

ORDINANCE NO. 12

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE COSUMNES COMMUNITY SERVICES DISTRICT RELATING TO THE DEFERRAL OF FIRE DEVELOPMENT IMPACT FEES

WHEREAS, the Cosumnes Community Services District (“District”) requires the payment of fire development impact fees to help address the impacts of new development; and

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

WHEREAS, the District recognizes that in some cases deferring the payment of development impact fees to a later date may assist in the development of projects; and

WHEREAS, City of Elk Grove Municipal Code Chapter 16.120 allows for the deferral of certain development impact fees for residential and non-residential developments; and

WHEREAS, Sacramento County Code Chapters 16.95, 16.100, and 16.120 allow for the deferral of certain development impact fees for non-residential, affordable housing, and residential projects, respectively; and

WHEREAS, the Board of Directors desires, through the adoption of this Ordinance, to provide for the deferral of fire development impact fees under specified circumstances.

NOW, THEREFORE, the Board of Directors of the Cosumnes Community Services District does hereby ordain as follows:

Section 1. Purpose. The Board of Directors desires to encourage the construction of development projects within the District. Fire development impact fees are currently imposed at the time of issuance of a building permit. The Board of Directors finds that the existing requirements for payment of development impact fees for new development may at times create a barrier to such development by requiring developers to retain a significant amount of cash or in-kind funds to pay development impact fees upon issuance of a building permit. Pursuant to the foregoing, the Board of Directors desires, by the adoption of this Ordinance, to ease this barrier by temporarily allowing new developments to request the deferral of certain fire development impact fees.

Section 2. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance would establish a program to allow for the deferral of certain fire development impact fees and does not propose nor authorize any action that would have the potential to cause a significant adverse effect on the environment. Furthermore, this Ordinance explicitly requires that a project must have completed all environmental compliance

requirements in order to be eligible for the deferral of certain fire development impact fees. Thus, it can be established with certainty that this Ordinance will not have a significant adverse effect on the environment and is therefore not subject to CEQA. Pursuant to the foregoing, a Notice of Exemption has been prepared and completed in accordance with CEQA.

Section 3. Deferral of Fire Development Impact Fees.

I. DEFERRED FEES. The District may defer any or all of the development impact fees set forth in Ordinance 10 pursuant to the provisions of this Ordinance. Any fees not provided in Ordinance 10 shall be paid pursuant to applicable Federal, State or local regulations including, without limitation, fees related to the California Environmental Quality Act.

II. DEFINITIONS. Unless otherwise provided in this Ordinance, all terms shall have the meaning ascribed to that term in the applicable Local Agency's fee deferral program.

(a) "*Deferred Fees*" means any fire development impact fees set forth in Ordinance 10 that are eligible for deferral pursuant to this Ordinance.

(b) "*Local Agency*" means the City or County having jurisdictional authority over the property for which Deferred Fees are to be assessed. Except as otherwise provided in Section 3.VI of this Ordinance, this Ordinance shall only apply within the jurisdictional boundaries of a Local Agency with whom the District has executed a valid contract authorizing the Local Agency to accept applications for and process the deferral of Deferred Fees on the District's behalf.

III. FEE DEFERRAL PROGRAM.

(a) *Program Application.* Any application submitted to a Local Agency for the deferral of development impact fees shall automatically be deemed by the District to include a request for Deferred Fees.

(b) *Local Agency Fee Deferral Program.* Unless otherwise provided in this Ordinance, all terms, conditions and restrictions set forth in the Local Agency Fee Deferral Program shall apply to Deferred Fees.

IV. APPROVAL OF DEFERRED FEES.

(a) No project shall be eligible for deferral of Deferred Fees unless all of the following conditions are met:

(i) The project is located within the Cosumnes Community Services District.

(ii) The project shall have undergone all required environmental review and shall be in compliance with all requirements established by the environmental document prepared for the project.

(iii) All conditions of approval, as applicable at the time of permit issuance, shall have been met.

(iv) All payments of taxes and assessments on the property on which the project is located shall be current.

(v) The Applicant shall have no unpaid balances due to the District for the project or any other project or purpose.

(vi) The Applicant and/or his, her, or its partners and affiliates on the project shall have been deemed by the District to present a low risk of non-payment of fees or costs.

(viii) All fees imposed by the Local Agency shall have either been paid or deferred by the Local Agency.

(b) The Local Agency shall notify the District of any receipt of an application for deferral of development impact fees which may include Deferred Fees. Deferred Fees shall be approved or denied by the District General Manager if the sum of the Deferred Fees is less than fifteen thousand dollars (\$15,000). Deferred Fees shall be approved or denied by the Board of Directors if the sum of the Deferred Fees is equal to or exceeds fifteen thousand dollars (\$15,000). All such approvals shall be based on the criteria in subsection (a) of this Section, and may be withheld if the approval criteria are not met, or if the approval criteria are met if the approving person or body finds that it is not in the District's interest to approve the Deferred Fees.

(c) The Local Agency shall not defer any Deferred Fees without the written authorization of the approving person or body as set forth in subsection (b) of this Section. Any revisions, modifications or amendments made by either the Applicant or the Local Agency to an Applicant's Deferred Fees which have already been approved by the District are invalid unless and until such revisions, modifications or amendments have been resubmitted to and approved by the District in accordance with subsection (b) of this Section.

V. ADMINISTRATION CHARGE. The Board of Directors may, by resolution, establish a processing and administration fee to cover the reasonable costs of administering the fee deferral program established by this Ordinance. This processing and administration fee shall be placed in the general fund and shall provide a revenue source to cover costs associated with tracking the Deferred Fees.

VI. FEE DEFERRAL AGREEMENTS. Notwithstanding the foregoing provisions of this Ordinance, the Board of Directors may, by resolution, execute an agreement with an individual that submits an application for a deferral of fire development impact fees directly to the District, upon a determination that the individual applicant has met the conditions set forth in subdivisions (a)(i) through (a)(vi) of Section 3.IV, the applicant is the intended or current occupant of the property, the applicant meets or substantially complies with the Local Agency Fee Deferral Program or, if there is none, with the Local Agency Fee Deferral Program for the City of Elk Grove, and that such an agreement is in the best interest of the public health, safety

and welfare. The District General Manager or his or her designee is authorized to negotiate the terms and conditions of such an agreement.

Section 4. Termination of Ordinance 11. Upon the effective date of this Ordinance, this Ordinance shall supersede Urgency Ordinance No. 11 and shall thereby cause Urgency Ordinance No. 11 to immediately terminate and be of no further force and effect.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This Board of Directors hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 6. Effective Date, Expiration and Publication. This Ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the Cosumnes Community Services District.

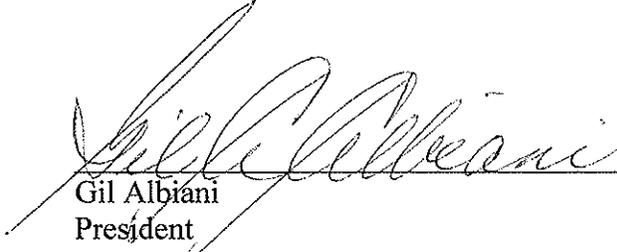
PASSED AND ADOPTED this 16th day of September, 2009 by the following vote:

AYES: Albiani, Orrock, Rutter, Wright

NOES: None

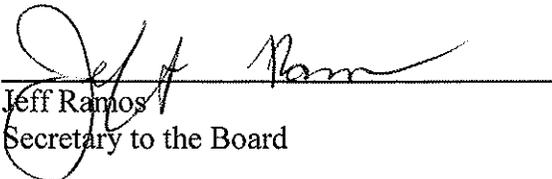
ABSENT: Grueneberg

ABSTAIN: None



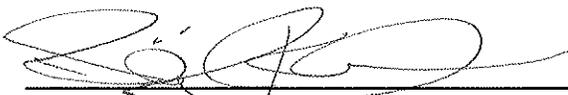
Gil Albiani
President

ATTEST:



Jeff Ramos
Secretary to the Board

APPROVED AS TO FORM:



Sigrid K. Asmundson
General Counsel