SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NO: D-4

DATE: February 25, 2010

SUBJECT: Economic Stimulus – Permit Extensions and Impact Fee Payments

CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the city council is to discuss short-term changes to the city's zoning and land division codes to offer relief and economic stimulus during the recession.

STAFF RECOMMENDATION:

Discuss amending the city's zoning and land divisions codes (Sultan Municipal Code Titles 16 and 21) to offer relief and economic stimulus during the recession. Provide direction to staff on the following proposals:

1. Allow additional 1-year extension to 5 preliminary plats, set to expire in 2010/2011, with council approval of a developer agreement. This action will provide time for the housing market to continue to recover and potentially for the developer to build homes or market the property to another builder.
2. Implement a short-term (1-2 year) pilot project during which time the city would allow developers to postpone payment of park impact fees ($3,175) and transportation impact fees ($5,272) for single family residential homes until close of escrow. Impact fees would be due at building permit application unless the builder records a covenant with the assessor prior to permit issuance. This proposal would apply to approximately 372 platted building lots.

   Under the staff proposal, the policy would sunset in 2011 or 2012 unless the council took action to extend the sunset date or make the change permanent.

SUMMARY:

This issue was a discussion item on the January 28, 2010 meeting. Discuss was postponed due to time constraints. The discussion was rescheduled by the city council to February 11, 2010. The city council discussed a number of different issues relating to park impact fees, transportation impact fees and utility connection fees. Council directed staff to return for further discussion.

This discussion is focused on short-term changes to the city's code for economic stimulus. This is not a discussion of vesting impact fees or transportation credits for frontage improvements.

In 2009, the City of Sultan addressed plat extensions needed to keep projects active during the economic downturn through developer agreements. The council approved planned unit development (PUD) extensions for Caleb Court and Greens Estates. The city is working with the Hammer bankruptcy attorney to extend the Hammer PUD. The Vodnick project manager was contacted about extending the preliminary PUD approval but never responded.

By entering into a developer agreement, the council is not setting precedent that all other developments will be automatically extended. The developer agreement mechanism provides the developer an opportunity to validate compliance with the code standards as provided by in the Sultan Municipal Code.

In response to the present economic conditions, other cities in the region have been adopting short-term revisions to zoning and land division codes to offer relief and economic stimulus during the recession.

Attachment A is a table prepared by the Master Builders Association of King and Snohomish Counties summarizing permit extension ordinances.

The City of Sammamish also addressed the point of collection for impact fees. In lieu of the current impact fee payment schedule where 100% of the fees are due at building permit issuance, any fees remaining to be paid at time of issuance of the permit for the lot could be deferred until sale of the lot or residence, with the fee paid through escrow. The builder records a covenant with the assessor prior to permit issuance.

Attachment B is a copy of the Sammamish impact fee ordinance.

The council should note that each of the reported ordinances has a "sunset" date. Meaning, the ordinances are specifically designed to address the current recession. The economic stimulus ordinances are not intended as a permanent change to the city's code. Adopted building permit extensions, plat extensions and the timing of impact fee payments at certificate of occupancy expire in December 2010 or December 2011.

DISCUSSION:

There are pros and cons associated with the decision to adopt a permit extension or the point at which impact fees are collected. This is the reason why the vast majority of the cities have adopted short-term changes necessary to stimulate the economy.

The intent of adopting these types of ordinances is to provide short-term relief and get homebuilders and developers moving again. This is balanced against the need to

ensure that in the long-run, after the economy has recovered – the requirement to move projects along and not tie up land and staff resources is necessary.

City staff have some specific concerns about tracking the payment of impact fees through escrow. Council needs to ensure whatever system is adopted can be efficiently implemented by city staff with a minimum level of paperwork for both the developer and the city.

A decision by the city council to fundamentally change the land division code should be carefully considered and analyzed prior to implementation.

FISCAL IMPACT:

Adopting short-term plat extensions and changing the point of collection for impact fees is likely to have a minor effect on the city if there is a sunset date since the number of plats affected will be limited. A decision to make a permanent changes will need additional analysis.

One alternative would be to adopted changes with a sunset date and review the affect on the city before the sunset date is extended or made permanent.

RECOMMENDED ACTION:

Discuss amending the city's zoning and land divisions codes (Sultan Municipal Code Titles 16 and 21) to offer relief and economic stimulus during the recession.

ATTACHMENTS:

A – Master Builders Association Permit Extension Ordinances
B – City of Sammamish Municipal Code Title 14A

COUNCIL ACTION:

DATE:

Master Builders Association of King & Snohomish Counties
Economic Stimulus – Permit Extension Ordinances
Last Updated: 1/8/2010

County	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
King County	Also includes 1-year extension for building permits.	Extension to 7-years	Extension to 7-years	5/11/09	Now in effect	12/31/11	Applies to permits approved between 12/1/03-1/1/10	David
Snohomish County	Short Plat and Subdivision extensions approved. Building permit extension ordinance forthcoming.	Up to 3-year extension	Up to 3-year extension	6/3/09	Now in effect	12/31/2010	Upon request once fees are paid	Mike
	Bond Reform Passed			8/26/09	Now in effect	None	Performance and Warranty Bonds Lowered from 150% to 110%	Mike
Snohomish County	Building Permit Extensions			2010		12/31/2010	Council action January of 2010	Mike
Pierce County	2-year extension for active building permits, vesting rights, land use, subdivision, and other development applications & approvals.	2-year extension	2-year extension	12/2/08	1/1/09	7/1/09	Requests must be submitted between 1/1/09 and 6/30/09	Pierce County MBA

SC - Cities	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
Bothell	Plats, building, grading, CUP, PUD, bond rate changes. Retroactive to June 1, 2008, sunsets December 31, 2010 Part of 2009 Comp Plan Docket	12- month extension	12- month extension	7/21/09	6/1/08 (retroactive)	12/31/10	Critical area bonds reduced from 5 years down to 3 years.	Jennifer
Edmonds	Building Permits now valid for 360 days + 360 day extension. Looking at permanently removing landscaping bonds, extending design review and reducing parking standards.	Extend design review from 18 to 30 months or allow two 1-year extensions	tbd	10/28/08	11/7/08	11/7/10	Building permit progress inspections waved when extension is requested	Jennifer
Everett	Extended short plats + binding site plans to 5 years + 1 year extension. Previously, both short plats and binding site plans were only valid for 3 years, with no extension.	5 + 1	5 + 1	11/25/09			11/9/09 1st reading 11/25/09 final action	Jennifer
Everett	Process II + III Land Use Approvals now valid for 24 months + two 1-year extensions.	-	-	3/4/09	3/24/09	12/31/11	Must request in writing within first 24 months	Jennifer
Lynnwood	Draft language for ADU, CUP, design review and variance	Proposed 2+1-	Currently	tbd	tbd	tbd	11/2 study session	Jennifer

Master Builders Association of King & Snohomish Counties
Economic Stimulus – Permit Extension Ordinances
Last Updated: 1/8/2010

	extensions. PC voted unanimously to forward to Council.	year extension	valid 5 years				1/25 Council hearing	
Mill Creek	Mayor has expressed support.	In progress	In progress	tbd	tbd	tbd	7/28/09 study session	Jennifer
Monroe	3-year plat extensions and 2-year zoning code extensions. Council to discuss reactivating expired permits 1/5/2010	3- year extension	3- year extension	8/4/09	9/06/09	9/6/10	Must request in writing	Jennifer
Snohomish	Planning Commission voted for extensions at 12/2 meeting	In progress	In progress	tbd	tbd	tbd	12/15 Council meeting	Jennifer
Sultan	Mayor has expressed support, MBA sent examples	In progress	In progress	tbd	tbd	tbd		Jennifer
Marysville	Plats, short plats, building permits and conditional use permits all included.	Proposed 36-month extension	Proposed 36-month extension	7/27/09	Now in effect	12/31/11	Passed Planning Commission 6-23-09	Mike
Marysville	School Impact Fees – Discount Rate increased to 50%			12/15/09	Now In effect	None	Passed City Council 6-1	Mike
Arlington	Impact Fee Deferral – Change from application to building permit. MBA advocating even later – point of sale						Currently at Council Workshop level	Mike

Master Builders Association of King & Snohomish Counties
Economic Stimulus – Permit Extension Ordinances
Last Updated: 1/8/2010

KC - Cities	Permit Extensions	Short Plats	Plats	Passage Date	Effective Date	Sunset Date	Notes	GA Manager
Auburn	Previously, a building permit was good for two years with no possibility to extend that time. Two years remains the time a building permit is viable, but now six-month extensions will be allowed through a request in writing after two years.	Administrative	Administrative	Sept	Oct	-	Upon Request	Garrett
Federal Way	Extensions approved to 5-years with potential to extend further	9 units or less	Complete	Oct	Oct	-	SEPA thresholds raised to state maximums Traffic impact fees collected at sale	Garrett
Kent	2-year extension, automatic; 4-years total	2-year extension, automatic; 4-years total	Currently 4 years total	4/09	4/09	12/31/10	Kent wants to implement projects with new development standards. The 4-year total remains, vesting done next year.	Garrett
Renton	2-year extension, automatic	2-year extension, automatic	Building permit extension on request; administrative	3/09	3/09	-	Upon request	Garrett
Seattle	Administrative for most extensions. Council approved extensions to all Master Use Permits in August from 3 to 6 years upon request.	Administrative	Upon request, once fees are paid	8/09	9/09	1/1/2011	Master Use Permits extended to 5 years	Garrett
Issaquah	Administratively extending building permits through 2009	1-year extension	1-year extension	4/6/2009	Now in Effect	None	Permanently adds an optional one year extension to Issaquah's development code	David
Kirkland	Building and grading permits & applications	Discussing, no draft language written yet	Discussing, no language written yet	4/7/09	Now in Effect	None	Good for building permits approved 9/1/06 - 1/1/10 & LSM permits approved 9/1/07 - 1/1/10	David
Redmond	Building permits are being extended administratively, no ordinance needed to extend	2-year extension	X	6/2/09	Now in effect	12/2/09	Emergency ordinances extended plats to 7	David

							years and moved point of collection of impact fees to cover inspection. These changes have gone to public hearing and are fully implemented.	
Kenmore	Building Permits extended by 1 year by ordinance	2-year extension	2-year extension	11/23/09	Late November, 2009	N/A	This ordinance applies to all preliminary plats and permits that were active (not expired) on the date of passage of the ordinance.	David
Sammamish	Addresses point of collection for Impact Fee's	N/A	N/A	7/21/09	Now in effect	12/30/09	Park and Transportation Impact fees can now be collected at point-of-sale if an agreement is signed by the builder and city. Fees will be paid out of the proceeds of the sale.	David
Sammamish	Building permits granted one 12 month extension and permits that have expired up to 18 months ago reestablished	Permanent 2-year extension	Valid for 7-years	3/17/09	Now in effect	None	Good for all plats, short plats and bldg permits approved 1/1/04-1/1/10	David
Newcastle	Proposal to extend preliminary plats, building permits and change point of collection of impact fees to final inspection or Certificate of Occupancy	2-year extension	2-year extension			Proposed: 12/31/10	Proposal at Planning Commission. Public hearing set for December 16th.	David
Duvall	We've discussed this with the Mayor. He is interested in working on a list of extensions and changing impact fee collection.						No draft language	David

Bill #15

CITY COUNCIL AGENDA BILL

Subject: Street and Parks and Recreation Impact Fee Amendments

Meeting Date: July 7, 2009

Date Submitted: July 2, 2009

Originating Department: Community Development

Clearances:

☒ **City Manager** ☐ **Police**

☐ **Public Works** ☐ **Fire**

☒ **Building/Planning** ☒ **Attorney**

Action Required:
First Reading, no action required

Exhibits:
1. Ordinance
2. Attachment A

Budgeted Amount: N/A

Summary Statement:
In response to the current economic conditions, developers of subdivisions and short subdivisions have requested revisions to the Street impact fee and Parks and Recreational Facilities impact fee code provisions to change the timing of the required payments. In lieu of the current impact fee payment schedule where 100% of the fees are due at building permit issuance, any fees remaining to be paid at time of issuance of the permit for the lot could be deferred until sale of the lot or residence, with the fee paid through escrow. In the case of Street impact fees, generally this will be 70% of the total fee due. For Parks and Recreational Facilities impact fees, it will be 100% of the fee due. A covenant would be recorded prior to permit issuance.

Financial Impact:
Delayed receipt of impact fee revenue by the City.

Recommended Motion:
First Reading, no action required.

CITY OF SAMMAMISH
WASHINGTON

ORDINANCE NO. O2009-____

AN ORDINANCE OF THE CITY OF SAMMAMISH AMENDING TITLE 14A OF THE SAMMAMISH MUNCIPAL CODE

WHEREAS, pursuant to the provisions of state law, Chapter 35A.63 of the Revised Code of Washington (RCW) and chapter 36.70A RCW, the Sammamish City Council has adopted the Sammamish Municipal Code (SMC), including Title 14A, which regulates impact fees ; and

WHEREAS, as a result of the current downturn in the local economy, a diminishing number of new residential units are being built, which adversely impacts the City's housing stock, local economy and revenue for governmental services, and

WHEREAS, unless the City acts, the housing market may continue to languish and adverse consequences of decreased revenues, abandoned projects, and underutilized land will occur; and

WHEREAS, a need exists to amend Title 14A to afford more flexibility to applicants on the timing of Street impact fee and Parks and Recreational Facilities impact fee payments; and

WHEREAS. the ordinance amendments are procedural in nature, and therefore exempt from State Environmental Policy Act (SEPA) review;

WHEREAS, the City Council finds the proposed amendments to the Sammamish Municipal Code to be consistent with and to implement the intent of the Comprehensive Plan; and

WHEREAS, the City Council has concluded that it is in the interest of the public health, safety and welfare to adopt this ordinance;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The proposed amendments subject to this ordinance are set forth in Attachment "A" hereto.

Section 2. Applicability.

(1) This ordinance shall apply to all active applications and requests for approval.

(2) Public notice given prior to the effective date of this ordinance for any pending development permit application shall remain valid for such permit application.

(3) This ordinance shall not otherwise affect the vesting date for any application as provided for under state law and SMC 20.05.070.

Section 3. Severability.

The above "Whereas" clauses of this ordinance constitute specific findings by the Council in support of passage of this ordinance. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 4. Effective Date.

This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE DAY OF , 2009.

CITY OF SAMMAMISH

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Mayor Donald J. Gerend

ATTEST/AUTHENTICATED:

_____

Melonie Anderson, City Clerk

Approved as to form:

_____

Bruce L. Disend, City Attorney

Filed with the City Clerk:
Public Hearing:
First Reading:
Public Hearing:
Passed by City Council:

Attachment A

14A.15.020 Assessment of impact fees

(1) The City shall collect impact fees, based on the rates in SMC 14A.15.110, from any applicant seeking development approval from the City for any development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the development of residential, commercial, retail, and office uses, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in existing use that creates a demand for additional public facilities.

(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090:

(a) Miscellaneous non-traffic generating improvements, including, but not limited to, fences, walls, swimming pools, sheds, and signs;

(b) Demolition or moving of a structure;

(c) Expansion of an existing nonresidential structure that results in the addition of 100 square feet or less of gross floor area;

(d) Expansion of a residential structure provided the expansion does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;

(e) Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. For the terms of this requirement "replacement" is satisfied by submitting a complete building permit application;

(f) Replacement of a nonresidential structure with a new nonresidential structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a nonresidential structure with a new non-residential structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet. For the terms of this requirement "replacement" is satisfied by submitting a complete building permit application.

(3) For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.

(4) For mixed use developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.15.110.

(5) Applicants seeking a building permit for a change in use shall be required to pay an impact fee if the change in use increases the existing trip generation by the lesser of five percent or 10 peak hour trips.

(6) Impact fees shall be assessed according to the following schedule in an amount equal to the percentages listed below of the amount of impact fees, using the impact fee rates in effect at the time the deposit is made. However, the total amount of impact fees paid shall be subject to the following:

(a) Upon issuance of a certificate of concurrency, a deposit of 10 percent of impact fees shall be made. At the time of preliminary plat or short plat approval the deposit amount shall equal 20 percent of the impact fee rates in effect at that time.

(b) The balance of the impact fee shall be paid in accordance with the following schedule:

(i) At the time a final plat or short plat, site development permit, conditional use permit, or building permit is approved, a final payment shall be made equal to 100 percent of the impact fee rates in effect at that time, less a credit for the deposit paid pursuant to subsection (6)(a) of this section.

(ii) Alternatively, a deposit amount equal to 30 percent of the impact fee rates in effect at that time of final plat or short plat approval shall be made, and at building permit issuance a final payment shall be made equal to 100 percent of the impact fee rates in effect at the time of final plat approval, short plat approval, site development permit, or conditional use permit, less a credit for any deposits paid for all those building permits issued within two years of such approval. If all building permits are not issued within two years or 100 percent payment is not otherwise made, all remaining building permits shall be assessed impact fees based on the current rate in effect at the time of building permit issuance less a credit for any deposits paid.

The City council may waive payment of deposits for planned actions and require instead that the planned action shall pay the impact fees that are in effect at the time each building permit is issued.

(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.15.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.15.040 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued by the City for each unit in the development.

(8) Where the impact fees imposed are determined by the square footage of the development, a deposit shall be due from the feepayer pursuant to subsection (6) of this section. The deposit shall be based on an estimate, submitted by the feepayer, of the size and type of structure proposed to be constructed on the property. In the absence of an estimate provided by the feepayer, the department shall calculate a deposit amount based on the maximum allowable density/intensity permissible on the property. If the final square footage of the development is in excess of the initial estimate, any difference in the amount of the impact fee will be due prior to the issuance of a building permit, using the impact fee rate in effect at that time. The feepayer shall pay any such difference plus interest, calculated at the statutory rate. If the final square footage is less than the initial

estimate, the department shall give a credit for the difference, plus interest at the statutory rate.
(9) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.15.030 or 14A.15.040, have been paid.
(10) The service area for impact fees shall be a single Citywide service area.
(11) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's comprehensive plan. The City shall base continued authorization to collect and expend impact fees on revising its comprehensive plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.
(12) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.
(13) Prior to December 30, 2010, at the time of issuance of any single family residential building permit for a lot within a subdivision or short subdivision that is being constructed for resale, the applicant may elect to record a covenant against title to the property that requires payment of the impact fees due and owing in accordance with (6)(b)(ii) above, less any credits awarded, by providing for automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. The awarding of credits shall not alter the applicability of this section. (Ord. O2006-208 § 2; Ord. O2004-140 § 1; Ord. O2004-136 § 1)

14A.20.020 Assessment of impact fees

(1) The City shall collect impact fees, based on the rates in SMC 14A.20.110, from any applicant seeking development approval from the City for any residential development within the City, where such development requires the issuance of a building permit. This shall include, but is not limited to, the expansion or change of use of existing uses that creates a demand for additional public facilities.
(2) An impact fee shall not be assessed for the following types of development activity because the activity either does not create additional demand as provided in RCW 82.02.050 and/or is a project improvement (as opposed to a system improvement) under RCW 82.02.090.
(a) Miscellaneous improvements to residential dwelling units that will not create additional park use demand, including, but not limited to, fences, signs, walls, swimming pools, sheds, and residential accessory uses as defined in SMC 21A.15.020;
(b) Demolition or moving of a residential structure;

(c) Expansion or alteration of a residential structure provided the expansion or alteration does not result in the creation of any additional dwelling units as defined in SMC 21A.15.345 through 21A.15.370;
(d)Replacement of a residential structure with a new residential structure at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure.
(3) For a change in use of an existing structure or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use; provided, that the applicant has previously paid the required impact fee for the original use.
(4) For mixed use developments, impact fees shall be imposed for the proportionate share of each residential land use based on the applicable measurement in the impact fee rates set forth in SMC 14A.20.110.
(5) Applicants seeking development approval for a change in use shall be required to pay an impact fee if the change in use increases the number of dwelling units.
(6) Impact fees shall be assessed and collected at the time the complete application for a building permit is submitted for each unit in the development, or at the issuance of permit, using the impact fee rates then in effect.
(7) Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to SMC 14A.20.040 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to SMC 14A.20.040 setting forth the dollar amount of the credit awarded. Impact fees, as determined after the application of appropriate credits, shall be collected from the feepayer at the time the building permit is issued by the City for each residential dwelling unit in the development.
(8) The department shall not issue the required building permit unless and until the impact fees required by this chapter, less any permitted exemptions or credits provided pursuant to SMC 14A.20.030 or 14A.20.040, have been paid.
(9) The service area for impact fees shall be a single Citywide service area.
(10) In accordance with RCW 82.02.050, the City shall collect and spend impact fees only for the public facilities defined in this title and RCW 82.02.090 which are addressed by the capital facilities plan element of the City's comprehensive plan. The City shall base continued authorization to collect and expend impact fees on revising its comprehensive plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying: (a) deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time; (b) additional demands placed on existing public facilities by new development; and (c) additional public facility improvements required to serve new development.
(11) In accordance with RCW 82.02.050, if the City's capital facilities plan is complete other than for the inclusion of those elements which are the responsibility of a special district, the City may impose impact fees to address those public facility needs for which the City is responsible.
(12) Prior to December 30, 2010, at the time of issuance of any single family residential building permit for a lot within a subdivision or short subdivision that is being constructed for resale, the applicant may elect to record a covenant against title to the property that requires payment of the impact fees due and owing, less any credits

awarded, by automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. The awarding of credits shall not alter the applicability of this section (Ord. O2006-207 § 1)