

ORDINANCE NO. 9975 (N.S.)

AN ORDINANCE AMENDING THE COUNTY CODE AND THE UNIFORM SEWER ORDINANCE RELATED TO THE DEFERRAL OF DEVELOPMENT IMPACT FEES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that San Diego County has seen a decline in building activity and there is a need to stimulate the local economy. It is the purpose of this ordinance to defer the payment of transportation impact fees, park lands dedication ordinance fees, and specified drainage and sewer connection fees in order to stimulate the economic recovery.

Section 2. Section 68.205 of the County Code is amended to read as follows:

SEC. 68.205. PERMIT FOR MAKING BUILDING SEWER CONNECTIONS – FEE.

(a) It shall be unlawful for any person other than a plumber or homeowner licensed by the County to make a connection between any sewer service lateral and any building sewer upon or within private property in a Sanitation District; and before any such licensed plumber or homeowner may make any such connection between a sewer service lateral and a building sewer within such Sanitation District he shall obtain a Wastewater Discharge permit authorizing the connection to be made. Any such connection must be made to the sewer prior to the installation of any plumbing fixtures discharging into the building sewer.

A plumber or homeowner desiring a permit to make a connection to a sewer service lateral or trunk line sewer shall file with the Department an application in writing on a form furnished and specified by said Department. The application shall include the name of the plumber or homeowner, the name of the owner of the premises on which the work is to be performed, the legal description of the property on which the work is to be performed, or in lieu of such legal description the official street and number of the premises; or, if there be no official street number, a street number recognized by the Department, a sketch or diagram showing the location of the premises. The applicant shall attach to the application a plat showing the location of existing trunk lines and laterals adjacent to the property upon which the work is to be done, and showing the place where it is desired to connect to the sewer service lateral or trunk line sewer.

Before a Wastewater Discharge permit shall be issued, all applicable fees, rates and charges imposed by the Sanitation District shall be paid to said Department, except as specified in subsection (b) below. No Wastewater Discharge permit shall be issued unless the application is first approved by said Department.

(b) Notwithstanding subsection (a) above, the payment of a Capital Facility Capacity Fee (as defined in Section 2.2 of Article 2 of Part I of Section IV of the San Diego County Uniform Sewer Ordinance, Ordinance No. 9103 N.S.) in connection with residential tracts and commercial building permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral on or before June 30, 2011.

Section 3. Section 77.209 of the County Code, within the Transportation Impact Fee (TIF) Ordinance, is amended to read as follows:

SEC. 77.209. PAYMENT OF FEES.

(a) The fees required pursuant to this Division are intended to mitigate cumulative traffic impacts and shall be paid to the County as a condition of approval of a development permit, including a building permit. For development projects that require both discretionary and building permits, the fees shall be paid no later than time of building permit issuance. If the fee is paid prior to the time of building permit issuance and the amount of the fee increases, then the additional fee amount must be paid before the building permit is issued. If the fee is paid prior to time of building permit issuance and the amount of the fee is reduced, then at the time the building permit is issued, a TIF refund will be provided to the applicant. Once a building permit is issued, the amount of the fee is set and will not be adjusted by subsequent increases or decreases to the TIF rates. In the case of discretionary permits that will not involve a building permit but which will generate additional traffic, payment of the fee shall be recommended as a condition of permitting to the decision-making body that would approve such permit.

(b) Notwithstanding subsection (a) above, the payment of transportation impact fees in connection with residential tracts and commercial building permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral on or before June 30, 2011.

Section 4. Section 810.103 of the County Code, within the Park Lands Dedication Ordinance, is amended to read as follows:

SEC. 810.103. DEDICATION OF LAND OR PAYMENT OF FEE REQUIRED.

As a condition of approval of any development, the applicant shall dedicate land, pay fees in lieu thereof, or a combination of both, pursuant to the provisions of this Chapter for neighborhood and community park or recreational purposes to serve future residents of such development except as follows:

(a) In the event that subsequent development occurs with respect to property for which fees have been paid, land dedicated, or a combination of both, additional fees or dedication shall be required only for additional lots or dwelling units which were not included in computing the prior fee or dedication requirement;

(b) Prior to the issuance of any building permit or other permit for development under the jurisdiction of the Director, the applicant shall pay to the Director the fees prescribed in Section 810.106 or shall present a written statement from the Director certifying that the requirements of this Chapter have been satisfied with respect to the development for which permits are sought. Notwithstanding the provisions of this subsection to the contrary, the payment of in lieu fees in connection with residential tracts and commercial building permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral on or before June 30, 2011;

(c) The replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire or other calamity, provided that the application for a building permit to replace such dwelling is filed with the Director within six (6) months after destruction of the dwelling;

(d) An accessory apartment or accessory living quarters as defined by the County Zoning Ordinance;

(e) Any farm employee housing or farm labor camp project for which (1) a complete application for an Administrative Permit or a Minor Use Permit was filed between July 13, 1990, and January 13, 1991 pursuant to Ordinance No. 7769 (N.S.); or was filed between April 5, 1991 and October 5, 1991, pursuant to Ordinance No. 7876 (N.S.); or was filed between October 31, 1991 and June 30, 1993, pursuant to Ordinance No. 8087 (N.S.); or was filed between July 30, 1993 and June 30, 1994, pursuant to Ordinance No. 8272 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8437 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8575 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.) and (2) the application was approved; or

(f) Any farm employee housing or farm labor camp project for which (1) Section 17021.5 or Section 17021.6 of the California Health and Safety Code is applicable; (2) the Agricultural Commissioner has issued a certificate of active agricultural enterprise; (3) the housing is not the subject of an active code enforcement action; (4) the applicant has entered into the contract required by Section 6156 u.11 or Section 6906 d. of the Zoning Ordinance; and (5) the application was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No. 8272 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8437 (N.S.); or was filed between

September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8575 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.).

Section 5. Section 810.107 of the County Code, within the Park Lands Dedication Ordinance, is amended to read as follows:

SEC. 810.107. TIME OF DEDICATION OR PAYMENT.

(a) If the development in question is a subdivision and fees alone are to be paid, such fees shall be collected on a per lot basis prior to the issuance of a building permit for each lot, or such other permit as may be required to authorize the construction of a dwelling.

(b) If the development in question is a subdivision and land is to be dedicated, approval of the tentative map shall be subject to the condition that fee title to the land be conveyed by grant deed to the County free of encumbrances, as evidenced by a Phase I and/or II Environmental Site Assessment and a California Land Title Association policy provided by the applicant or developer and subject to approval of the Director of the Department of Parks and Recreation, prior to approval of the final map and that the grant deed be recorded immediately following the recordation of the final map.

(c) If the development in question is a subdivision and fees are to be paid in combination with the dedication of land, approval of the tentative map shall be subject to the following conditions:

(1) Fee title to the land shall be conveyed by grant deed to the County free of encumbrances, as evidenced by a Phase I and/or II Environmental Site Assessment and a California Land Title Association policy provided by the applicant or developer and subject to approval of the Parks and Recreation Department prior to approval of the final map, and the grant deed shall be recorded immediately following the recordation of the final map; and

(2) Prior to recordation of the final map, the subdivider shall deposit the fees with the Clerk of the Board of Supervisors.

(d) If the development in question is other than a subdivision and fees alone are to be paid or fees are to be paid in combination with the dedication of land, the fees shall be deposited with the Director, or such other officer as may be charged with the responsibility for issuing the permit in question, and fee title to the land shall be conveyed to the County, prior to the issuance of a building permit, permit to construct a mobilehome park, or, if neither is required, prior to issuance of such other permit as may be required to authorize the replacement, construction or installation of a dwelling. Title

to land dedicated to the County shall be conveyed by grant deed to the County free of encumbrances, as evidenced by a Phase I and/or II Environmental Site Assessment and a California Land Title Association policy provided by the applicant or developer and subject to approval of the Parks and Recreation Department.

(e) If the development in question is a subdivision and fees are to be paid in combination with the granting of credit for the provision of private recreation facilities pursuant to Sec. 810.108, the subdivider shall satisfy all of the requirements of Sec. 810.108 and shall deposit the fees with the Clerk of the Board of Supervisors prior to recordation of the final map.

(f) If the development in question is other than a subdivision and fees are to be paid in combination with the granting of credit for the provision of private recreation facilities pursuant to Sec. 810.108, the applicant shall satisfy the requirements of Sec. 810.108 and shall deposit the fees with the Director, or such other officer as may be charged with the responsibility for issuing the permit in question, prior to the issuance of a building permit, permit to construct a mobilehome park, or if neither is required, prior to issuance of such other permit as may be required to authorize the replacement, construction or installation of a dwelling.

(g) Notwithstanding subsections (a), (d) and (f) of this section to the contrary, the payment of in lieu fees in connection with residential tracts and commercial building permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral on or before June 30, 2011.

Section 6. Section 810.209 of the County Code, within the Drainage Fee Ordinance, is amended to read as follows:

SEC. 810.209. PAYMENT OF FEES OR SECURITY THEREFOR.

(a) The fees required pursuant to this Chapter shall be paid as a condition of and prior to the approval of the final map or parcel map or if no reimbursement agreement exists for the Local Drainage Area the subdivider may execute a secured agreement to pay the fees prior to the earliest of the following dates:

(i) The date of issuance of the building permit except for building permits for model houses. Notwithstanding the provisions of this subsection (a)(i) to the contrary, the payment of fees in connection with residential tracts and commercial building permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral on or before June 30, 2011.

- (ii) The date all subdivision improvements are completed and accepted by the County;
- (iii) The date construction commences of any portion of a master planned flood control facility within the Local Drainage Area;
- (iv) The date of execution of a reimbursement agreement for facilities constructed within the Local Drainage Area.

Section 7. Section 4.2 of The San Diego County Uniform Sewer Ordinance, Ordinance No. 9103 (New Series), is amended to read as follows:

4.2 Payment of Capital Facility Capacity Fees. The entire Capital Facility Capacity Fees prescribed in Sections 4.1 (a through e) inclusive, shall become owing, due and payable at the time application is made to connect a premise to the sewer system of the District. This fee shall be paid to the Department prior to the issuance of any permit authorizing the connection of such premise to the District's sewer system. If the proposed connection cannot be made, the fee may be refunded when approved by the Director.

Notwithstanding the provisions of Section 4.2 above to the contrary, the payment of Capital Facility Capacity Fees in connection with residential tracts and commercial building permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral on or before June 30, 2011.

4.2.1 Extreme Hardship Cases: At the discretion of the Director, the County of San Diego may approve payment plans for collection of Capital Facility Capacity Fees. Payment must be paid in full within 12 months. Customers must submit written request for establishment of a payment plan, including demonstration of extreme hardship.

Section 8. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 25th day March, 2009.