ITEM NO. 28

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE EXTENDING 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 are 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 may 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 Wastewater System Buy-in Fees;

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

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

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

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

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

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

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

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

WHEREAS, pursuant to Ordinance No. 09-0R0676-1, the City Council established a temporary fee-deferral program, including a payment plan for certain fees to assist in the development of projects and provide jobs and growth in the City;

WHEREAS, the temporary fee-deferral program expired on June 30, 2012; and

WHEREAS, the City Council desires to extend the temporary fee-deferral program for two additional years, to the 30th day of June, 2014; and to have the extension operate retroactively to be effective as of July 1, 2012.

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

SECTION 1. Purpose.

The City Council of the City of Oceanside recognizes the extraordinary fiscal challenges faced by the development community due to general economic downturn and by this Ordinance encourages construction of residential and commercial development projects within the City.

The City Council finds that the payment of certain impact fees for new development at the building permit stage, in the current financial climate, discourages such development and the City Council desires, by the adoption of this Ordinance, to encourage new construction by establishing a payment plan for certain development impact fees.

SECTION 2. California Environmental Quality Act.

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

SECTION 3. Definitions.

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

"Approved Residential Development Project" means a market-rate residential development consisting of single-family or multi-family residential units sold or rented at prevailing market rates and free of any affordability restrictions that has received final discretionary action by the City and that is in compliance with all environmental requirements due prior to issuance of a building permit.

"Approved Development Project" means a nonresidential development that has received final discretionary action by the City and that is in compliance with all environmental requirements due prior to issuance of a building permit.

SECTION 4. Development Impact Fees Subject to Payment Plan.

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

(a) The Wastewater System Buy-in Fee codified in Oceanside City Code § 29.11.1.

(b) The Water System Buy-in Fee codified in Oceanside City Code § 37.56.1.

(c) The Public Facilities Fee established pursuant to Ordinance No. 91-09.

(d) The Traffic Signal Fee established pursuant to Ordinance No. 87-19.

(e) The Thoroughfare Fee established pursuant to Ordinance No. 83-01.

(f) The Parkland Dedication Fee established pursuant to Ordinance No. 91-10.

(g) The Drainage Fee established pursuant to Ordinance No. 85-23.

(h) The Inclusionary Housing in-lieu fee for residential projects codified in Chapter 14C of the Oceanside City Code.

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

(a) The DIFP is established for those development impact fees listed in Section 4 above.

(b) The DIFP shall apply only to Approved Residential Development Projects and Approved Development Projects as defined in this Ordinance.

(c) At the time the Applicant applies for a Building Permit, the Applicant may file an application with the City to request a DIFP for any or all of those development impact fees listed in Section 4.

(d) The Applicant shall deposit with the City a non-refundable fee of $250 per lot, for the processing of the DIFP application. No building permit shall be issued for an Approved Residential Development or Approved Development Project subject to this Ordinance unless the Applicant has paid this processing fee.

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

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

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

SECTION 6. Agreement Shall Constitute a Lien.

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

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

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

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

SECTION 8. Not Transferable.

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

SECTION 9. Recordation Costs.

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

SECTION 10. Sunset Provision.

This Ordinance shall be effective retroactively as of July 1, 2012, and shall expire on June 30, 2014, and as of that date, is repealed unless extended by future action of the City Council.

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

SECTION 12. This Ordinance shall not be codified.

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

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INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California, held on the ____ day of _____, 2012, and, thereafter,

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside, California, held on the ____ day of _____, 2012, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

Barbara Hamilton, ASST.
_____
CITY ATTORNEY