

## ORDINANCE NO. 1678

The Board of Supervisors of the County of Amador County ordains as follows:

SECTION 1. Section 7.85.010 shall be amended to read as follows:

7.85.010 Short title—Definitions.

This chapter is known and may be cited as the “Amador County Temporary Development Impact Fee Deferral Ordinance.” The following words and phrases are defined for purposes of this Chapter as follows:

A. “Applicant” means the owner or owners of record of the real property for which a fee waiver or deferral is sought pursuant to this Chapter.

B. “Board” means the Board of Supervisors of Amador County.

C. “Code ” means the Amador County Municipal Code.

D. “Commercial project” means any residential or business activities other than those defined under the category “residential.” For the purposes of this Chapter, “commercial” shall include without limitation townhome projects, condominium projects, residential triplexes, residential fourplexes, residential PD zoning districts, and residential apartment complexes in addition to commercial, industrial or other non-residential activities.

E. “County” means the County of Amador.

F. “Fee deferral agreement (commercial)” means an agreement, including a deed of trust, by and between the applicant for a commercial project and the County, acceptable to the county counsel in both form and content, which is a prerequisite for approval for any fee deferral on a commercial project under this Chapter.

G. “Fee deferral agreement (residential)” means an agreement, including a deed of trust, by and between the applicant for a residential project and the County, acceptable to the county counsel in both form and content, which is a prerequisite for approval for any fee deferral on a residential project under this Chapter.

H. “Impact fees” means the facilities development fee imposed under Chapter 7.86, and the park and recreation impact fee imposed under Chapter 7.90.

I. “Interest” means the amount of interest equal to the annual rate of interest that the county earns on its investment of pooled funds computed from the date the deferred impact fees are deemed to begin accruing interest under this Chapter, to the date when the deferred impact fees are paid in full.

J. “Maximum deferral period (commercial)” means the period from the date of building permit issuance to the date of initial occupancy of a structure constructed on a parcel subject to a fee deferral agreement (commercial), or at the close of escrow of said parcel, whichever occurs

earlier, but in no event later than eighteen months from the date of issuance of the building permit.

K. "Maximum deferral period (residential)" means the period from the date of building permit issuance to the date of close of escrow for a structure constructed on a parcel subject to a fee deferral agreement (residential), but in no event later than twenty-four months from the date of issuance of the building permit.

L. "Maximum impact fee deferral" means a deferral of (1) one hundred percent of the facilities development fee imposed under Chapter 7.86 and (2) one hundred percent of the park and recreation impact fee imposed under Chapter 7.90.

M. "Maximum impact fee waiver" means a waiver of (1) one hundred percent of the facilities development fee imposed under Chapter 7.86 and (2) \$3,300 of the park and recreation impact fee imposed under Chapter 7.90.

N. "Partial impact fee deferral" means a deferral of (1) fifty percent of the facilities development fee imposed under Chapter 7.86 and (2) fifty percent of the park and recreation impact fee imposed under Chapter 7.90.

O. "Partial impact fee waiver" means a waiver of (1) fifty percent of the facilities development fee imposed under Chapter 7.86 and (2) fifty percent of the park and recreation impact fee imposed under Chapter 7.90.

P. "Residential project" means either a single-family residence or a residential duplex, together with any other structures associated with either of the above. Townhome projects and condominium projects are not included within the meaning of "residential project."

Q. "Property" means the real property upon which the building or structure subject to the building permit is proposed to be constructed.

SECTION 2. Section 7.85.030 shall be amended to read as follows:

7.85.030 Waiver and deferral of impact fees for residential projects.

A. Notwithstanding any other provisions of this code, for the first thirty (30) building permits for residential projects for which application is made during the period from June 1, 2008 through June 30, 2008, a portion of the impact fees imposed on new residential buildings and structures located in the county shall be waived upon application by an applicant or its contractor in accordance with the following:

1. Neither an applicant nor its contractor shall receive a maximum impact fee waiver for more than two residential projects for which application for building permits is made for the period from June 1, 2008 through June 30, 2008. Both an applicant and its contractor shall sign a certification under penalty of perjury stating that, including the waiver for which application is currently being made, neither the applicant nor its contractor will have received waivers in excess of the two waivers allowed under this subsection A.

2. Applicants for residential projects shall receive a maximum impact fee waiver for permits applied for during the period June 1, 2008 through June 30, 2008, up to an aggregate total of thirty (30) residential project maximum fee waivers for all applicants.

B. Notwithstanding any other provisions of this code, for the first thirty (30) building permits for residential projects for which application is made during the period from July 1, 2008 through December 31, 2008, a portion of the impact fees imposed on new residential buildings and structures located in the county shall be waived and a portion deferred upon application by an applicant or its contractor in accordance with the following:

1. Applicants for residential projects shall receive a partial impact fee waiver for the first thirty (30) residential project permits applied for during the period July 1, 2008 through December 31, 2008. At the request of the applicant, the applicant shall receive a partial impact fee deferral in addition to the partial impact fee waiver.

2. In order to receive the partial impact fee deferral, the applicant shall provide to the building department, at the applicant's sole cost and expense, a current preliminary title report on the Property. All deferred impact fees shall be paid no later than the end of the maximum deferral period (residential). No deferral shall be effective until a fee deferral agreement (residential) is executed by the owner, which, along with a deed of trust, shall be recorded as a first priority lien against the Property until all deferred impact fees are paid, subject to B.4 below.

3. In the event the fee deferral agreement (residential) and the deed of trust are not recorded as a first priority lien against the Property, they must be recorded in no less than a second position with the applicant providing additional security approved by the county administrative officer.

4. Notwithstanding any provisions to the contrary, if the deferred impact fees are not paid at the time due hereunder, (i) interest shall begin to accrue from the date of issuance of the initial building permit until all amounts due are paid; (ii) the additional sum of \$1,000 shall be added to the unpaid amount to cover the initial administrative costs incurred in processing the fee deferral application; (iii) the county may pursue collection through all available legal and administrative means including, without limitation, judicial or non-judicial foreclosure; and (iv) the applicant shall pay all county's costs of collection, including without limitation attorneys' fees and costs.

C. Notwithstanding any other provisions of this code, for the next sixty (60) building permits for residential projects for which application is made during the period from July 1, 2008 through December 31, 2008, a portion of the impact fees imposed on new residential buildings and structures located in the county shall be deferred upon application by an applicant in accordance with the following:

1. At the request of the applicant, applicants for residential projects shall receive a maximum impact fee deferral for the next sixty (60) residential project permits applied for during the period July 1, 2008 through December 31, 2008.

2. In order to receive the maximum impact fee deferral, the applicant shall provide to the building department, at the applicant's sole cost and expense, a current preliminary title report on the Property. All such deferred impact fees shall be paid no later than the end of the maximum deferral period (residential). No deferral shall be effective until a fee deferral agreement (residential) is executed by the owner, which, along with a deed of trust, shall be recorded as a first priority lien against the Property until all deferred impact fees are paid, subject to B.4 below.

3. In the event the fee deferral agreement (residential) and the deed of trust are not recorded as a first priority lien against the Property, they must be recorded in no less than a second position with the applicant providing additional security approved by the county administrative officer.

4. Notwithstanding any provisions to the contrary, if the deferred impact fees are not paid at the time due hereunder, (i) interest shall begin to accrue from the date of issuance of the initial building permit until all amounts due are paid; (ii) the additional sum of \$1,000 shall be added to the unpaid amount to cover the initial administrative costs incurred in processing the fee deferral application; (iii) the county may pursue collection through all available legal and administrative means including, without limitation, judicial or non-judicial foreclosure; and (iv) the applicant shall pay all county's costs of collection, including without limitation attorneys' fees and costs.

SECTION 3. Section 7.85.040 shall be amended to read as follows:

7.85.040 Deferral of impact fees for commercial projects.

Notwithstanding any other provisions of this code, all or a portion of the impact fees imposed on new commercial projects located in the county may be deferred for a time not to exceed the maximum deferral period (commercial) upon application by an applicant or its contractor in accordance with the following:

A. The deferral of one hundred percent of the impact fees shall apply to commercial projects for which application for building permits is made during the period June 1, 2008 through December 31, 2008.

B. The applicant shall provide to the Building Department, at the applicant's sole cost and expense, a current preliminary title report on the property.

C. No deferral shall be effective until a fee deferral agreement (commercial) is executed by the applicant, which, along with a deed of trust, shall be recorded as a first priority lien against the property until all deferred impact fees are paid, subject to D below.

D. The fee deferral agreement (commercial) shall provide for accrual of interest on unpaid impact fees commencing with the date of issuance of the building permit.

E. In the event the fee deferral agreement (commercial) and the deed of trust are not recorded as a first priority lien against the property, they must be recorded in no less than a second position with the applicant providing additional security approved by the county administrative officer.

F. Notwithstanding any provisions to the contrary, if the deferred impact fees and all accrued interest are not paid at the time due hereunder:

1. The additional sum of \$1,000 shall be added to the unpaid amount to cover the initial administrative costs incurred in processing the fee deferral application;

2. The County may pursue collection through all available legal and administrative means including, without limitation, judicial or non-judicial foreclosure; and s

3. The applicant shall pay all county's costs of collection, including without limitation attorneys' fees and costs.

SECTION 4. Section 7.85.060 shall be amended to read as follows:

7.85.060 Compliance with laws, ordinances, rules and regulations; timetable for completion.

A. In the event that an applicant fails to comply with all laws, ordinances, rules and regulations applicable to the property, then the applicant will be liable for all impact fees that would have been assessed against the property in the absence of the application of this Chapter 7.85. All such waived or deferred impact fees, together with accrued interest in accordance with this Chapter 7.85, shall be immediately due and payable to the county. For the purposes of this subsection, laws, ordinances, rules and regulations shall include without limitation complying with all zoning requirements and calling for all building inspections when due, including a final inspection and all requirements for finalling the building permit.

B. In order to receive the incentives set forth in this Chapter, the applicant shall comply with the following timetable. If the applicant fails to comply with the timetable set forth below, then the applicant will be liable for all impact fees that would have been assessed against the property in the absence of the application of this Chapter 7.85. All such waived or deferred impact fees, together with accrued interest in accordance with this Chapter 7.85, shall be immediately due and payable to the county:

1. The applicant shall commence construction on the project no later than 180 days after the date of application for the building permit. This deadline may be extended by one six-month extension.

2. The applicant shall diligently pursue completion of the project and shall timely request inspections and finalize the permit in accordance with the provisions of the building code.

SECTION 5. Section 7.85.070 shall be amended to read as follows:

7.85.070 Applicability.

This Chapter and the incentives derived hereunder shall apply only to new development projects that apply for building permits on or after June 1, 2008 through December 31, 2008 for residential projects, and June 1, 2008 through December 31, 2009 for commercial projects. This Chapter and the incentives derived hereunder shall not apply to (i) building permits for projects

submitted prior to June 1, 2008 that are withdrawn and resubmitted after June 1, 2008, or (ii) buildings that have been completed for which no building permits were previously applied for.

SECTION 6. This ordinance or a summary thereof shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 5<sup>th</sup> day of August 2008 by the following vote:

AYES: Richard M. Forster, Theodore Novelli, Louis D. Boitano, Rich F. Escamilla, and Brian Oneto

NOES: None

ABSENT: None

  
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Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the  
Board of Supervisors, Amador County,  
California

  
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Deputy