



City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: December 16, 2008

SUBJECT: Development Impact Fee Deferral Program

Report in Brief

The City of Woodland has been meeting with Spring Lake developers/homebuilders for the past 16 months to address issues associated with residential development and the impact that current market conditions have had on new construction. Additionally, some commercial developers have also expressed that they are experiencing financial constraints due to the current state of the U.S. economy. Consequently, some developers/homebuilders have requested that the City of Woodland implement a fee deferral program to provide some relief with the cost of new construction.

Staff recommends that the City Council adopt an Urgency Ordinance adding Chapter 6B to the City of Woodland Municipal Code allowing for the deferral of certain impact fees for market-rate residential and non-residential projects.

This Urgency Ordinance will require a four-fifth vote by the City Council for adoption.

Background

The construction of new residential and non-residential development has been severely hindered by the recent downturn in the economic and financial market, making it difficult if not impossible for several developers within the City to obtain financing to cover the initial costs of development. The reduction of new residential and non-residential developments has left large tracts of land located throughout the City vacant and undeveloped. The inability of developers to construct new development within the City due to the substantial financial commitment for many projects has restricted the City's revenue through the loss of potential building permits, tax revenue and/or sales tax revenue.

Given that most development impact fees are collected by cities at building permit issuance, on August 1, 2008, in response to the downturn in the housing market, the California Legislature adopted AB 2604, which amends Government Code section 66007 effective January 1, 2009 to

specifically allow local agencies to defer the collection of development impact fees for residential projects to the close of escrow.

The City of Woodland, like many other cities has been asked by representatives from Centex, KB Homes, the Building Industry Association (BIA), and several commercial developers to implement a Development Impact Fee Deferral program to provide a certain level of financial relief and assist them with the cost of new construction.

In response, staff analyzed various Fee Deferral Programs implemented by other cities and counties in the Sacramento region. As a discussion item, the fee deferral concept and a summary of the analysis were presented to the City Council Spring Lake Financial Subcommittee on September 29, 2008. The Subcommittee and represented developers/homebuilders felt a fee deferral program would be beneficial to all stakeholders. Staff was instructed to continue with a draft ordinance.

Staff continued to work on a draft ordinance and prepared a summary report that highlighted major components of the Ordinance. Staff distributed the summary report to both to the Spring Lake Financial Subcommittee and represented developers/homebuilders and did not receive any comments from stakeholders. Staff proceeded to finalize the Ordinance for City Council review and announced at the December 1, 2008 Financial Subcommittee meeting that the Ordinance was moving forward with a recommended effective date of January 1, 2009.

Discussion

The City of Woodland's current Building Ordinance Chapter 6, section 6-1-2(f)(ii) states that "Facilities fees shall be paid by each applicant concurrent with the issuance of a building permit." Like the City of Woodland, most cities currently collect these fees at permit issuance; however many of these cities have implemented or have recently revised fee deferral programs to allow developers/homebuilders to pay development impact fees at final inspection, certificate of occupancy, close of escrow, or within a defined period of time.

Ordinance/Program Major Components. Staff has reviewed ordinances and programs implemented by the cities of Folsom, Roseville, Elk Grove, and Lincoln. Staff also looked at Sacramento County's standing fee deferral program. This information will be compared and contrasted with Woodland's proposed Ordinance in the following analysis. In all instances, jurisdictions implemented programs that deferred the Development Impact Fees under their direct control. The jurisdictions also introduced new or amended existing ordinances that set parameters for the program. All jurisdictions had the following major components in common and addressed them in their ordinance or program:

- **Length of Deferral (Maximum deferral period):** The length of the deferral period is the period from the date of issuance of the building permit in which any Deferred Fees may remain unpaid for any Residential/Non-residential development.

The length of deferral between all cities varied from 6 months to 24 months.

Proposed Woodland Ordinance: The proposed deferral period would allow staff to anticipate development impact fees and budget appropriately as fees are related to capital projects in the MPFP.

1. Residential: Will allow fee deferral for a maximum of 12 months and will include language to give staff the discretion to shorten the deferral period from 6-12 months. The deferral period may be extended at the discretion of the City Council prior to the expiration of the Residential Maximum Deferral Period.
 2. Non-residential (Commercial & Industrial): Will allow fee deferral for a maximum of 24 months. The deferral period may be extended at the discretion of the City Council prior to the expiration of the Non-Residential Maximum Deferral Period.
- **When Fees are Due:** Similar to length of deferral, this component of the program specifically triggers when the fees are due. Fees due are triggered by the earlier of a certain action such as a Final Inspection, Close of Escrow, Certificate of Occupancy, a date in a Fee Deferral Agreement, or the expiration of the fee deferral period. Of those jurisdictions that staff reviewed, all had varying triggers.

Proposed Woodland Ordinance:

1. Residential: Will require that fees be due at final inspection, but no later than the maximum deferral period, whichever comes first.
 2. Non-residential (Commercial & Industrial): Will require that fees be paid at a mutually agreed upon date, per the Fee Deferral Agreement, or at the request for final inspection under a building permit and/or a Certificate of Occupancy and no later than the maximum deferral period, whichever comes first.
- **Fee Amount at the Time of Payment:** This component of the program states the rate(s) of fees the “applicant” would pay when fees are due. Most cities (3 of 5) require that the “applicant” pay deferred fees at the rate(s) when the application was approved or when permits were issued. The City of Elk Grove and Sacramento County require the “applicant” to pay fees at the rate(s) in effect at the time when the payment is due.

Proposed Woodland Ordinance:

1. Residential: will require that fees be paid at the rate(s) when building permits are issued.
2. Non-residential (Commercial & Industrial): will require that fees be paid at the rate(s) when building permits are issued.

- **Length of Ordinance:** Most cities (4 of 5) revised current or adopted fee deferral programs with no sunset date. The cities of Roseville, Lincoln, and Sacramento County already had standing fee deferral programs in place that were modified to either include a residential or a non-residential component of the program. The City of Folsom did not place a sunset date on their program when it was passed by its City Council; and the City of Elk Grove's program expires on June 30, 2010, at which time their City Council can extend it.

Proposed Woodland Ordinance: Will implement a program with a sunset date of June 30, 2011, with the provision that City Council can extend the program at the expiration date.

- **Security Against Deferred Fees:** To ensure payment of deferred fees some cities are using various instruments such as deeds of trust or liens and recording them against the property, while other cities are using final inspection as leverage to ensure the payment of deferred fees. In analyzing all five cities, there was no common standard. All cities required security differently based on the type of deferral. For instance, for residential projects, the City of Roseville does not require security for those applicants whose fees are due at final inspection, and will require a deed of trust for those whose fees are due at close of escrow.

Proposed Ordinance:

1. Residential: Will record a lien against the property.
2. Non-residential (Commercial & Industrial): Will be secured by a security instrument mutually agreed upon by both City and Developer.

Discretionary Approval. From a risk assessment standpoint, staff also looked into the issue discretionary approval for the proposed program and its ramifications. Typically, a discretionary fee deferral program would trigger prevailing wages because under the California Department of Industrial Relations rules and regulations, it would be considered a loan of public funds. To comply with state law, the City would generally have several options in addressing prevailing wage: either (1) make the program non-discretionary and apply the program across the board allowing any interested party with an eligible project to request and be granted a fee deferral, (2) collect interest on deferred fees for any project with a fee deferral agreement, or (3) require prevailing wage and indemnification from developers/homebuilders.

As mentioned previously herein, effective January 1, 2009 SB 2604 will allow for local agencies to defer fees to the close of escrow. By adopting this piece of legislation, the State eliminated the issue of prevailing wage for residential projects and allows all local agencies to implement discretionary programs. However, this still leaves non-residential projects with the issue of prevailing wage. Based on the City's options and in order to minimize the City's risk, staff is recommending the following:

Proposed Woodland Ordinance:

1. Residential: Will implement eligibility criteria and approval discretion for all projects requesting a fee deferral with no interest assessed during the deferral period.

2. Non-residential (Commercial & Industrial): Will implement eligibility criteria and approval discretion for all projects requesting a fee deferral; will assess interest on deferred fees equal to the annual rate of interest earned by the City of Woodland on the investment of pooled funds (LAIF rate), computed on the unpaid amount from the date of execution of the Fee Deferral Agreement to the time of payment for each project.

The levels of approval described below were not compared with other cities; staff analyzed this issue from a City of Woodland perspective to ensure an appropriate, efficient, and timely process. Staff is recommending the following levels of approval:

Proposed Woodland Ordinance:

1. Fee Deferral Agreements will be approved and executed by the Assistant City Manager or designee if the sum of Deferred Fees is less than one million dollars (\$1,000,000).
2. Fee Deferral Agreements will be approved by the City Council and executed by the City Manager if the sum of Deferred Fees is equal to or exceeds one million dollars (\$1,000,000).

Eligible Fees. Prior to identifying eligible fees, Finance staff closely reviewed all development impact fees to determine what fees could be deferred without having an adverse fiscal impact. Of these fees, the Wastewater, Parks, and Fire fees are not recommended for deferral. All three (3) fee types are tied to debt service that would otherwise have to be paid with the City's General Fund, if deferred.

Staff has identified the following Development Impact fees eligible for deferral. Deferral of these fees will not have an adverse fiscal impact on the City.

1. General City
2. Library
3. Police
4. Water
5. Roads
6. Administration
7. Storm Drain

Based on existing Council approved fees and proposed reduced fees, deferral of certain development impact fees would provide the following temporary financial relief to developers. Note that "other city" or infill projects do not account for storm drain. The rate for Storm Drain will vary based the proposed location of the project.

- Single Family Development Impact Fees (Spring Lake)
Current Fees: Total Fees: \$26,330; Percent Deferred: 49% or \$12,896.
Reduced Fees: Total Fees: \$19,168; Percent Deferred: 49% or \$9,558.
- Single Family Development Impact Fees (Other City)
Current Fees: Total Fees: \$29,903 (not including Storm Drain); Percent Deferred: 43% or \$12,923.
Reduced Fees: Total Fees: \$21,878 (not including Storm Drain); Percent Deferred: 43% or \$9,578.
- Downtown Single Family Development Impact Fees (Spring Lake)
Current Fees: Total Fees: \$24,633; Percent Deferred: 45% or \$11,199.
Reduced Fees: Total Fees: \$17,860; Percent Deferred: 46% or \$8,250.
- Downtown Single Family Development Impact Fees (Other City)
Current Fees: Total Fees: \$28,205 (not including Storm Drain); Percent Deferred: 39% or \$11,225.
Reduced Fees: Total Fees: \$20,570 (not including Storm Drain); Percent Deferred: 40% or \$8,270.
- High-Density Single Family (Spring Lake)
Current Fees: N/A (New Fee Category).
Proposed Fees: Total Fees: \$14,736; Percent Deferred: 46% or \$6,821.
- High-Density Single Family (Other City)
Current Fees: N/A (New Fee Category).
Proposed Fees: Total Fees: \$16,994 (not including Storm Drain); Percent Deferred: 40% or \$6,838
- Age-restricted Single Family (Spring Lake)
Current Fees: N/A (New Fee Category).
Proposed Fees: Total Fees: \$9,796; Percent Deferred: 38% or \$3,780.
- Age-restricted Single Family (Other City)
Current Fees: N/A (New Fee Category).
Proposed Fees: Total Fees: \$11,422 (not including Storm Drain); Percent Deferred: 33% or \$3,792
- Multifamily Development Impact Fees (Spring Lake)
Current Fees: Total Fees: \$20,450; Percent Deferred: 46% or \$9,401.
Reduced Fees: Total Fees: \$14,736; Percent Deferred: 46% or \$6,821.

- **Multifamily Development Impact Fees (Other City)**
Current Fees: Total Fees: \$23,427 (not including Storm Drain); Percent Deferred: 40% or \$9,423.
Reduced Fees: Total Fees: \$16,994 (not including Storm Drain); Percent Deferred: 40% or \$6,838
- **Non-residential Development Impact Fees:** All development impact fees are based the square footage of a project. The rate per square foot will vary depending whether the project is retail, service, office, downtown retail, or industrial. The rate for Storm Drain will also vary based proposed location of the project.

Spring Lake Infrastructure Fees (SLIF). Staff also looked at Spring Lake Infrastructure Fees (SLIF) to determine whether or not they were deferrable. Based on Finance staff review, it was determined that most developers/homebuilders were already using fee credits to pay for SLIF fees and therefore deferring these fees would not encourage development. Remaining SLIF fees that developers/homebuilders are required to pay and are not fee-creditable are the Parks SLIF and Administration SLIF. In considering these fees, it was determined that deferring these fees was not feasible as they are tied to the financing of the Spring Lake Neighborhood Park that is scheduled for construction to begin in August/September 2009.

Fiscal Impact

The fiscal impact to the City would be a potential net loss of interest earnings for each residential lot that is approved. There would be no fiscal impact for non-residential projects as the City would collect interest for each approved project that also takes advantage of the City's fee deferral program.

Public Contact

Posting of the City Council agenda.

Council Committee Recommendation

The City Council Spring Lake Financial Subcommittee has recommended that staff present the Fee Deferral Program Urgency Ordinance to City Council for consideration.

Alternative Courses of Action

1. Adopt an Urgency Ordinance adding Chapter 6B to the City of Woodland Municipal Code allowing for the deferral of certain impact fees for market-rate residential and non-residential projects.
2. Request that staff make changes to the proposed ordinance.
3. Cease further consideration of a proposed development impact fee deferral program and continue to collect fees at building permit issuance.

Recommendation for Action

Staff recommends that the City Council approve Alternative No. 1.

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Management Analyst

Reviewed by: Barry Munowitch, AICP
Assistant City Manager

Mark G. Deven
City Manager

Attachment: Ordinance

ORDINANCE NO. _____

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WOODLAND, CALIFORNIA, ADDING CHAPTER 6B TO THE
WOODLAND MUNICIPAL CODE RELATING TO
THE DEFERRAL OF CERTAIN DEVELOPMENT IMPACT FEES**

WHEREAS, California Government Code section 36937, subdivision (b) empowers cities to adopt, by a four-fifths vote, an urgency ordinance which is necessary for the immediate preservation of the public peace, health or safety; and

WHEREAS, the City of Woodland (“City”) requires the payment of various development impact fees to help address the impacts of new development; and

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

WHEREAS, the construction of new residential and non-residential development has been severely hindered by the recent downturn in the economic and financial market, making it difficult if not impossible for several developers within the City to obtain financing to cover the initial costs of development; and

WHEREAS, the reduction of new residential and non-residential developments has left large tracts of land located throughout the City vacant and undeveloped; and

WHEREAS, the inability of developers to construct new development within the City due to the substantial financial commitment for many projects has restricted the City’s revenue through the loss of potential *ad valorem* tax revenue and/or sales tax revenue; and

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

WHEREAS, the California Legislature shares this recognition of the benefit of deferring fees, and has adopted SB 2604, which amends Government Code section 66007 effective January 1, 2009 to specifically allow local agencies to defer the collection of development impact fees for residential projects; and

WHEREAS, the City Council desires, through the adoption of this Urgency Ordinance, to provide for the deferral of certain development impact fees under specified circumstances; and

WHEREAS, the City Council desires to enact this Urgency Ordinance pursuant to Government Code section 36937 in order to immediately establish a fee deferral program to assist in the continuation of new development previously approved by the City; and

WHEREAS, adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety to allow for the continued development of new residential and non-residential projects which, upon completion, will contribute to the aesthetic appeal of the City and generate essential tax revenue to fund general public services provided by the City;

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

Section 1. Purpose. The purpose of this Urgency Ordinance is to add Chapter 6B to the Woodland Municipal Code to temporarily allow new developments to request the deferral of certain development impact fees.

Section 2. Authority. The City Council enacts this Urgency Ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution.

Section 3. Urgency Findings. The City Council hereby adopts the recitals set forth in this Urgency Ordinance as findings to support adoption of the provisions contained herein. This Urgency Ordinance is enacted pursuant to Government Code sections 36934 and 36937 for the immediate preservation of the public peace, health and safety.

Section 4. CEQA. The adoption of this Urgency 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 Urgency Ordinance would establish a program to allow for the deferral of certain 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 Urgency Ordinance explicitly requires that a project must have completed all environmental compliance requirements in order to be eligible for the deferral of certain development impact fees. Thus, it can be established with certainty that this Urgency 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 5. Addition. Chapter 6B is hereby added to the Woodland Municipal Code to read as follows:

CHAPTER 6B

DEFERRAL OF DEVELOPMENT IMPACT FEES

Sections:

- 6B-010. Title.
- 6B-020. Purpose.
- 6B-030. Deferred Fees.
- 6B-040. Definitions.
- 6B-050. Fee Deferral Program.
- 6B-060. Approval of Fee Deferral.
- 6B-070. Program Application.
- 6B-080. Interest.
- 6B-090. Fee Adjustments.
- 6B-100. Administrative Charge.
- 6B-110. Expiration.

6B-010. TITLE. This Chapter shall be known and cited as the “Deferral of Development Impact Fees.”

6B-020. PURPOSE. The City Council of the City of Woodland desires to encourage the construction of residential and nonresidential development projects within the City. The City Council finds that the existing requirements for payment of certain development impact fees for new development create a barrier to such development by requiring developers to retain a significant amount of cash or in-kind funds to pay certain development impact fees upon issuance of a building permit. Pursuant to the foregoing, the City Council desires, by the adoption of this Chapter, to ease this barrier by deferring the payment of certain development impact fees.

6B-030. DEFERRED FEES.

(a) The City may defer any or all of the following development impact fees pursuant to the provisions of this Chapter:

- (i) General City;
- (ii) Library;
- (iii) Police;
- (iv) Water;
- (v) Roads;
- (vi) Administration;
- (vii) Storm Drain

(b) The development impact fees set forth in this Section 6B-030 shall be further defined in the Guidelines. This Section 6B-030 provides the exclusive list of fees which may be deferred pursuant to this Chapter. Any fees not provided in this Section shall be paid pursuant to applicable Federal, State or local regulations including, without limitation, fees related to the California Environmental Quality Act.

6B-040. DEFINITIONS.

(a) “APPLICANT” means the owner or owners of record for the real property on which an Approved Development Project is to be located.

(b) “APPROVED DEVELOPMENT PROJECT” means a development project that has received final discretionary action by the City and which is in compliance with all federal, state and local requirements including, without limitation, environmental requirements due prior to issuance of a building permit.

(c) “DEFERRED FEES” means any development impact fees, as set forth in Section 6B-030, that the City has agreed to defer pursuant to a Fee Deferral Agreement. “Deferred Fees” shall include any accrued interest, if applicable.

(d) “FEE DEFERRAL AGREEMENT” means a standardized agreement satisfactory to the City and approved by the City Attorney, executed by and between the Applicant and the City for the purpose of approving the deferral of certain Deferred Fees. The Fee Deferral Agreement shall require the Applicant to indemnify, defend and hold harmless the City and its officials, officers, agents and employees for any claims, causes of action or damages/cost arising from the City’s temporary deferral of the Deferred Fees. A Fee Deferral Agreement is specific to an Approved Development Project and is non-transferable to another Applicant or another Approved Development Project.

(e) “GUIDELINES” means the Public Facilities Fee Program Administrative Guidelines created by the Engineer Division of the City Community Development Department, as amended from time to time.

(f) “MARKET-RATE RESIDENTIAL DEVELOPMENT” means an Approved Development Project consisting of single-family or multifamily residential units sold or rented at prevailing market-rates and free of any affordability restrictions.

(g) “NON-RESIDENTIAL DEVELOPMENT” means a development project in which at least fifty-one percent (51%) of the occupiable square footage is used for non-residential purposes including, without limitation, commercial or industrial uses.

(h) “NON-RESIDENTIAL MAXIMUM DEFERRAL PERIOD” means the twenty-four (24) month period from the date of issuance of the building permit in which any Deferred Fees may remain unpaid for any Non-Residential Development. The Non-Residential Maximum Deferral Period for any building permit may be extended at the discretion of the City Council prior to the expiration of the Non-Residential Maximum Deferral Period.

(i) “RESIDENTIAL MAXIMUM DEFERRAL PERIOD” means the maximum period in which any Deferred Fees may remain unpaid for any Market-Rate Residential Development, which shall be determined by the Assistant City Manager or his or her designee and set forth in the Fee Deferral Agreement; provided, however, that the Residential Maximum Deferral Period shall not exceed twelve (12) months from the date of issuance of the building permit. The Residential Maximum Deferral Period for any building permit may be extended at the discretion of the City Council prior to the expiration of the Residential Maximum Deferral Period.

6B-050. FEE DEFERRAL PROGRAM.

(a) *Market-Rate Residential Development.*

(i) An Applicant must enter into a Fee Deferral Agreement to qualify for a deferral of development impact fees for a Market-Rate Residential Development. The Fee Deferral Agreement shall explicitly provide for the recordation of a lien against the real property on which the Approved Development Project is to be located, which shall be removed upon payment in full of all Deferred Fees. All costs assessed by the County for the recordation of the documents set forth herein shall be paid by the Applicant at the time of execution of the Fee Deferral Agreement.

(ii) Deferred Fees for a single-family Market-Rate Residential Development shall be due and payable in full for each individual lot within the Approved Development Project upon the earlier of: (1) a request for final inspection under a building permit; or (2) the close of the Residential Maximum Deferral Period for the applicable building permit.

(iii) Deferred Fees for a multifamily Market-Rate Residential Development shall be due and payable in full for each building within the Approved Development Project upon the earlier of: (1) a request for final inspection under a building permit; or (2) the close of the Residential Maximum Deferral Period for the applicable building permit.

(iv) If any Deferred Fees are not paid within the applicable Residential Maximum Deferral Period, interest shall accrue on any unpaid balance pursuant to Section 6B-080, final inspection and issuance of a Certificate of Occupancy shall not occur, and payment of the Deferred Fees shall be undertaken pursuant to the provisions set forth in the Fee Deferral Agreement.

(b) *Non-Residential Development.*

(i) An Applicant must enter into a Fee Deferral Agreement to qualify for a deferral of development impact fees for a Non-Residential Development. The Fee Deferral Agreement shall explicitly provide for the recordation of a security instrument, to be mutually agreed upon by the Applicant and the City, against the real property on which the Approved Development Project is to be located, which shall be removed upon payment in full of all Deferred Fees, including interest as specified in Section 6B-080. All costs assessed by the County for the recordation of the documents set forth herein shall be paid by the Applicant at the time of execution of the Fee Deferral Agreement.

(ii) Deferred Fees for Non-Residential Developments shall be due and payable in full upon the earliest of: (1) the date set forth in the Fee Deferral Agreement entered into for the subject property; (2) a request for final inspection under a building permit and/or a Certificate of Occupancy; or (3) the close of the Non-Residential Maximum Deferral Period for the applicable building permit.

(iii) If any Deferred Fees are not paid within the Non-Residential Maximum Fee Deferral Period, interest shall accrue on any unpaid balance pursuant to Section 6B-080, final inspection and issuance of a Certificate of Occupancy shall not occur, and payment of the Deferred Fees shall be undertaken pursuant to the provisions set forth in the Fee Deferral Agreement.

(c) *Affordable Housing Residential Development.* An Approved Development Project that provides affordable housing is exempt from the provisions of this Chapter and may request a waiver of development impact fees in accordance with the terms and conditions set forth in the Guidelines.

6B-060. APPROVAL OF DEFERRED FEES.

- (a) No project shall be eligible for execution of a Fee Deferral Agreement unless all of the following conditions are met:
 - (i) The project shall be located on property within the City of Woodland.
 - (ii) The project shall have received the final discretionary approval by the City Council, Planning Commission, or staff as deemed appropriate.
 - (iii) 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 City 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 City to present a low risk of non-payment of fees, if the City opts to conduct a risk assessment, which may include meeting the following criteria and any others the City deems necessary:
 - a. The applicant and/or his, her, or its partners and affiliates on the project have not had a foreclosure on any of its or their properties in the last four years.
 - b. The applicant and/or his, her, or its partners and affiliates on the project, and any companies in which any such person has held a controlling interest, have not filed for bankruptcy within the past four years.
 - c. The applicant and/or his, her, or its partners and affiliates on the project have no outstanding civil judgments.

- (vii) All fees imposed by a government agency other than the City either shall have been paid or shall have been the subject of a fee deferral agreement between the applicant and the agency imposing the fees.

(b) The Fee Deferral Agreement shall be approved and executed by the Assistant City Manager or designee if the sum of Deferred Fees is less than one million dollars (\$1,000,000). The Fee Deferral Agreement shall be approved by the City Council and executed by the City Manager if the sum of Deferred Fees is equal to or exceeds one million dollars (\$1,000,000). 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 and if the approving person or body finds that it is not in the City's interest to approve a Fee Deferral Agreement.

(c) Upon execution of a Fee Deferral Agreement, the City shall record the Fee Deferral Agreement and any related security documents, if applicable, against the real property subject to the Fee Deferral Agreement in the amount of the Deferred Fees. Upon payment in full of the Deferred Fees, the City shall remove the lien from the subject property.

6B-070. PROGRAM APPLICATION. An application for deferral of development impact fees may be submitted concurrently with or in advance of any application for building permits for the Approved Development Project. Notwithstanding any other provision of this Code, in no event shall a building permit be issued until either of the following occurs:

- (a) Payment of all applicable fees due; or
- (b) Execution of a Fee Deferral Agreement.

6B-080. INTEREST.

(a) For all residential Approved Development Projects for which a Fee Deferral Agreement has been approved and executed, no interest shall accrue during the Residential Maximum Fee Deferral Period. However, in the event Deferred Fees are not paid within the Residential Maximum Fee Deferral Period, a penalty equal to the annual rate of interest earned by the City of Woodland on the investment of pooled funds, computed on the unpaid amount from the date of execution of the Fee Deferral Agreement to time of payment, shall be due and payable.

(b) For all nonresidential Approved Development Projects for which a Fee Deferral Agreement has been approved and executed, interest shall accrue during the Non-Residential Maximum Fee Deferral Period, at a rate equal to the annual rate of interest earned by the City of Woodland on the investment of pooled funds, computed from the date of execution of the Fee Deferral Agreement to time of payment.

6B-090. FEE ADJUSTMENTS. Deferred Fees shall be paid at the rate or rates applicable at the time of issuance of the building permit.

6B-100. ADMINISTRATION CHARGE. The City Council may, by resolution, establish a processing and administration fee to cover the reasonable costs of administering the fee deferral program established by this Chapter. This processing and administration fee shall be placed in the general fund and shall provide a revenue source to cover the costs of preparing the Fee Deferral Agreement and tracking the Deferred Fees.

6B-110. EFFECTIVE DATE AND EXPIRATION. This Chapter shall take effect on January 1, 2009, and remain in effect until June 30, 2011, and shall thereafter be automatically repealed and of no further force and effect. The City Council may, at its sole discretion, extend the fee deferral program at any time prior to the expiration date set forth herein.

Section 6. Severability. If any provision of this Urgency Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Urgency Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Urgency Ordinance are severable. This City Council hereby declares that it would have adopted this Urgency Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Urgency Ordinance be enforced.

Section 7. Effective Date and Publication. The City Clerk shall certify to the adoption of this Urgency Ordinance, and the City Clerk shall cause this Urgency Ordinance to be posted or published as prescribed by law. This Urgency Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2008 by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

Marlin H. Davies, Mayor

ATTEST:

Sue Vannucci, Director of Administrative Services

APPROVED AS TO FORM:

Andrew J. Morris, City Attorney