Introduction of an ordinance amending Article 15.70 of the County Code to approve a two (2) year extension of the County's Development Impact Fee Deferral Program, which was originally adopted by the Board on December 9, 2008. Ordinance 5535-B added Article 15.70 (Fee Deferral Program) to Chapter 15 (Building and Development) of the Placer County Code allowing for the deferral of certain impact fees for residential and non-residential development projects through December 31, 2010.

BACKGROUND:

On November 25, 2008, the 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 a fee deferral program for both residential and non-residential 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 received at the time 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 State-wide slowing of the housing market. Until the deferral program was implemented in 2008, the Code required all development impact fees and building permit fees be paid in full at the issuance of a building permit.

Over the past several years, 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

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years. Typically, the fee deferral program allows the deferral of certain impact fees until the occupancy of the residence or business.

On December 9, 2008, the Board unanimously adopted Ordinance 5535-B which allowed for the deferral of certain impact fees for residential and non-residential development projects through December 31, 2010. The fee deferral program responded to the market conditions of single-family residential and non-residential development, and was intended to be temporary. Because of the ongoing economic slowdown, it is requested that the Board approve a two-year extension of time for this program.

FEE DEFERRAL PROGRAM ELEMENTS

The following summarizes the elements of the fee deferral program which was enacted for both residential and non-residential projects. Eligible impact fees include:

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

Single-Family Residential Fee Deferral Program

1. Available to all new single-family residences;
2. Deferral will apply to County-controlled fees listed above;
3. The deferred fees will be paid to the County upon the earlier of:
 - a. a request for a final building inspection on the home;
 - b. the close of escrow, if the security provided is the senior lien on the property, or
 - c. twenty-four (24) months from the date of any agreement for a fee deferral.
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 current deferral program will end December 31, 2010. Complete applications must be received before this date to participate in the program as currently established. It is staff's request to extend this deadline to December 31, 2012.

Multi-Family Residential or Non-Residential Fee Deferral Program

1. Available to all new multi-family residential and new non-residential projects;
2. Deferral will apply to County-controlled fees listed above;
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 current deferral program is scheduled to end December 31, 2010. Complete applications must be received before this date to participate in the program as currently established. It is staff's request to extend this deadline to December 31, 2012.

STATISTICS FROM THE LAST TWO YEARS:

Type of Building	Fee Deferred	Fee Paid	# of Each
APARTMENT	\$529,472.02	0	9
CONVALESCENT HOME	\$43,112.76	\$43,112.76	1
MEDICAL OFFICE	\$43,072.88	\$43,072.88	1
OFFICE-NEW	\$21,997.58	\$21,997.58	1
SECONDARY DWELLING	\$13,423.06	\$13,423.06	2
SINGLE FAMILY <3000	\$78,914.88	\$68,262.97	9
SINGLE FAMILY >3000	\$21,022.23	\$21,022.23	6
Totals	\$751,015.41	\$210,891.48	31

The information in the above table illustrates that 95 percent of the deferred fees for those categories other than apartments have been paid back to the County. In one instance, the owners of a single-family dwelling less than 3,000 square feet have not had a final inspection, therefore their fees are not yet due. Likewise, the fees deferred for the apartments have not been paid yet, as there has not been a request for a Certificate of Occupancy. It is anticipated that both of these outstanding amounts will be re-paid in the near future.

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 deferrals. However, as these are tasks that staff would normally complete in the processing of a building permit, any incremental increase in staff costs associated with the fee deferral program are nominal.

STAFF RECOMMENDATION:

Staff recommends the Board introduce the attached ordinance to amend County Code Article 15.70 and establish a two-year extension of time to December 31, 2012 of the County's Development Impact Fee Deferral Program.

ATTACHMENTS:

Attachment 1: Ordinance Amending Article 15.70

cc: Tom Miller, Placer County Executive Officer
Scott Finley, County Counsel
Michael Johnson, CDRA Director/Planning Director
Paul Thompson, Planning Services Division Manager
Jeff Henry, Director of Business Development, PCCA
Darin Gale, Executive Director North State BIA
Jim Durfee, Director of Facilities
Ken Grehm, Public Works Director

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

In the matter of: AN ORDINANCE REPEALING
AND REPLACING ARTICLE 15.70, FEE
DEFERRAL PROGRAM, OF THE PLACER
COUNTY CODE

Ord. No:.....

First Reading:.....

The following ORDINANCE was duly passed by the Board of Supervisors
of the County of Placer at a regular meeting held _____,
by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:

Chairman, Board of Supervisors

Clerk of said Board

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

1. Article 15.70 of the Placer County Code, Fee Deferral Program, is hereby repealed and replaced in its entirety as shown on attached Exhibit A.
2. This ordinance shall become effective thirty (30) days after the date of final passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code section 25124.

Exhibit A

Article 15.70 FEE DEFERRAL PROGRAM

- 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:

- A. Sewer connection fees imposed pursuant to Section 13.12.270 of this code;
- B. Traffic impact fees imposed pursuant to Section 15.28.030 of this code;
- C. Public facility fees imposed pursuant to Section 15.30.020 of this code; and
- D. Parks and recreation facilities fees imposed pursuant to Section 15.34.060 of this code.

15.70.040 Definitions.

“Agency director” means the director of the community development resource agency, or designee.

“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.

“Approved development project” means a project that has received final discretionary action by the county and which has completed all environmental compliance requirements.

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 of this section.

E. Fees that are approved for deferral for a multifamily 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 of this section. 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 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 five hundred dollars (\$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;

- A. Payment of all applicable fees due in accordance with this code; or
- B. 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:

- A. Assigned passbook or certificate of deposit;
- B. Irrevocable letter of credit;
- C. Surety bond;
- D. Lien against the property; or
- E. 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 be effective as of January 1, 2011 and shall remain in effect until December 31, 2012, 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.