

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ESTABLISHING THE TEMPORARY FEE DEFERRAL PROGRAM FOR DEVELOPMENT IMPACT FEES

WHEREAS, the City of Oceanside (City) imposes development impact fees as a condition of development approval for the purpose of financing capital improvements to address the impacts of new development;

WHEREAS, pursuant to Oceanside City Code § 32B.7(c) impact fees shall be calculated and collected at the time of issuance of a building permit for all development projects;

WHEREAS, pursuant to Oceanside City Code § 32B.7(d) No building permit shall be issued until all impact fees due for the development project have been paid;

WHEREAS, pursuant to Oceanside City Code § 29.11.1, Resolution Number 87-97 and Ordinance No. 09-OR 0092-1 the City Council established the Wastewater System Buy-in Fee;

WHEREAS, pursuant to Oceanside City Code § 37.56.1, Resolution No. 87-96 and Ordinance No. 09-OR 0093-1, the City Council established the Water System Buy-in Fee;

WHEREAS, pursuant to Ordinance No. 91-09 and Resolution No. 06-R0334-1, the City Council established the Public Facilities Fee;

WHEREAS, pursuant to Ordinance No. 87-19 and Resolution No. 06-R0334-1, the City Council established the Traffic Signal Fee;

WHEREAS, pursuant to Ordinance No. 83-01 and Resolution No. 06-R0334-1, the City Council established the Thoroughfare Fee;

WHEREAS, pursuant to Ordinance No. 91-10 and Resolution No. 06-R0334-1, the City Council established the Parkland Dedication Fee;

WHEREAS, pursuant to Ordinance No. 85-23 and Resolution No. 06-R0334-1 the City Council established the Drainage Fee;

WHEREAS, pursuant to Chapter 14-C of the City Code, the City Council established an inclusionary housing in lieu fee for residential projects only;

WHEREAS, the City recognizes that the payment of fees represents a substantial financial commitment for many projects;

1 WHEREAS, the City recognizes that establishing a payment plan for certain fees may
2 assist in the development of projects and provide jobs and growth in the City; and

3 WHEREAS, this Ordinance establishes a payment plan for certain impact fees for a
4 specified period of time.

5 NOW THEREFORE, the City Council of the City of Oceanside does ordain as follows:

6 SECTION 1. Purpose.

7 The City Council of the City of Oceanside recognizes the extraordinary fiscal challenges
8 faced by the development community due to general economic downturn and by this Ordinance
9 encourages construction of residential and commercial development projects within the City.
10 The City Council finds that the payment of certain impact fees for new development at the
11 building permit stage, in the current financial climate, discourages such development and
12 desires, by the adoption of this Ordinance to encourage new construction by establishing a
13 payment plan for certain development impact fees.

14 SECTION 2. California Environmental Quality Act.

15 The City Planner has determined that the proposed Ordinance is not a “Project” as
16 defined under Section 15378 of the CEQA guidelines, therefore, pursuant to Section
17 15060(c)(3) of the CEQA guidelines the activity is not subject to CEQA review.

18 SECTION 3. Definitions.

19 “Applicant” means the owner of the real property or the developer with an approved
20 development project who seeks a development impact fee payment plan pursuant to this
21 Ordinance.

22 “Approved Residential Development Project” means a residential development
23 consisting of single-family or multi-family residential units, which has received final
24 discretionary action by the City and which is in compliance with all environmental requirements
25 due prior to issuance of a building permit.

26 “Approved Development Project” means a nonresidential development which has
27 received final discretionary action by the City and which is in compliance with all
28 environmental requirements due prior to issuance of a building permit.

1 SECTION 4. Development Impact Fees Subject to Payment Plan.

2 Notwithstanding the provisions of Article 32B of the Oceanside Municipal Code and the
3 Ordinances listed below, the provisions of this Ordinance shall apply only to the following
4 development impact fees:

- 5 (a) The Wastewater System Buy-in Fee codified in Oceanside City Code § 29.11.1.
- 6 (b) The Water System Buy-in Fee codified in Oceanside City Code § 37.56.1.
- 7 (c) The Public Facilities Fee established pursuant to Ordinance No. 91-09.
- 8 (d) The Traffic Signal Fee established pursuant to Ordinance No. 87-19.
- 9 (e) The Thoroughfare Fee established pursuant to Ordinance No. 83-01.
- 10 (f) The Parkland Dedication Fee established pursuant to Ordinance No. 91-10.
- 11 (g) The Drainage Fee established pursuant to Ordinance No. 85-23.
- 12 (h) The Inclusionary Housing in-lieu fee for residential projects codified in Chapter
13 14-C of the Oceanside City Code.

14 SECTION 5. Establishment of the Development Impact Fee Payment Plan Program
15 (hereafter "DIFP")

- 16 (a) The DIFP is established for those development impact fees listed in Section 4
17 above.
- 18 (b) The DIFP shall apply only to Approved Residential Development Projects and
19 Approved Development Projects as defined in this Ordinance.
- 20 (c) At the time the Applicant applies for a Building Permit, the Applicant may file an
21 application with the City to request a DIFP for any or all of those development impact fees
22 listed in Section 4.
- 23 (d) The Applicant shall deposit with the City a non-refundable fee of \$250 for the
24 processing of the DIFP application. No building permit shall be issued for an Approved
25 Residential Development or Approved Development Project subject to this Ordinance unless
26 the Applicant has paid this processing fee.

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1 (e) The Applicant, and the owner of the property, if different, shall be required to
2 enter into an agreement with the City, in a form acceptable to the City Attorney, agreeing to the
3 DIFP.

4 (f) The maximum period for any DIFP pursuant to this Article is 12 months from the
5 date of issuance of building permits for Approved Residential Development Projects and 24
6 months from the date of issuance of building permits for Approved Development Projects. This
7 period may be extended once for 12 months at the discretion of the City Manager. Any
8 additional extensions shall be at the discretion of the City Council.

9 (g) All fees subject to the DIFP shall be paid in full the earlier of (1) the City's
10 approval and signature on the final inspection card by the Building Official or designee for an
11 Approved Residential Development Project; or (2) the issuance of the Certificate of Occupancy
12 for an Approved Development Project; or (3) the end of the maximum period described in
13 subsection (f) of this Section.

14 SECTION 6. Agreement Shall Constitute a Lien.

15 (a) The Applicant and the owner of the property, if different, shall execute a DIFP
16 Agreement with the City. The Agreement shall be recorded by the City and shall constitute a
17 lien against the property for the payment of the fees. The City Manager shall execute the
18 Agreement on behalf of the City. When the obligation is paid in full, the City shall record a
19 Release of the Lien.

20 (b) As an alternate to recording an Agreement that constitutes a lien, the Applicant
21 may, prior to and as a condition of issuance of the building permit, execute a letter agreement
22 and provide an irrevocable letter of credit pursuant to procedures established by the City
23 Engineer. The amount of the letter of credit shall be calculated per the rates in effect at the
24 time of the execution of the DEFP Agreement with the City; however, the City may require
25 that the amount of the Letter of Credit be increased if there is an increase in fees during the
26 time the DIFP Agreement is in effect. Applicant remains responsible for payment of all fees
27 in effect at the time of payment, regardless of the amount of the Letter of Credit.

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1 SECTION 7. Determination of the Amount of Development Impact Fees.

2 The amount of development impact fees owed by the Applicant shall be determined by the City
3 pursuant to the provisions outlined in the Oceanside City Code or in the ordinances and
4 resolutions establishing the fees. These amounts shall be calculated at the time the Applicant
5 actually pays the fees, regardless of the fee schedule in place on the date of the execution of the
6 DIFP Agreement with the City.

7 SECTION 8. Not Transferable.

8 The City's approval of a DIFP is not transferable to any other project, even if the
9 Applicant is the same and the other project would qualify for the DIFP.

10 SECTION 9. Recordation Costs.

11 The Applicant shall pay all costs of recordation of documents required pursuant to this
12 Ordinance and the DIFP Agreement at the execution of the DIFP Agreement by the City.

13 SECTION 10. Sunset Provision.

14 This Ordinance shall expire on June 30, 2012, and as of that date, is repealed unless
15 extended by future action of the City Council.

16 SECTION 11. Notice is hereby given that the time within which judicial review must be
17 sought on this decision is governed by CCP Section 1094.6.

18 SECTION 12. This Ordinance shall not be codified.

19 SECTION 13. The City Clerk of the City of Oceanside is hereby directed to publish the
20 title of this Ordinance once within fifteen (15) days after its passage in the North County Times,
21 a newspaper of general circulation published in the City of Oceanside. This Ordinance shall
22 take effect and be in force on the thirtieth (30th) day from and after its final passage.

23 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
24 California, held on the ____ day of _____, 2009, and, thereafter,

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of
Oceanside, California, held on the ____ day of _____, 2009, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

APPROVED AS TO FORM:

CITY CLERK



CITY ATTORNEY

Ordinance of the City Council of the City of Oceanside
Establishing The Temporary Fee Deferral Program for
Development Impact Fees