

# **SACRAMENTO COUNTY**



## **WATER AGENCY CODE**

### **TITLE 2**

**EFFECTIVE DATE: August 16<sup>th</sup> 2004**

## Sacramento County Water Agency Code

### **Title 2**

On June 15, 2004, Ordinance No WAO-0055 was approved by the Board of Directors of the Sacramento County Water Agency, a statutorily created district operating under the authority of and pursuant to the provisions of the Sacramento County Water Agency Act (California Water Code, Appendix, Chapter 66, commencing at Section 66-1 et seq.), updating Title 2, dated March 3, 1996 and replaced in entirety as merged herewith.

# SACRAMENTO COUNTY WATER AGENCY

ORDINANCE NO. WAO- 0055

## AN ORDINANCE AMENDING WATER AGENCY ORDINANCE NO. WAO-0026 RELATED TO TITLE TWO OF THE SACRAMENTO COUNTY WATER AGENCY CODE

28 PAGES

Board of Directors of the County of Sacramento, State of California, this 15th day of  
June, 2004, by the following vote:

AYES: Directors, Dickinson, Niello. Nottoli

NOES: Directors, None

ABSENT: Directors, Collin, Johnson



ATTEST: Cindy A. Turner  
Clerk of the  
Board of Directors

Roger Dickinson  
Vice Chairperson of the Board of Directors  
of the Sacramento County Water Agency

In accordance with Section 25103 of the Government Code  
of the State of California a copy of the document has been  
delivered to the Chairman on JUN 15 2004

By: Faye Romo  
Deputy Clerk, Board of Directors

FILED

JUN 15 2004

BOARD OF DIRECTORS  
by Cindy A. Turner  
Clerk of the Board

WAO-0055

**TITLE 2**  
**DRAINAGE AND FLOOD CONTROL**

**Chapters:**

- 2.05 General Provisions
- 2.10 Definitions
- 2.20 Establishment of Zones
- 2.25 Fee Plans
- 2.30 Permits
- 2.35 Design and Improvement Standards
- 2.40 Land Acquisition
- 2.50 Fees for Drainage Facilities
- 2.55 Credits for Drainage Facilities
- 2.60 Reimbursement Agreements for Facilities
- 2.70 Affordable Housing Fee Deferral
- 2.75 Placer County Fair Share Fees

## **CHAPTER 2.05**

### **GENERAL PROVISIONS**

#### **Sections:**

- 2.05.010 Statutory Authorization
- 2.05.020 Findings of Fact
- 2.05.030 Statement of Purpose
- 2.05.040 Compliance
- 2.05.050 Administrative Regulations
- 2.05.060 Laws Not Enforced
- 2.05.070 Improvement of Drainage Systems

#### **2.05.010 Statutory Authorization.**

- (A) The Legislature of the State of California has in Section 4.2 of the Sacramento County Water Agency Act delegated to the Agency the power: to control drainage waters within the Agency; to control flood and storm waters within the Agency and the flood and storm waters of streams outside of the Agency, which flow into the Agency; to protect the watercourses, watersheds, public highways, and life and property within the Agency from damage from any such drainage or flood and storm waters.
- (B) The Legislature of the State of California has in Section 4.4 of the Sacramento County Water Agency Act authorized the Agency to adopt and carry out any definite plan or system for accomplishing, facilitating or financing all work which may lawfully be accomplished by the Agency and to enforce the said plan or system by ordinance. The Legislature has further empowered the Agency in Section 4.4 to prescribe, revise, and collect fees and charges for facilities furnished or to be furnished to any new building, improvement, or structure by the use of any flood control, storm, or drainage system constructed or to be constructed in a zone of the Agency; to make reimbursement agreements for that part of the cost of facilities in excess of any fees required.

#### **2.05.020 Findings of Fact.**

- (A) The Board hereby finds that the development and new construction of property within the boundaries of the Sacramento County Water Agency results in the coverage of the land with impervious surfaces, including but not limited to, pavements, building roofs, driveways and parking areas. The reduction in the pervious land area results in a reduction of the infiltration of storm rainfall, causing an increase in the flow rate of storm water runoff, an increase in the volume of storm water runoff for certain storm events, and storm water quality degradation.
- (B) The Board hereby further finds that the development and new construction of property within the boundaries of the Sacramento County Water Agency results in the compaction of pervious land surfaces, the removal of vegetation and the disturbance of natural drainage patterns and flow rates, all of which substantially increase the flow rate of storm water runoff, increase the volume of storm water runoff for certain storm events, and cause storm water quality degradation.

- (C) The Board hereby further finds that it is necessary to establish zones, prepare and adopt fee plans for the improvement and construction of drainage facilities within the Agency, and to construct drainage facilities within the Agency, in order to promote and protect the public health, safety, peace, comfort, convenience and the general welfare; and for the accomplishment of the purposes set forth in this chapter.
- (D) The Board hereby further finds that constructing or placing any structure or physical object, excavating, or planting vegetation within or upon a watercourse, floodway, levee, or any other drainage facility owned or operated by the Agency may cause damage to the drainage facility or structure, or impair or impede the operation or function of such facility or structure. The damage to drainage facilities or structures, or interference with the operation or function of such facilities or structures would pose a serious risk of injury to persons and damage to property.

#### **2.05.030 Statement of Purpose.**

It is the purpose of this title to:

- (A) Promote the public health, safety, peace, comfort, convenience and the general welfare by encouraging and providing for the preparation and financing of master plans and for the financing and proper placement and construction of drainage facilities necessitated by the development and new construction of property within the boundaries of the Sacramento County Water Agency;
- (B) Protect drainage facilities and structures from damage or operational interference by regulating the activity which occurs in, on, around or under such facilities or structures;
- (C) Equitably spread all costs associated with the construction of trunk drainage facilities among the beneficiaries of, or those that create the need for, these drainage facilities through the collection of fees and charges

#### **2.05.040 Compliance.**

No building, structure or land shall hereafter be developed or constructed within the boundaries of the Sacramento County Water Agency, and no activity shall occur within or upon a watercourse, floodway, levee, or a drainage facility owned or operated by the Agency or County without full compliance with the terms of this title and other applicable regulations which apply to uses within the jurisdiction of this Title.

#### **2.05.050 Administrative Regulations.**

The Agency Engineer is hereby authorized to promulgate and enforce such rules or regulations consistent with and necessary to implement the purposes, intent and express terms of this title.

No rules or regulations promulgated by the Agency Engineer, or amendments thereof, shall be enforced or become effective until thirty (30) calendar days following the date on which the proposed rules or regulations are filed with the Clerk of the Board of Directors.

#### **2.05.060 Laws Not Enforced.**

There are many ordinances and other laws applicable to activities permitted under this title which are not sought to be enforced under this permitting process. The issuance of an Agency permit shall not be deemed to constitute a representation that the activity so permitted or the property upon which such activity is occurring complies with such other ordinances or other laws. Nor shall the existence of such an unrevoked permit be deemed to preclude any criminal or civil remedy for violation of such other ordinances or laws. The possession of an Agency permit shall not be deemed to relieve the holder of the requirement to apply for or obtain any other license or permit required by ordinance or statute.

#### **2.05.70 Improvement of Drainage Systems.**

The Agency may from time to time expend drainage impact fees for the purpose of upgrading drainage systems or correcting existing drainage problems provided the funds are expended on projects within the zone from which they were collected. These projects include but are not limited to levees, floodwalls, detention, channels, and/or pipes.

## **CHAPTER 2.10**

### **DEFINITIONS**

#### **Sections:**

- 2.10.010 Definitions
- 2.10.012 Agency
- 2.10.014 Agency Engineer
- 2.10.016 Agency Permit
- 2.10.020 Applicant
- 2.10.035 County Floodplain Administrator
- 2.10.040 County Specifications
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- 2.10.050 Development
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- 2.10.170 Minor Drainage
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- 2.10.205 Regionally Beneficial Basin
- 2.10.210 School District
- 2.10.220 Site
- 2.10.230 Structure
- 2.10.235 Subdivision Map Act
- 2.10.240 Tentative Credits
- 2.10.245 Trunk Drainage Facilities
- 2.10.250 Watercourse
- 2.10.225 Zone
- 2.10.260 Zoning Code



#### **2.10.010 Definitions.**

As used in this title, the following words and phrases shall have the meaning given in this chapter.

#### **2.10.012 Agency.**

The Sacramento County Water Agency, a statutorily created district operating under the authority of and pursuant to the provisions of the Sacramento County Water Agency Act (California Water Code – Appendix, Chapter 66, commencing at Section 66-1 et seq.) The Board of directors of the Sacramento County Water Agency is the governing body (the Board).

#### **2.10.014 Agency Engineer.**

The Director of the Sacramento County Department of Water Resources of the Sacramento County Public Works Agency.

#### **2.10.016 Agency Permit.**

A permit issued by the Agency Engineer within the unincorporated County, or an improvement plan approved by the County or incorporated city with concurrence by the Agency Engineer.

#### **2.10.020 Applicant.**

Any person who submits an application for a permit, or submits an improvement plan for approval, pursuant to this title.

#### **2.10.035 County Floodplain Administrator.**

The individual appointed by the Board of Supervisors to administer and enforce the floodplain management regulations in Title IX of the Sacramento County Zoning Code (The Floodplain Management Ordinance).

#### **2.10.040 County Specifications.**

The County Improvement Standards, County Standard Construction Specifications and other standards included in applicable County ordinances, regulations and manuals, as amended from time to time.

#### **2.10.045 Credits.**

A value given for construction of trunk drainage facilities pursuant to this Title.

#### **2.10.046 Deferral Agreement.**

An agreement between the Agency and a Developer to defer payment of the Drainage Impact Fees imposed pursuant to this Title.

#### **2.10.048 Developer.**

Any party who is or is proposing to construct a Development, as defined by this Title.

#### **2.10.50 Development.**

Any action which impairs the perviousness of the surface of the land and/or increases the concentration or velocity of storm water runoff. Development does not include normal farming activities, including plowing, seeding, cultivating, planting or harvesting, field leveling or contouring outside defined watercourses. Development includes, but is not limited to:

- (A) The construction of buildings, parking lots, roads and utilities; and,
- (B) Grading or paving.

#### **2.10.060 Drainage Facilities.**

All Agency facilities, natural or man-made, improved or unimproved, which are intended to collect, treat, and transport storm drainage waters. These facilities include the following:

- (A) Open watercourses;
- (B) Closed conduit systems;
- (C) Water quality facilities;
- (D) Flood control detention facilities; and
- (E) Appurtenance structures.

#### **2.10.65 Drainage Impact Fee.**

The fee levied by this Title and collected upon approval of building permits within Zones 11A, 11B and 11C of the Agency.

#### **2.10.080 Encroachment.**

The advance or infringement of fill, excavation, buildings, structures, dams, wharfs, embankments, levees, bridges, conduits, culverts, fences, rock, gravel, or other development in, along, across or projecting into any watercourse or floodway which may alter, impede, retard or change the direction and/or velocity of the flow of water; or, may snare or collect debris carried by the flow of water.

**2.10.095 Fee Plan.**

The Sacramento County Water Agency Engineer's Report for Zones 11A, 11B, and 11C, as revised from time to time.

**2.10.100 Final Credits.**

The credits allocated upon completion and acceptance of drainage facilities.

**2.10.110 Floodway.**

A watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation beyond a level determined by the County Floodplain Administrator.

**2.10.120 Grading.**

The act or result of digging, excavating, transporting, spreading, depositing, filling, compacting, settling, or shaping of land surfaces and slopes, and other operations performed by or controlled by human activity involving the physical movement of rock or soil.

**2.10.130 Impervious Area.**

Any area where material, such as concrete, cement or asphalt, has been placed, or where grading has occurred, which has caused an increase in the surface or storm water runoff from the area.

**2.10.140 Improvement.**

The installation or construction of streets, curbs, gutters, sidewalks, utilities or other facilities intended for the general use of lot owners in the subdivision or neighborhood.

**2.10.150 Improvement Plan.**

A plan for private or public improvements which are to be accepted for maintenance by the Agency or the County, and which is prepared in accordance with the requirements of the latest edition of the County of Sacramento Standard Construction Specifications and the County of Sacramento Improvement Standards.

**2.10.155 In- Fill Development.**

The annual rate of interest earned by the Treasury of the County on the investment of pooled funds

**2.10.156 Interest or Interest Rate.**

Annual rate of interest earned by the Treasury of the County on the investment of pooled funds.

**2.10.160 Levee.**

A man-made earthen structure embankment designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from flooding.

**2.10.165 Levee System.**

A protection system which consists of a levee or levees and associated structures such as closure and drainage devices which are constructed and operated in accordance with sound engineering practices.

**2.10.170 Minor Drainage.**

Any storm water conveyance system serving less than a thirty (30) acre drainage shed area.

**2.10.180 Natural Stream.**

Any watershed in the County North of the American River, including: Arcade Creek, Arcade Creek South Branch, Brooktree Creek, Carmichael Creek, Chicken Ranch Slough, Coyle Creek, Cripple Creek, Diablo Creek, Fair Oaks Stream Group, Kohler Creek, Linda Creek, Mariposa Creek, Minnesota Creek, San Juan Creek, Strong Ranch Slough, Sunrise Creek, and Verde Cruz Creek.

**2.10.190 New Construction.**

Any construction, reconstruction, rehabilitation, addition, or alteration of a structure or any part thereof, beyond the foundation of the existing structure, commencing on or after July 1, 1965.

**2.10.200 Permittee.**

The person in whose name a valid permit is issued pursuant to this title and the person's agents, employees and designated representatives;

**2.10.205 Regionally Beneficial Basin.**

A peak flow or storm water quality basin that serves more than one hundred sixty (160) acres and is deemed by the Director to be necessary for the drainage master plan of the watershed

**2.10.210 School District.**

Any school district, community college district or county superintendent of schools.

**2.10.220 Site.**

Any real property subject to the provisions of this title and all contiguous lots, parcels or real property owned by or recorded as the property of the same person.

**2.10.230 Structure.**

Anything constructed or erected which requires location on the ground or attached to something having location on the ground.

**2.10.235 Subdivision Map Act.**

The Subdivision Map Act of the state and all amendments and additions thereto (Government Code, Title 7, Division 2 Subdivisions, commencing with Section 66410).

**2.10.240 Tentative Credits.**

Credits that are allocated at the time improvement plans are approved. These credits may be adjusted upon completion of the approved facilities to reflect actual construction quantities, or may be revoked if constructed facilities are not accepted by the County.

**2.10.245 Trunk Drainage Facilities.**

Drainage facilities that serve a watershed area of thirty acres or greater.

**2.10.250 Watercourse.**

A river, stream, creek, tributary, basin, lake, pond, waterway, or channel, natural or man-made, having a defined bed and banks on or over which water flows at least periodically. A watercourse also includes any conduit or pipe in which water does or may flow, and any property within a drainage easement of the Agency.

**2.10.255 Zone.**

An area designated within the Sacramento County Water Agency boundaries created in order to finance, construct, acquire, reconstruct, maintain, operate, extend, repair or otherwise improve any work or improvement of common benefit to such zone or participating zones.

**2.10.260 Zoning Code.**

The Sacramento County Zoning Code, adopted by the Board of Supervisors of the County of Sacramento.

## **CHAPTER 2.20**

### **ESTABLISHMENT OF ZONES**

#### **Sections:**

- 2.20.005 Formation
- 2.20.010 Notice
- 2.20.020 Notice to Auditor-Controller
- 2.20.030 Zone Funds
- 2.20.040 Deposit of Funds
- 2.20.050 Use of Funds
- 2.20.060 Fees for Facilities Construction
- 2.20.070 Annual Budget

#### **2.20.005 Formation.**

The formation of any zone to accomplish the purposes of this title shall meet the requirements of Section 1.1 of the Agency Act and any other applicable law.

#### **2.20.10 Notice.**

- (A) Notice of the public hearing by the Board regarding formation of a zone shall be given by publication once a week for two consecutive weeks prior to the hearing, the last publication of notice must be at least seven (7) days before the hearing. The notice shall be published in a newspaper of general circulation designated by the Board and circulated in the zone. If there is no such newspaper, then notice shall be given by posting for two consecutive weeks prior to the hearing in five public places designated by the Board and within the zone.
- (B) The notice shall set forth the time and place of the public hearing and shall state that a copy of the proposed Fee Plan may be reviewed in the office of the Clerk of the Board and in the office of the Agency Engineer.

#### **2.20.020 Notice to Auditor-Controller.**

Upon the adoption of a resolution of intention to form a zone by the Board, the Agency Engineer shall provide a copy of the resolution to the Sacramento County Auditor-Controller.

#### **2.20.030 Zone Funds.**

Upon receipt of a copy of the resolution of intention to form a zone adopted by the Board, the Sacramento County Auditor-Controller shall establish an appropriate fund or funds for this zone.

#### **2.20.040 Deposit of Funds.**

All fees, charges, revenues, taxes, assessments, and other receipts relating to or derived from the operations of a zone shall be deposited in the County Treasury to the credit of the fund or funds established for that particular zone.

### **2.20.50 Use of Funds.**

- (A) All moneys in the fund or funds of a particular zone shall be used to accomplish the purposes of the zone, as set forth in the resolution establishing the zone, and for any other purposes authorized by the Agency Act.
- (B) The Agency may establish and maintain separate funds, and make transfers or loans between the funds of a zone, as the Agency deems necessary, and in accordance with the provisions of Section 8.4 of the Agency Act.

### **2.20.060 Fees for Facilities Construction.**

- (A) The Agency shall make findings once each year with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee to identify the purpose for which it was charged. The findings required by this paragraph need only be made for moneys in the possession of the Agency and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date.
- (B) Where Drainage Impact Fees are imposed upon property for the conveyance of storm water through a Zone, such fees shall be deposited into a separate fund. Monies in such fund shall be expended solely for the construction and reimbursement for construction of such trunk facilities within the Zone from which the fees comprising the fund were collected, or to pay for the cost of engineering and administrative services to manage the Zone and design and construct the facilities, or to acquire rights to real property for these purposes.
- (C) For each fund established pursuant to this chapter for facilities construction, the Agency shall within sixty (60) days of the close of each fiscal year, make available for the public the beginning and ending balance for the fiscal year and the fee, interest, and other income and the amount of expenditure by public facility and the amount of refunds and allocations made pursuant to Government Code Section 66001 during the fiscal year. The Board of Directors shall review such information at the next regularly scheduled meeting not less than fifteen (15) days after the above information is made available to the public. Notice of such review shall be provided in accordance with the requirements of Government Code Section 66006(b)(2).
- (D) After completion of the facilities and the payment of all claims from the fund, any surplus funds shall be disbursed in accordance with the provisions of Government Code section 66483.1.

### **2.20.70 Annual Budget.**

The Agency Engineer shall annually prepare a budget for each zone in the form and manner required for special districts.

## **CHAPTER 2.25**

### **FEE PLANS**

#### **Sections:**

- 2.25.010 Development
- 2.25.020 Content of Fee Plan
- 2.25.030 Notice
- 2.25.040 Requisite Findings
- 2.25.050 Implementation
- 2.25.060 Periodic Review
- 2.25.070 Precedence
- 2.25.080 Accounting

#### **2.25.010 Development.**

For each zone, there shall be a Fee Plan. The Fee Plan and any amendments thereto shall be prepared by the Agency Engineer and shall be consistent with applicable federal, state and county laws and regulations, and policies adopted by the Board. The Fee Plan shall be adopted by a resolution of the Board of Directors adopted at a noticed public hearing.

#### **2.25.020 Content of Fee Plan.**

The Fee Plan shall contain, as a minimum, the following information:

- (1) A description of the drainage facilities necessary for the conveyance of surface and storm waters from the zone;
- (2) A map of the zone showing its boundaries
- (3) An estimate of the total cost of constructing the facilities;
- (4) A description of the fees to be collected and used to finance the facilities;
- (5) A description of the type of development projects on which the fee shall be imposed, if applicable;
- (6) A discussion and determination of the relationship between the fee's use and the type of development projects on which the fee shall be imposed, if applicable;
- (7) A discussion and determination of the relationship between the need for the facility and the type of development projects on which the fee shall be imposed, if applicable; and
- (8) A discussion and determination of the relationship between the amount of the fee and the cost of the facility or portion of the facility attributable to the development on which the fees shall be imposed, if applicable.



### **2.25.30 Notice.**

- (A) Notice of the public hearing for consideration and/or adoption of the Fee Plan, or annual updates to the Fee Plan, by the Board shall be given by publication once a week for two consecutive weeks prior to the hearing, the last publication of notice must be at least ten (10) days before the hearing. The notice shall be published in a newspaper of general circulation designated by the Board and circulated in the zone for which the proposed Fee Plan has been prepared. If there is no such newspaper, then notice shall be given by posting for two consecutive weeks prior to the hearing in five public places designated by the Board and within the zone for which the proposed Fee Plan has been prepared.
- (B) The notice shall set forth the date, time and place of the public hearing; the identity of the hearing body; a general explanation of the matter to be considered; a general description of the location of the real property, if any, that is the subject of the hearing; and shall state that a copy of the proposed Fee Plan may be reviewed in the office of the Clerk of the Board and in the office of the Agency Engineer.

### **2.25.40 Requisite Findings.**

Prior to adopting a Fee Plan which includes adequate provisions and a nexus for the imposition of drainage impact fees on property proposed to be developed, the Board shall find that:

- (A) The development of property within the zone will require the construction of the facilities described in the Fee Plan;
- (B) The fees are fairly apportioned within such a zone either on the basis of benefits conferred on the property proposed for development or on the need for such facilities created by the proposed construction or development;
- (C) The fee as to any property proposed for development within the zone does not exceed the pro rata share of the amount of the total actual or estimated costs of all facilities within such zone which would be assessable on such property if such costs were apportioned uniformly on a per-acre basis; and,
- (D) The facilities planned are in addition to existing facilities serving the zone at the time of adoption of the Fee Plan.

### **2.25.050 Implementation.**

A Fee Plan and any amendments thereto shall not be implemented unless and until adopted by the Board following a public hearing.

### **2.25.060 Periodic Review.**

Every fifth year, or sooner if deemed necessary by the Director, the Agency shall review the Fee Plan and make all of the following findings, with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

- (A) Identify the purpose for which the fee is to be put.
- (B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.
- (C) Estimate the finances necessary to continue the Fee Plan.

- (D) Make adjustments to the Fee Plan and/or the fees charged pursuant to this review.

#### **2.25.070 Precedence.**

The Fee Plan shall be deemed a part of this Title; however, where conflicts occur, this Title shall take precedence. Any revision to the Fee Plan shall require a resolution of the Board of Directors adopted at a noticed public hearing.

#### **2.25.80 Accounting.**

The collected fees shall be deposited with other fees in a separate account for each Zone in a manner to avoid any commingling of the fees with other revenues funds of the local agency, except for temporary investments. The fees shall be expended solely for the purposes for which they are collected. Any interest income earned in the account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected. The Agency shall within 180-days after the last day of each fiscal year, make available to the public the following information for the fiscal year a brief description of the type of fee in the account or fund, including:

- (A) The amount of the fee.
- (B) The beginning and ending balance of the account or fund.
- (C) The amount of the fees collected and the interest earned.
- (D) Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.
- (E) A description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended and in the case of an inter-fund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
- (F) The amount of refunds made and any allocations made.

## **CHAPTER 2.30**

### **PERMITS**

#### **Sections:**

- 2.30.010 Protection of Watercourses
- 2.30.020 Agency Permit
- 2.30.040 Environmental Review
- 2.30.050 Issuance
- 2.30.060 Contents Of Permit
- 2.30.070 Conditions
- 2.30.080 Term
- 2.30.090 Transferability
- 2.30.100 Amendment Of Permit
- 2.30.110 Grounds For Suspension And Revocation
- 2.30.120 Method Of Suspension Or Revocation

#### **2.30.010 Protection of Watercourses.**

The Agency shall enforce this Title and all other pertinent titles, codes and ordinances, to the extent allowed by law, to protect the watercourses within the County.

#### **2.30.020 Agency Permit.**

- (A) An Agency permit shall be obtained before undertaking the following activities:
  - (1) Constructing or placing any structure, conduit, dirt or physical object in, on, over or under a watercourse or floodway; or in, on, over or under real property, drainage facilities or structures which are owned, operated or maintained by the Agency or the County, or in which the Agency has any legal interest, including an easement or irrevocable offer of dedication;
  - (2) Excavating in, on, over or under a watercourse or floodway; or in, on, over or under real property, drainage facilities or structures which are owned, operated or maintained by the Agency, or in which the Agency or the County has any legal interest, including an easement or irrevocable offer of dedication; and
  - (3) Planting any vegetation, other than grasses or annual crops, in, on, over or under a watercourse or floodway; or in, on, over or under real property, drainage facilities or structures which are owned, operated or maintained by the Agency or the County, or in which the Agency has any legal interest, including an easement or irrevocable offer of dedication;
- (B) The application for a permit shall be filed on a form and submitted with such information as is prescribed by the Agency Engineer including, but not limited to the following:
  - (1) Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the property, existing and proposed structures, fill, permanent storage of materials, and drainage facilities;
  - (2) Description of the extent to which any watercourse or floodway will be altered or relocated as a result of the proposed activity.

#### **2.30.40 Environmental Review.**

Agency permits, and amendments thereto, are subject to the requirements of the California Environmental Quality Act (CEQA). The Agency Engineer, or his designee, shall have prepared appropriate CEQA environmental review in compliance with County procedures. The Agency Engineer shall not approve a permit prior to considering the applicable environmental document and complying with the requirements of CEQA and the County Procedures for Preparation and Processing of Environmental Documents, including payment of the full cost for preparation and processing of the environmental document by the permit applicant.

#### **2.30.50 Issuance.**

- (A) The Agency Engineer is hereby appointed to administer and implement this chapter by approving, conditionally approving or denying Agency permits in accordance with its provisions.
- (B) The Agency Engineer shall act upon an application for a permit within a reasonable time after all information requested on the application form and any additional information requested by the Agency Engineer has been received; and, the environmental review process has been completed.
- (C) Except as set forth in paragraph (D) the permit shall only be issued if the Agency Engineer finds in writing that:
  - (1) The requirements of this title and other applicable County and Agency ordinances have been satisfied;
  - (2) The activity does not pose a significant risk of injury to persons or damage to private property, Agency property or watercourses;
  - (3) The activity will not unnecessarily obstruct or impair a watercourse and will not interfere with the operation of any drainage facility;
  - (4) The activity is consistent with the General Plan of the County and any applicable drainage plans which have been adopted by the County or the Sacramento County Water Agency.
- (D) If the permit is not issued, notice shall be served on the applicant in writing with the reasons stated therefore, pursuant to the provisions of Section 1.15.050.
- (E) A permit authorizes the permittee to undertake only that activity described in the permit and only on the property for which the permit is issued.

#### **2.30.060 Contents Of Permit.**

The Agency permit shall include but not be limited to a complete description of the activity for which it is issued, the property for which it is issued, the date of issuance, the date of expiration, and a description of any and all conditions upon which the permit has been issued. The permit shall be kept at the site during the activity for which the permit was issued.

### **2.30.70 Conditions.**

- (A) The Agency Engineer may at the time of issuance of the permit impose such conditions as are necessary to ensure compliance with this title, other Agency or County ordinances, or state or federal laws, or are reasonably calculated to protect property from damage, injury to persons, or to prevent impeding, restricting, retarding, or changing the direction of the flow of water in a watercourse or floodway. Conditions to mitigate environmental impacts of the activity may also be imposed by the Agency Engineer.
- (B) The Agency Engineer shall require that the owner of the property, the permit applicant, or both, enter into a written agreement with the Agency holding the County and the Agency free from liability for any harm that may occur to any real or personal property or persons as a result of the activity.
- (C) Any condition imposed shall be embodied, together with the reasons therefore, in the permit.

### **2.30.080 Term.**

An Agency permit shall be effective on the date of issuance, and shall remain in force during the time period noted on the permit, whichever is greater, unless suspended or revoked by the Agency Engineer, or voluntarily relinquished by the permittee.

### **2.30.090 Transferability.**

An Agency permit shall not be transferred or assigned from one person to another, unless approved by the Agency Engineer and the person to whom the permit is to be transferred agrees to comply with the requirements of the original permit and to any conditions imposed therein.

### **2.30.100 Amendment of Permit.**

Any proposed changes in the activity authorized by the permit shall be submitted to the Agency Engineer for review. The permittee shall not undertake any activity which does not conform to the plans or conditions of the original permit, unless approved by the Agency Engineer. The Agency Engineer shall review any proposed changes in the same manner and pursuant to the same standards as the original application.

### **2.30.110 Grounds for Suspension and Revocation.**

Any permit issued pursuant to this chapter may be suspended during its term upon one or more of the following grounds:

- (A) The physical state of the property differs from the descriptions, plans or information furnished to the Agency Engineer in the permit application;
- (B) The activity does not conform to the conditions or terms of the permit;
- (C) The activity is in violation of this chapter, other Agency or County ordinances, or state or federal laws.

### **2.30.120 Method of Suspension or Revocation.**

- (A) The Agency Engineer may suspend or revoke a permit by issuing a notice of suspension or revocation, stating the reasons therefore, and serving same, upon the permittee. Upon suspension or revocation of a permit, in accordance with the provisions of this section, the permittee shall immediately cause all activity to cease until written authorization is received from the Agency Engineer to proceed with the activity.
- (B) The permittee shall have ten (10) calendar days after the date of service and notice thereof of the suspension or revocation in which to file an appeal in accordance with the provisions of Section 1.15.010. If such an appeal is filed, the suspension or revocation shall remain in force and be effective until a final decision on the appeal is issued by the Board of Directors.
- (C) If the Agency Engineer suspends a permit, such permit may either be reinstated or revoked by the Agency Engineer, depending upon whether the permittee corrects the grounds stated for the suspension in the notice issued by the Agency Engineer. If the permittee fails to remedy the grounds for suspension within a time period specified by the Agency Engineer, but in no event later than sixty (60) calendar days, the Agency Engineer shall revoke the permit.

## **CHAPTER 2.35**

### **DESIGN AND IMPROVEMENT STANDARDS**

#### **Sections:**

- 2.35.010 Plans
- 2.35.020 Plan Fees
- 2.35.030 Plan Review
- 2.35.040 Conditions
- 2.35.050 Term
- 2.35.060 Transferability
- 2.35.070 Amendment of Plan

#### **2.35.010 Plans.**

Any construction of all or a portion of a drainage facility within a zone shall conform to the Fee Plan for the zone and shall be in accordance with an approved improvement plan. Such plans shall be prepared and submitted in accordance with the requirements of this chapter and the County Improvement Standards. In the event of a conflict, the provisions of this chapter shall govern.

#### **2.35.020 Plan Check Fees.**

Drainage and grading plan checking, hydrology/hydraulics planning, and storm water quality review and planning by Department of Water Resources staff is included in the Fee Plan. The Developer shall pay all plan checking fees for exempt projects, pursuant to Section 2.50.060. The Developer shall pay all grading and drainage field inspection fees.

#### **2.35.030 Plan Review.**

- (A) The Agency Engineer is hereby appointed to administer and implement this Title by approving, conditionally approving or denying improvement plans in accordance with its provisions.
- (B) The Agency Engineer shall act upon an improvement plan within a reasonable time after all information required by the County Improvement Standards and any additional information requested by the Agency Engineer has been received.
- (C) The plan shall be approved if the Agency Engineer finds that the plan is consistent with federal, state, county and Agency laws and regulations, including this title; the applicable zone Fee Plan; County of Sacramento Improvement Standards; the Sacramento City/County Hydrology Manual; the Drainage Master Plan for the subject project area; and policies or design criteria which have been adopted by the Board of Supervisors of the County or the Board of Directors of the Sacramento County Water Agency.
- (D) A plan shall not be implemented prior to and unless approved by the Agency Engineer.
- (E) If the plan is not approved, notice shall be served on the applicant in writing with the reasons stated therefore, pursuant to the provisions of Section 1.15.050.

#### **2.35.040 Conditions.**

The Agency Engineer may at the time of approval of the plan, impose such conditions as are necessary to ensure compliance with federal, state, county and Agency laws and regulations, including this title; the applicable zone Fee Plan; County Specifications; the General Plan of the County; and, any applicable drainage plans, policies or design criteria which have been adopted by the Board of Supervisors of the County or the Board of Directors of the Sacramento County Water Agency. Any condition imposed shall be embodied, together with the reasons, on the plan.

#### **2.35.050 Term.**

An improvement plan shall be effective on the date of approval and shall remain in force for one year or the time period indicated on the improvement plan, whichever is greater.

#### **2.35.060 Transferability.**

An improvement plan shall not be transferred or assigned from one person to another, unless approved by the Agency Engineer and the person to whom the plan is to be transferred agrees to comply with the requirements of the original plan and to any conditions imposed therein.

#### **2.35.70 Amendment Of Plan.**

Any proposed changes in the plan shall be submitted to the Agency Engineer for review. The applicant shall not undertake any activity which does not conform to the original plans or conditions unless approved by the Agency Engineer. The Agency Engineer shall review any proposed changes in the same manner and pursuant to the same standards as the original plan.



## **CHAPTER 2.40**

### **LAND ACQUISITION**

#### **Sections:**

- 2.40.010 Dedication of Easements and Drainage Right-of-Way
- 2.40.020 Condemnation
- 2.40.030 Credits Available for Peak Flow Detention Basin Land
- 2.40.040 Appraisal of Land to be Acquired
- 2.40.050 Compensation of Land to be Acquired
- 2.40.060 Reservation Agreements

#### **2.40.010 Dedication of Easements and Drainage Right-of-Way.**

The Agency Engineer shall, in conjunction with the issuance of an Agency permit or the approval of an improvement plan, require the granting of on-site and off-site drainage easements or rights-of-way to the Agency under the following circumstances:

- (1) The easement or right-of-way is necessary to accomplish the purposes of this Title;
- (2) The purpose for requiring the easement or right-of-way is consistent with the Fee Plan for the particular zone in which the property is located; and,
- (3) A nexus exists between the dedication and the burden created by the construction, development, encroachment, or other activity for which a permit or plan approval is required; or
- (4) An approved specific or comprehensive plan requires easements or rights-of-way to construct the drainage facilities to serve the planned development.

The Agency Engineer may also request the appropriate authority of the County of Sacramento or incorporated city to require the granting of an easement as a condition of approval of a rezone, tentative subdivision map, tentative parcel map, conditional use permit, variance, improvement plan or grading permit, if the requirements set forth above in this section are satisfied.

#### **2.40.020 Condemnation.**

If a Developer is required to construct or substantially improve drainage facilities or a portion thereof the Agency may, with approval of its governing body, condemn necessary property interests which cannot be obtained through negotiation by such person. The person requesting such condemnation shall pay all costs and expenses thereof, including the appraised value of the property being acquired, administrative and staff costs, attorney fees and litigation costs. The Agency Engineer shall require the person requesting condemnation to enter into an agreement providing for such payment of costs and expenses, and shall require a cash deposit of one hundred twenty-five percent (125%) of the total estimated costs and expenses before commencing condemnation proceedings. If the actual cost of the condemnation is greater than the amount deposited, the Agency shall promptly invoice the person requesting such condemnation and payment shall be due within sixty (60) days of sending the invoice. If the actual cost of the condemnation is less than the amount deposited, the Agency shall provide a refund of the deposit within one-hundred twenty (120) days.

#### **2.40.030 Credits Available for Peak Flow Detention Basin Land.**

- (A) The Agency will compensate developers for the appraised value of land for peak flow and storm water quality detention basins that are:
  - (1) Part of an approved drainage master plan;
  - (2) Deemed by the Director to be hydraulically efficient (or the credit will be adjusted per Section 2.55.020);
  - (3) Regionally beneficial (serving more than 160-acres);
  - (4) Permanent facilities;
  - (5) Reserved by the Agency pursuant to the Subdivision Map Act.
- (B) The Agency shall not issue credits or reimbursements for land purchases which:
  - (1) Serve only the needs of a single developer; such as but not limited to, a detention basin for a storm water pump plant, a basin that mitigates for floodplain reclamation; or
  - (2) Is associated with in-fill projects where peak flow attenuation is required to accommodate the limitations of the downstream conveyance pursuant to Section 9-1 of the County Improvement Standards.

#### **2.40.040 Appraisal of Land to be Acquired.**

- (A) Appraisals shall be approved by the County Department of General Services Real Estate Division, or another impartial third party as determined by the Agency Engineer.
- (B) Appraisals shall be based on market value on the date of the filing of the first tentative parcel or subdivision map or use permit that requires the basin pursuant to the approved drainage master plan and/or conditions placed on the proposed project.
- (C) The appraisal shall add to the fair market value, at the date of valuation as described above, interest per year at the Interest Rate defined in section

- (D) Market Value shall be defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale and as determined by an accredited appraiser.

#### **2.40.050 Compensation for Land to be Acquired**

- (A) Any compensation paid to a developer under this Chapter shall be in the form of a credit agreement, with credits and reimbursements made in accordance with Chapters 2.50 and 2.60 of this Title.
- (B) The Agency shall issue credits and the jurisdiction within which the development is being constructed (i.e., County or incorporated city) shall take title to the real property no later than two years from completion and acceptance of the drainage improvements, unless such period of time is extended by written agreement.

#### **2.40.60 Reservation Agreements.**

The Agency may require a reservation agreement as a condition of approval; however, the Agency has the right to terminate the reservation agreement for any cause, with written notice.

## **CHAPTER 2.50**

### **FEES FOR DRAINAGE FACILITIES**

#### **Sections:**

- 2.50.010 Findings of Fact
- 2.50.020 Establishment of Fees
- 2.50.030 Payment of Fees
- 2.50.040 Responsibility of Agency Engineer
- 2.50.050 Zone Fee Rates
- 2.50.060 Exemptions
- 2.50.070 Deferment of Fees (amended 6/11/96)
- 2.50.075 Deferment of Waiver of Drainage Fees for Low Income or Very Low Income Residential Development Projects
- 2.50.080 Annual Fee Schedule Adjustment

#### **2.50.010 Findings of Fact.**

- (A) The Board hereby finds that the development and new construction of property within the boundaries of Zones 11A, 11B, and 11C of the Sacramento County Water Agency, which boundaries include all or portions of the Morrison Creek Stream Group Watershed and Watersheds draining to Beach Stone Lake (Zone 11A), the American River Tributaries-Arden-Arcade Watershed (Zone 11B), and the Dry Creek Watershed and Watersheds draining to the Natomas East Main Drain (Zone 11C), respectively, results in the coverage of the land with impervious surfaces and channelization of storm water conveyance, including but not limited to, pavements, building roofs, driveways and parking areas. The reduction in the pervious land area results in a reduction of the infiltration of storm rainfall, causing an increase in the flow rate of storm water runoff, an increase in the volume of storm water runoff for certain storm events, and storm water quality degradation;
- (B) The Board hereby finds that the reduction in the pervious land area tends to cause, among other things, a reduction of the infiltration of storm rainfall, an increase in the flow rate of storm water peak flow runoff, an increase in the volume of storm water runoff for certain storm events, and storm water quality degradation;
- (C) The Board hereby finds that the development and new construction of property requires improved drainage and flood control systems to protect the public, to provide for safe roadways, and to improve the natural and beneficial function and habitat value of rivers, ponds, lakes natural and man-made streams and wetlands;
- (D) The Board hereby finds that there is a reasonable relationship between the findings of this Title and the Fee Plan and that whether a development is upstream or downstream in a drainage shed, or Zone area, that development of land contributes to the impact to the necessary drainage facilities and shall therefore contribute equally to the necessary improvements;

- (E) The Board hereby further finds that the development and new construction of property within the boundaries of Zone 11A, 11B, and 11C of the Sacramento County Water Agency, will require construction of the drainage facilities described in the Fee Plans;
- (F) The Board hereby further finds that there is a reasonable relationship between the amount of the fee imposed by this Title and the cost of the drainage facilities or portion of such facilities attributable to the development and new construction on which the fee is imposed, based upon the facts contained in the Fee Plan; and
- (G) The Board hereby further finds that the fees imposed by this chapter are fairly apportioned within Zones 11A, 11B, and 11C on the basis of the need for such facilities created by the proposed development and new construction of property within each zone, based upon the findings contained in the Fee Plans for said zones.

#### **2.50.020 Establishment of Fees.**

- (A) The following fees and charges shall be paid whenever development or new construction of property occurs within Zones 11A, 11B, or 11C of the Sacramento County Water Agency. Such fees and charges shall only be expended for the benefit of property within the zone in which the development or new construction occurs.
- (B) Revenues derived under this Title shall be used (1) to construct drainage facilities, (2) to prepare, revise and/or update drainage and flood control master plans, (3) to acquire any property necessary or convenient for the construction of drainage facilities, (4) to review and comment on submitted improvement plans, and (5) to administer and implement this Title.

#### **2.50.030 Payment of Fees.**

- (A) Unless otherwise provided in this Title, all fees and charges shall be paid concurrently with the:
  - (1) issuance of a building permit by the County; or
  - (2) approval of improvement plans by the County or Agency, whichever occurs first. The applicable rates for fees and charges shall be the rates in effect at the time of payment. All fees and charges shall be rounded to the nearest dollar.
- (B) When development is proposed that impacts storm water runoff as stated in Section 2.50.010, and the Agency Engineer determines that a subsequent building permit or improvement plan will not be submitted for the project in the near future, the Agency Engineer may require all fees and charges be paid at the time of issuance of the grading and erosion control permit.
- (C) Except as set forth in Section 2.50.070 and above, the entire fee for phased developments or subdivisions shall be paid when the first (1) building permit is issued by the County, or (2) improvement plan is approved by the County or Agency, whichever occurs first.

#### **2.50.040 Responsibility of Agency Engineer.**

The Agency Engineer shall review and approve trunk drainage plans and administer the fee and credit program. The Sacramento County Public Works Agency shall keep records of the payments of fees and charges established by this Chapter for each parcel for which a fee is charged.

#### **2.50.050 Zone Fee Rates.**

The Fee Plan is incorporated herein by reference. In accordance with said Fee Plans, the following fees shall apply for the development or new construction of property within Zones 11A, 11B, and 11C:

- (A) Schedule A, B, and C as used in the 1996 Water Agency Code Title 2 shall be combined and henceforth called Schedule A. The fee for Zone 11A, 11B, and 11C shall be as listed in Schedule A, found in Appendix 1 of the Fee Plan.
- (B) The fee for parks, cemeteries, libraries, and other developments not listed on Schedule A shall be based on measured impervious area where all existing, proposed and future buildings and hard surface areas at 90%, and graded drained grass areas at 20%.
- (C) To encourage peak flow detention in sports fields, if a proposed school or park can show that it will attenuate at least one half of the volume of the 100-year 24-hour design storm (greater than the pipe design flow) the fees for those acres of the site may be reduced by 50%. This shall be determined on a case-by-case basis, subject to approval by the Director. When a park or sports field facility is proposed in a regional detention basin, there shall be no drainage fees for that area.
- (D) Additions to buildings, structures, or other site improvements in existence prior to April 8, 1965: Per Appendix 1, Schedule "A" for additional impervious surfaces and required setback and planter areas as determined by the Zoning Code. The fee shall not exceed the fee computed for the net area of the site.
- (E) For changes in the use of a parcel of land the fee shall be computed at the rate required for the new use, less the amount of any drainage fees that have been previously paid for the parcel. In the event the fee previously paid exceeds the fee required for the proposed use, no refund of the difference shall be made.
- (F) Land that was developed prior to the creation or expansion of Zone 11, or sub-zones of Zone 11, shall be treated as if the fee were paid. E.g.: if a residential RD2 development built in 1960 is to be reconstructed as apartments, the developer must only pay the fee for apartments minus the fee for RD2 residential.
- (G) Fees shall be updated based on the fee inflation curve provided in the Fee Plan.
- (H) Fees shall be based on net acres of a parcel with 40 foot street right of way. For example, if the project fronts a thoroughfare, the width of the right of way less 20 feet on each side shall pay no drainage fee.

## 2.50.060 Exemptions.

No fees are required to be paid for the following development or new construction of property within Zones 11A, 11B, or 11C:

- (A) *Agricultural buildings and structures* on parcels of property zoned AR5(+), A-20, A-80, AG-20, AG-40, AG-80, AG-160, UR, or IR.
- (B) *Excavation of aggregates*; provided the site is graded to retain all storm water.
- (C) *Reconstruction of a structure destroyed by fire, earthquake or other natural disaster*, unless a change in land use or zoning occurs.
- (D) The placement of a mobile home or travel trailer if a use permit has been issued by the County for a *mobile home or travel trailer as an accessory dwelling for persons in need of care and supervision* pursuant to Title 3, Chapter 1, Article 4, Section 301-51 of the Zoning Code.
- (E) Construction of an accessory structure such as: a barn, storage shed, or in-laws quarters.
- (F) Any new permit for a single family home on a legally recorded parcel of real property 0.20 acre to five acres, as measured pursuant to section 2.50.050( H), where the final map was recorded prior to the effective date of this Code (August 16, 2004 will pay a reduced drainage fee as shown on the fee schedule for each Zone.
- (G) Reclamation of aggregate mining pits shall be exempt from paying fees and receiving credits under this Title, if:
  - (1) The County approves the development of a project involving the reclamation of an existing aggregate mining pit;
  - (2) No flows enter the reclamation area from off-site including a 0.5% (200-year) storm event;
  - (3) The developer constructs, to the satisfaction and approval of the Agency, a detention basin in the lowest part of the mining pit and a storm water pump station;
  - (4) The basin and pumps are of adequate size and configuration (to the satisfaction and approval of the Agency) to optimize natural and beneficial functions, storm water quality, infiltration and evaporation;
  - (5) The pump discharges to an adjacent existing river, creek, stream or storm drain system;
  - (6) The pumps are configured to automatically discontinue discharging during high flows in the existing river, creek, stream or storm drain system; and
  - (7) The basin is sized to adequately store peak runoff from the project, to the satisfaction and approval of the Director, allowing design capacity of the on-site piped storm drain system and flood protection in agreement with County Improvement Standards.
- (H) Nothing in this Chapter shall exempt a party from the requirement to pay other mitigation fees as required by this Title and the Fee Plan.

#### **2.50.070 Deferment of Fees.**

- (A) When only a portion of a site is being developed, the Agency Engineer may defer that portion of the fees due on the undeveloped portion of the site provided:
  - (1) The undeveloped portion of the site is larger than one half (0.5) acre;
  - (2) The fees due shall not be less than the cost of any new trunk drainage facilities, as provided in a credit agreement, required to be constructed pursuant to the County Improvement Standards;
  - (3) The property owner executes a Deferral Agreement with the Agency for phased development wherein the property owner agrees to pay fees prior to development of any part of the remaining portion of the site, and that such fees shall be determined based upon the methods and rates in effect at the time of development of each phase; and
- (B) School Districts may pay any required fees in five equal annual payments, upon the following terms and conditions:
  - (1) First payment is paid at the time the building permit is issued or improvement plans are approved, whichever occurs first;
  - (2) No new drainage facilities are required to immediately serve the property; and
  - (3) A written agreement is executed between the school district and the Agency wherein the school district agrees to pay in accordance with the provisions of this section.
- (C) When frontage improvements are placed at the option of the property owner and not as a requirement of the County or Agency, then the Agency Engineer may defer fees and charges until improvements impairing the perviousness of the surface are constructed.

#### **2.50.075 Deferment or Waiver of Drainage Fees for Low or Very Low Income Residential Development Projects.**

In addition to the circumstances set forth in Section 2.50.070, upon application and approval pursuant to the provisions of Chapter 2.70, the Drainage Fees for Zone 11A, 11B or 11C shall be deferred or waived and said fees subsequently paid and collected for qualified residential projects pursuant to the provisions of Chapter 2.70.

#### **2.50.080 Annual Fee Schedule Adjustment.**

- (A) On March 1st of each year, or as soon thereafter as possible, the Agency Engineer shall revise the fee rates set forth in Schedule "A" of Appendix 1 as follows:
  - (1) In January of each year, the Agency Engineer shall compute a "mean" index for construction costs by averaging the following two numbers: the mean index for 20 US Cities and the index for San Francisco published in the most recent edition of Engineering News Record Construction Cost Index. An update factor shall be computed by dividing the "mean" index for the particular January 1 by the cost index for January 1, 2004 (7305.6).
  - (2) The fee rates set forth in Schedules "A" of Appendix 1 for 2004 shall be multiplied by said update factor to determine the new fee rates.
- (B) The new fee rates shall be rounded to the nearest one dollar (\$1.00).



(C) The revised Schedules shall be published on January 30th of each year, or as soon thereafter as possible, in a newspaper of general circulation published in the County of Sacramento. The revised Schedules shall take effect and be in full force on and after thirty (30) days from the date of its publication. Copies of said revised Schedules shall be available in the office of the Agency Engineer.

## **CHAPTER 2.55**

### **CREDITS FOR DRAINAGE FACILITIES**

#### **Sections:**

- 2.55.010 Authorization of Credits
- 2.55.020 Amount of Credits
- 2.55.030 Procedure For Credits
- 2.55.040 Special Provisions
- 2.55.050 Apportionment of Credits
- 2.55.055 Assignment of Credit Agreements
- 2.55.060 Annual Credit Schedule Adjustment

#### **2.55.010 Authorization of Credits.**

- (A) Credits are authorized whenever drainage facilities are constructed, which
- (1) are part of the Fee Plan of a zone of the Agency,
  - (2) were designed to serve a watershed area of thirty acres or greater,
  - (3) were required by the Agency in connection with development or new construction, and
  - (4) were constructed pursuant to improvement plans approved by the Agency Engineer, then such person may be entitled to a credit against any fees or charges due pursuant to Chapter 2.50 of this Code, subject to the provisions of this Title.
- (B) This section shall apply to all fees or charges due pursuant to Chapter 2.50 of this Title except the Zone 11A Beach Stone Lake (BSL) Mitigation fee.
- (C) No credit will be allowed for facilities that are not permanent facilities, as defined by this Title.

#### **2.55.020 Amount of Credits.**

- (A) Unless otherwise set forth in this Title, the amount of credits authorized for the construction of drainage facilities shall be computed from the unit base costs shown in Schedule "D" of Appendix 2 to this Title.
- (B) Credits shall be based upon the least expensive permanent installation consistent with County Improvement Standards, the applicable Fee Plan, and with other applicable policies or regulations adopted by the Board of Directors of the Agency or Board of Supervisors of the County.
- (C) Except as set forth in paragraph (D), credits shall be based on the rates in effect on the date fees or charges are paid. All credits shall be totaled and rounded to the nearest dollar.
- (D) Under unusual circumstances of construction, the Board of Directors may authorize credits which are greater than or less than those costs set forth in Schedule "D" of Appendix 2. Whenever the Agency Engineer or any other person requests such an adjustment of authorized credit amounts, such request shall be submitted in writing to the Board, together with bids, data and/or other facts in support of the request.

### **2.55.030 Procedure for Credits.**

- (A) Any person desiring credits for the construction of drainage facilities shall, prior to approval of improvement plans for the drainage facilities, execute an agreement with the Agency authorizing tentative credits ("credit agreement"). Credit agreements in an amount in excess of \$100,000 must be approved by the Board of Directors. Credit agreements in an amount of \$100,000 or less may be approved by the Agency Engineer.
- (B) Tentative credits shall be allocated prior to the acceptance of drainage facilities, so that they may be subtracted from fees at the time fees are paid.
- (C) Credits shall be adjusted as necessary at the time the facilities are accepted by the Agency.
- (D) Upon final field acceptance of the drainage facilities, the Agency Engineer shall determine the as-built quantities and shall correct the credits as necessary.
- (E) The person receiving tentative credits shall agree that if the facilities are not accepted by the Agency, all tentative credits allocated shall be reimbursed to the Agency within 60 days of notice of non-acceptance of the drainage facilities.
- (F) The person receiving tentative credits shall further agree that if tentative credits allocated exceed the final credits, the excess amount shall be reimbursed to the Agency within 60 days of notice of such amount.

### **2.55.040 Special Provisions.**

- (A) Credits for *drainage facilities in reclaimed floodplain areas* shall not exceed the credits that would otherwise be required for a standard gravity drainage system.
- (B) Credits for the costs of constructing *levees, floodwalls, dams and other similar protective works (not including channel excavation)* necessary to reclaim floodplain shall not be authorized.
- (C) No credits shall be allowed for constructing drainage pump plants.
- (D) Credits for drainage facilities financed by assessment district will be allowed for a pro rata portion of those incidental expenses of the assessment district which would be ordinary expenses of constructing such facilities, provided they are not incidental and peculiar to an assessment proceeding. Such incidental expenses for which credit will not be allowed will include, but not be limited to, attorney's fees, assessment district description, preparation of proceedings and assessments, printing of bonds, and other County Treasurer's expenses.
- (E) Credits Available for Storm Water Quality.
  - (1) Credits shall be issued for excavation costs associated with storm water treatment by creating storm water quality features in the bottom of a channel. However, no credits shall be authorized for real estate costs associated with such a facility.
  - (2) Credits shall be issued for basin excavation and appurtenant inlet/outlet structures for storm water quality treatment in detention basins when the storm water quality volume is at the bottom of a regional flood control basin.

- (3) Credits shall **not** be issued for on-site grassy swales, basins and other proprietary devices or for pump stations associated with storm water quality treatment.

#### **2.55.050 Apportionment of Credits.**

- (A) Except as set forth in this section, credits shall only be applied against fees and charges due as a result of development or new construction on the parcel(s) served by the trunk drainage facilities for which the credits are given. Credits may not be apportioned to other parcels after the credit agreement is signed.
- (B) Credits may only be apportioned to other parcels if the Agency Engineer determines:
  - (1) Title to the parcels are held by the individual(s) or firm(s) who are signatory to the credit agreement;
  - (2) The specific apportionment of each parcel is described in the credit agreement; and
  - (3) The parcel or parcels to which such credits are to be apportioned are served by the drainage facilities for which credits are authorized;
- (C) When credits are apportioned, the credit amounts shall be based on the rates in effect on the date improvement plans are approved for the parcel to which credits have been apportioned. Inflation of credits shall be per the inflation curve, found in Appendix 7 of the Fee Plan.

#### **2.55.55 Assignment of Credit Agreements.**

Credit balances may be assigned to another party by use of an Assignment of Drainage Credits Agreement. Credits run with the land, making assignment of the drainage credit agreements necessary whenever undeveloped land is subdivided and/or sold. In order for a person or entity (not a party to an original credit agreement) to receive credits, the Assignment of Drainage Credits Agreement shall include the following:

- (A) Date of the agreement;
- (B) Legal names of assignee and assignor;
- (C) The parcel number and specific dollar amount of the credits that are being assigned; and
- (D) Indemnification of the Agency by the assignor, should disagreement over the terms of the assignment arise.

#### **2.55.060 Annual Credit Schedule Adjustment.**

Schedule D shall be revised annually in accordance with the following. The revised unit prices shall not be applied to existing credit agreements.

- (A) On March 1st of each year, or as soon thereafter as possible, the Agency Engineer shall revise Schedule "D" of Appendix 2 using the Engineering News Record Cost Construction Index method as given in Section 2.50.080(A).
- (B) Those items in Schedule D whose unit price costs are adjusted shall be rounded to the nearest one cent (\$0.01).

- (C) The revised Schedules shall be published on January 30th of each year, or as soon thereafter as possible, in a newspaper of general circulation published in the County of Sacramento. The revised Schedules shall take effect and be in full force on and after thirty (30) days from the date of its publication. Copies of said revised Schedules shall be available in the office of the Agency Engineer.

## **REIMBURSEMENT AGREEMENTS FOR FACILITIES**

### **CHAPTER 2.60**

## **REIMBURSEMENT AGREEMENTS FOR FACILITIES**

#### **Sections:**

- 2.60.010 Criteria For Reimbursement
- 2.60.020 Procedure For Reimbursement
- 2.60.030 Reimbursement Agreements
- 2.60.040 Assessment District
- 2.60.050 Payment of Reimbursements

#### **2.60.010 Criteria For Reimbursement.**

Except where specifically excluded, whenever credits are authorized for the construction of drainage facilities pursuant to Chapter 2.55, and the credit amount exceeds the amount of the fees due pursuant to Chapter 2.50, the Agency shall reimburse the person entitled to such credits in accordance with the provisions of this chapter.

#### **2.60.020 Procedure For Reimbursement.**

Excess credits shall only be reimbursed pursuant to the terms of a reimbursement agreement executed by the Agency and the person entitled to such credits.

#### **2.60.030 Reimbursement Agreements.**

- (A) Reimbursements shall be made pursuant to Section 2.60.050 and the reimbursement agreement shall include the following terms and conditions:
  - (1) The amount of excess credit to be reimbursed;
  - (2) A copy of the executed Credit Agreement as an attachment;
  - (3) An accounting of the fees paid and credits issued;
  - (4) A letter evidencing field acceptance for creditable trunk drainage facilities with as-built quantities.
- (B) The credit balance shall be backdated according to the inflation curve (Appendix 7 of the Fee Plan) and interest on the unpaid balance shall be paid annually in December at the Interest Rate for the prior fiscal year. Interest shall not begin to accrue, however, until ninety (90) days after the drainage facilities are accepted by the Agency.
- (C) The reimbursement agreement may only be assigned by a written amendment to the agreement executed by the Agency Engineer, the assignor(s) and the assignee(s).
- (D) Excess credits shall not be reimbursed until all fees and charges required by Chapter 2.50 have been paid for all parcels on which credit is sought, unless specifically authorized by the Agency Engineer.

- (E) The Agency Engineer may approve a reimbursement agreement with the same party, or an assignee as allowed pursuant to Chapter 2.55, if the amount of the reimbursement does not vary from the amount of the credit agreement by an increase of more than ten percent (10%). Credit amounts exceeding a ten percent (10%) increase to the original credit agreement, must be reconciled by an executed amendment to the original credit agreement before the Agency may enter into a Reimbursement Agreement and make a reimbursement.

#### **2.60.040 Assessment District.**

If the construction of major facilities is financed by an assessment district and where the person, firm or corporation seeking reimbursement has deposited cash into the incidental expense special deposit trust fund established for the financing of the assessment district, reimbursement may be allowed provided all provisions of this chapter have been met. The reimbursable amount shall be the lesser of the amount of the cash deposit or the amount by which the allowable credits for construction exceed any required fees as specifically described in the credit agreement.

#### **2.60.050 Payment of Reimbursements.**

When a project is accepted and a Reimbursement Agreement is executed, the payments due under that reimbursement agreement shall be made as follows, notwithstanding any provisions or Board approved agreements to the contrary:

- (A) Reimbursement Agreements in an amount less than or equal to \$100,000 shall be paid by the Agency within one hundred twenty (120) days of the executed Reimbursement Agreement.
- (B) Reimbursement Agreements in an amount greater than \$1,000,000 shall be paid in equal annual amounts, over 10-years, fully amortized with interest.
- (C) Reimbursement Agreements in an amount less than \$1,000,000 shall be paid in annual payments \$100,000.
- (D) If funds are not available when reimbursement is due, as determined by the Director, payments shall be postponed to the following year with interest accumulated.

## **2.70 Affordable Housing Fee Deferral**

The Water Agency Ordinances for reenact the Affordable Housing Fee Deferral and Fee Waiver Program were adopted by Board of Directors on October 27, 1998, (WA-0033 and WA-0034) and continued the program (until otherwise revised).

### **2.75.010 Placer County Dry Creek Fair Share Fees.**

- (A) Developments in the Linda Creek Watershed shall, Prior to improvement plan approval or recordation of the final map, whichever occurs first, pay a fair share contribution to the costs of: delineating wetlands, preparing a drainage master plan, acquiring right-of-way for and constructing flood control detention, and providing environmental mitigation for drainage improvements, as determined in the drainage master plan for that watershed. The fair share contribution shall be that amount shown on the Fee Schedule in Appendix 1 of the Fee Plan.<sup>1</sup>
- (B) Development in the Dry Creek Watershed flowing toward Placer County prior to improvement plan approval or recordation of the final map, whichever occurs first, shall pay the drainage fee as identified in the Placer County Dry Creek Watershed Flood Control Plan. The amount of this fee shall be the amount shown on the Fee Schedule in Appendix 1 of the Fee Plan.<sup>2</sup>
- (C) This fee shall be adjusted annually, pursuant to Section 2.50.080 of this Title.
- (D) Development in drainage sheds of the Natomas East Main Drainage Canal and its Tributaries shall, prior to improvement plan approval or recordation of the final map, whichever occurs first, pay the drainage fee as indicated on Fee Schedule, Appendix 1 of the Fee Plan.





## COUNTY OF SACRAMENTO

WATER RESOURCES DIVISION.....KEITH DEVORE, Chief  
COUNTY ADMINISTRATION BUILDING Phone: (916) 874-6851  
827 SEVENTH STREET, ROOM 301 Fax: (916) 874-8693  
SACRAMENTO, CA 95814

### PUBLIC WORKS AGENCY

WARREN H. HARADA, Administrator  
CHERYL F. CRESON, Director  
County Engineering  
ROBERT F. SHANKS, Director  
District Engineering  
PATRICK L. GROFF, Director  
Public Works Administration

October 27, 1998

TO: Honorable Board of Directors  
Sacramento County Water Agency

FROM: Water Resources Division  
Department of District Engineering

SUBJECT: **ADOPTION OF WATER AGENCY ORDINANCES TO REENACT THE  
AFFORDABLE HOUSING FEE DEFERRAL AND FEE WAIVER  
PROGRAM**

**APPROVED**

BOARD OF DIRECTORS

*Ord. No. WAO-0033 and*  
OCT 27 1998 *WAO-0034*

By *Cathy H. Turner*  
Clerk of the Board

Members in Session:

### RECOMMENDATION

It is recommended that your Board take the following actions:

1. Adopt the attached ordinance to authorize reenactment of portions of Sacramento County Water Agency Ordinance No. 26 providing for the deferral or waiver of drainage development fees for certain residential projects; and,
2. Adopt the attached ordinance to authorize reenactment of portions of Sacramento County Water Agency Ordinance No. 18 providing for the deferral or waiver of water development fees for certain residential projects.

### DISCUSSION

On October 20, 1998, your Board introduced the attached ordinances, waived full reading thereof, and continued adoption to October 27, 1998. The County's Affordable Housing Fee Deferral and Fee Waiver program for Water Agency Ordinances 26 and 18 originally contained a sunset clause of June 30, 1998, and the program sunsetted on that date. Adoption of the attached ordinances will continue the program in perpetuity.

Honorable Board of Directors  
October 27, 1998  
Page 2

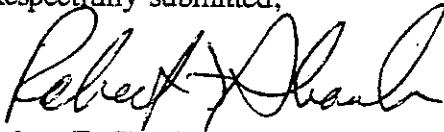
### FINANCIAL ANALYSIS

Re-enactment of the Affordable Housing Fee Deferral/Fee Waiver program will affect development fee revenues necessary for construction of new drainage and water supply improvement projects within affected Water Agency zones.

### CONCLUSION

In order to continue the Fee Deferral and Fee Waiver program, it is recommended that your Board introduce the attached ordinances which will re-enact Section 2.50.075 and Section 72 of Water Agency Ordinances 26 and 18, respectively, which provides for the deferral or waiver of certain residential development fees.

Respectfully submitted,



Robert F. Shanks, Director  
Department of District Engineering

Approval Recommended:



Robert P. Thomas  
County Executive

RFS:JG

Attachments/Enclosure

Cc: Keith DeVore  
Donna Dean  
Steve Pedretti  
Greg Ohanesian  
Jon Goetz  
Pete Ghelfi  
Maureen Zamarripa, PIPFS

ORDINANCE NO. WAO- 0033

**AN ORDINANCE OF THE SACRAMENTO COUNTY WATER AGENCY AMENDING  
WATER AGENCY ORDINANCE NO. WAO-0026 TO CONTINUE TO AUTHORIZE  
THE DEFERRAL OR WAIVER OF DRAINAGE FEES FOR ZONES 11A, 11B  
AND 11C FOR CERTAIN RESIDENTIAL DEVELOPMENT PROJECTS**

The Board of Directors of the Sacramento County Water Agency ordains as follows:

**Section 1.** Sacramento County Water Agency Ordinance No. WAO-0026 is amended as set forth in Sections 2 and 3 of this Ordinance.

**Section 2.** Section 2.50.075 is hereby reenacted as part of "The Sacramento County Water Agency Code," as adopted by Sacramento County Water Agency Ordinance No. WAO-0026, to read as follows:

**2.50.075 DEFERMENT OR WAIVER OF DRAINAGE FEES FOR LOW OR VERY LOW INCOME RESIDENTIAL DEVELOPMENT PROJECTS.** In addition to the circumstances set forth in Section 2.50.070, upon application and approval pursuant to the provisions of Chapter 2.70, the Drainage Fees for Zone 11A, 11B or 11C shall be deferred or waived and said fees subsequently paid and collected for qualified residential projects pursuant to the provisions of Chapter 2.70.

**Section 3.** Chapter 2.70, entitled "Deferment or Waiver of Drainage Fees for Low or Very Low Income Residential Development Projects," is hereby reenacted as part of "The Sacramento County Water Agency Code," as adopted by Sacramento County Water Agency Ordinance No. WAO-0026, to read as follows:

**2.70.010 PURPOSE.** The Board desires to encourage the construction of residential projects which will provide units with affordable rents or affordable housing costs for low and very low income households in the County of Sacramento. The Board finds that the early payment of certain impact fees for residential development creates a barrier to such development and desires, by the adoption of this ordinance, to ease such barrier by deferring the time for payment of certain fees. To create

further incentive to construct residential projects for very low income households the Board wishes to waive the payment of certain fees for a set number of units that will provide affordable rents or affordable housing costs for very low income households. The Board finds that this deferral/waiver program is consistent with the policies and goals of the County of Sacramento Housing Element and necessary for the health and welfare of the County's residents.

**2.70.020 APPLICATION.** In addition to the circumstances set forth in Section 2.50.070 of Chapter 2.50, upon application and approval pursuant to Section 2.70.040, 2.70.050, or 2.70.060 of this Chapter, the Drainage Fees for Zone 11A, 11B or 11C shall be paid and collected for qualified residential projects pursuant to the provisions of this Chapter.

**2.70.030 DEFINITIONS.** (a) "AGENCY ENGINEER" means the Engineer of the Sacramento County Water Agency or his or her designee.

(b) "AFFORDABLE HOUSING COST" refers to the definition contained in Health & Safety Code Section 50052.5, including but not limited to cost limits for low and very low households in owner-occupied housing, as further defined in Volume 25 of the California Code of Regulations.

(c) "AFFORDABLE RENT" refers to the definition contained in Health & Safety Code Section 50023, including but not limited to cost limits for low and very low households in rental housing, as further defined in Volume 25 of the California Code of Regulations.

(d) "APPLICANT" means the owner or owners of record of the real property for which a fee deferral or fee waiver or combination fee deferral and waiver is sought pursuant to this Chapter.

(e) "COMMITMENT LETTER" refers to the notification issued by the Sacramento Housing and Redevelopment Agency (in response to its Notices of Funding Availability) of its commitment of construction and/or permanent loans for the purpose of financing the acquisition and construction of certain real property for the purposes of constructing a Low or Very Low Income residential development project or the notification issued by the Sacramento Housing and Redevelopment Agency verifying the projected costs, projected rents/sales price and affordability level, financing plan, financing gap, design, management and schedule of performance related to the construction of a Low or Very Low Income residential development project.

(f) "LOW INCOME HOUSEHOLDS" refers to the definition contained in Health & Safety Code Section 50079.5, including but not limited to an income limit of 80 percent of area median income, adjusted for family size and revised annually.

(g) "QUALIFIED RESIDENTIAL PROJECT" means a residential development project which has received written certification from SHRA as including at least 10% of units with Affordable Rents or Affordable Housing Costs for Very Low Income households or at

least 49% of units with Affordable Rents or Affordable Housing Costs for Low Income households or which has received prior written certification from SHRA to include a combination of units with Affordable Rents or Affordable Housing for Low and Very Low Income households. Said written certification from SHRA must be obtained prior to application for deferral or waiver of fees pursuant to this Chapter.

(h) "RELEASE FROM SHRA" means a written release submitted from SHRA to a title company which (1) verifies that the buyer has met the income qualifications as set forth in this Section or (2) verifies a multi-family residential project has received a State of California Tax Credit Allocation Committee final cost certification or similar certification from another financing entity or that the renter has met the income qualifications as set forth in this Section.

(i) "SHRA" means the Sacramento Housing and Redevelopment Agency.

(j) "VERY LOW INCOME HOUSEHOLDS" refers to the definition contained in Health & Safety Code Section 50105, including but not limited to an income limit of 50 percent of area median income, adjusted for family size and revised annually.

**2.70.040 FEE DEFERRAL PROGRAM.** (a) A qualified residential development project, as defined in Section 2.70.030(7), which has been certified by SHRA to include at least ten percent (10%) of units with Affordable Rents or Affordable Housing Costs for Very Low Income households or at least forty-nine percent (49%) of units with Affordable Rents or Affordable Housing Costs for Low Income households may file an application with the Sacramento County Water Agency to request deferral of any of those fees enumerated in Section 2.70.020 of this Chapter. The specific percentage of Low or Very Low Income units, or both, to be offered in a residential development project must be certified by SHRA and included in the fee deferral application prior to acceptance thereof.

(b) At the time of building permit issuance, the applicant shall pay ten percent (10%) of the amount of all fees included in the application request for each individual lot for which a building permit is sought. Said payment shall be in addition to any and all required fee deferral application and administrative processing fees.

(c) Security for the deferral of fees pursuant to this Chapter shall be in the form of a promissory note secured by a deed of trust encumbering each parcel of record owned by the applicant that is included in the qualified residential project. The promissory note and deed of trust shall be in a form satisfactory to the Agency Engineer and approved by the County Counsel. Said promissory note and deed of trust shall be recorded prior to issuance of building permits and shall be secondary only to deeds of trust associated with acquisition or construction financing.

(d) All of the following requirements must be satisfied prior to approval of a fee deferral: (i) submittal to the

Sacramento County Water Agency of a complete application, including certification as a qualified residential project from SHRA and a preliminary title report; (ii) deposit of all fees pursuant to Section 2.70.120; (iii) recordation of security pursuant to subsection (C); and (iii) execution and recordation of a deferral agreement pursuant to Section 2.70.070.

(e) Fees that are approved for deferral for a single-family residential project pursuant to this Chapter shall be due and payable at the close of escrow of each individual lot within the project. The maximum fee deferral period for any and all lots within a single-family residential project is fifteen (15) months from the date of execution of the fee deferral agreement. If not paid within the maximum fee deferral period, interest penalties shall apply pursuant to Section 2.70.090 and payment of the fees secured by the deed of trust shall be undertaken pursuant to the provisions set forth in the executed agreement entered into for the subject property pursuant to Section 2.70.070.

(f) Fees that are approved for deferral for a multi-family residential project pursuant to this Chapter shall be due and payable upon the close of permanent loan financing. The maximum fee deferral period is fifteen (15) months from the date of execution of the fee deferral agreement. If not paid within the maximum fee deferral period, interest penalties shall apply pursuant to Section 2.70.090 and payment of the fees secured by the deed of trust shall be undertaken pursuant to the provisions set forth in the executed agreement entered into for the subject property pursuant to Section 2.70.070.

(g) For a single family residential project, a partial release from the deed of trust securing the promissory note per individual unit shall be executed by the County upon receipt of written notification from the title company handling the escrow of said unit of the title company's receipt of the release from SHRA. For multifamily residential projects, a release from the deed of trust securing the promissory shall be executed by the County upon receipt of written notification from the title company handling the permanent loan financing of receipt of the release from SHRA.

(h) For purposes of calculation of the fifteen (15) month maximum fee deferral period pursuant to this Chapter, said period shall begin to run from the date of execution of the fee deferral agreement. If notification, in the form of a written demand letter, is not received from the title company by the last day of the fifteen (15) month period, all fees shall be due and payable pursuant to the provisions of the fee deferral agreement and shall be subject to the interest provisions of Section 2.70.090.

(i) Notification by the title company of failure of a single or multi-family residential project to sell or rent the percentages of Affordable Rents or Affordable Housing Costs for Very Low Income households or Low Income households for which a fee deferral was approved pursuant to this Chapter shall result in the imposition of interest penalties calculated from the date of execution of the fee deferral agreement pursuant to Section 2.70.070 and payment of the fees secured by the deed of trust

pursuant to the provisions set forth in the executed agreement entered into for the subject property pursuant to Section 2.70.070.

(j) The approval of a fee deferral pursuant to this Chapter for a qualified residential project shall not be transferrable to another project regardless of whether the applicant is the same for both projects or whether the other project is also a qualified residential project.

(k) In the event that a qualified single-family residential project plans to sell or rent units both at market rate and for Low Income households, the applicant shall submit a copy of the tentative or final subdivision or parcel map for said qualified single-family residential project identifying all units for which a deferral is sought pursuant to this Chapter. The tentative or final subdivision or parcel map shall be submitted with the fee deferral application. Prior to final map recordation, subsequent one-for-one changes of the identification of market rate and Low Income household units on the tentative subdivision or parcel map shall require prior written approval of the Agency Engineer and shall be permitted only if the same deed of trust encumbers both of the lots for which the change is requested and provided that the percentage of Low Income household units as set forth in the fee deferral application for said qualified single-family residential project and the accompanying certification from SHRA is not increased or decreased. Final map recordation of the tentative subdivision map shall be required to be in substantial conformance with the entire tentative subdivision map per Government Code Section 66442. Subsequent to final map recordation, one-for-one changes shall require prior written approval of the Agency Engineer and shall be permitted only if the same deed of trust encumbers both of the lots for which the change is requested and provided that the percentage of Low Income household units as set forth in the fee deferral application for the entire qualified single-family residential project and the accompanying certification from SHRA is not increased or decreased.

**2.70.050 FEE WAIVER PROGRAM.** (a) Only a qualified residential development project, as defined in Section 2.70.030(7) for which a letter of commitment has been issued by SHRA and which has been certified by SHRA to include at least ten percent (10%) of units with Affordable Rents or Affordable Housing Costs for Very Low Income households shall be eligible for waiver of any of those fees enumerated in Section 2.70.020. Said fees shall be waived in an amount proportional to the percentage of units affordable to Very Low Income Households. The certification of the specific Very Low Income percentage for each individual project must be certified by SHRA and included in the fee waiver application prior to acceptance thereof.

(b) Security shall be required for fee waiver applications for the sole purpose of ensuring a method of recovery of those fees waived, in the event a residential development project fails to provide the percentages of Affordable Rents or Affordable Housing Costs for Very Low Income households for which a fee

waiver was sought. Said security shall be in the form of a promissory note secured by a deed of trust encumbering each parcel of record owned by the applicant that is included in the qualified residential project. Said security shall be recorded for all development fees for which a waiver is requested pursuant to this Chapter. The promissory note and deed of trust shall be in a form satisfactory to the Agency Engineer and approved by the County Counsel. Said promissory note and deed of trust shall be recorded prior to the issuance of building permits and shall be secondary only to deeds of trust associated with acquisition or construction financing.

(c) All fee waiver applications shall be subject to the cap provisions set forth in Section 2.70.080. No fee waiver applications will be accepted if the cap, as set forth in Section 2.70.080, has been reached for the fiscal year in which a fee waiver application is submitted. No waiting lists will be maintained by the Sacramento County Water Agency.

(d) All of the following requirements must be satisfied prior to approval of a fee waiver: (i) submittal to the Sacramento County Water Agency of a complete application, including certification as a qualified residential project from SHRA and a preliminary title report; (ii) deposit of all fees pursuant to Section 2.70.120; (iii) recordation of security pursuant to subsection (B); and (iii) execution and recordation of a waiver agreement pursuant to Section 2.70.070.

(e) For a single family residential project, a partial release from the deed of trust securing the promissory note per individual unit shall be executed by the County upon receipt of written notification from the title company handling the escrow of said unit of the title company's receipt of the release from SHRA. For multifamily residential projects, a release from the deed of trust securing the promissory note shall be executed by the County upon receipt of written notification from the title company handling the permanent loan financing of receipt of the release from SHRA.

(f) Notification by the title company of failure of any single or multi-family residential project to provide the percentages of Affordable Rents or Affordable Housing Costs for Very Low Income households for which a fee waiver was sought pursuant to this Chapter shall result in the imposition of interest penalties calculated from the date of execution of the fee waiver agreement pursuant to Section 2.70.090 and payment of the fees secured by the deed of trust pursuant to the provisions set forth in the executed agreement entered into for the subject property pursuant to Section 2.70.070.

(g) The approval of a fee waiver pursuant to this Chapter for a qualified residential project shall not be transferrable to another project regardless of whether the applicant is the same for both projects or whether the other project is also a qualified residential project.

(h) A fee waiver shall be valid for a maximum fifteen (15) months from the date of execution of the fee waiver agreement. If notification, in the form of a written demand letter, is not



received from the title company by the last day of the fifteen (15) month period, all fees shall be due and payable pursuant to the provisions of the fee waiver agreement and shall be subject to the interest provisions of Section 2.70.090.

(i) In the event that a qualified single-family residential project plans to sell or rent units both at market rate and for Very Low Income households, the applicant shall submit a copy of the tentative or final subdivision or parcel map for said qualified single-family residential project identifying all units for which a waiver is sought pursuant to this Chapter. The tentative or final subdivision or parcel map shall be submitted with the fee waiver application. Prior to final map recordation, subsequent one-for-one changes of the identification of market rate and Very Low Income household units on the tentative subdivision or parcel map shall require prior written approval of the Agency Engineer and shall be permitted only if the same deed of trust encumbers both of the lots for which the change is requested and provided that the percentage of Very Low Income household units as set forth in the fee waiver application for said qualified single-family residential project and the accompanying certification from SHRA is not increased or decreased. Final map recordation of the tentative subdivision map shall be required to be in substantial conformance with the entire tentative subdivision map per Government Code Section 66442. Subsequent to final map recordation, one-for-one changes shall require prior written approval of the Agency Engineer and shall be permitted only if the same deed of trust encumbers both of the lots for which the change is requested and provided that the percentage of Very Low Income household units as set forth in the fee waiver application for the entire qualified single-family residential project and the accompanying certification from SHRA is not increased or decreased.

**2.70.060 DEFERRAL AND WAIVER PROGRAM.** (a) A qualified residential development project, as defined in Section 2.70.030(7), which has been certified by SHRA to include at least ten percent (10%) of units with Affordable Rents or Affordable Housing Costs for Very Low Income households; or at least forty-nine percent (49%) of units with Affordable Rents or Affordable Housing Costs for Low Income households, of which at least ten percent (10%) of said units are with Affordable Rents or Affordable Housing Costs for Very Low Income households, may file an application with the Sacramento County Water Agency to request a combination of deferral and waiver of any of those fees enumerated in Section 2.70.020 of this Chapter. The specific percentage of types of units to be offered in a residential development project must be certified by SHRA and included in the fee deferral and waiver application prior to acceptance thereof. Only residential development projects for which a letter of commitment is received by the Sacramento County Water Agency directly from SHRA may apply for a fee waiver under this Section in combination with a fee deferral. An application requesting both fee deferral and waiver shall be subject to all provisions set forth in this Chapter. Pursuant to Section 2.70.070, a

single agreement shall be entered into by an applicant requesting both deferral and waiver of fees for one project.

(b) For a fee deferral and waiver for a qualified single-family residential project, the applicant shall submit a copy of the tentative or final subdivision or parcel map for said qualified single-family residential project identifying each unit for which a deferral is sought and each unit for which a waiver is sought. In the event that the qualified single-family residential project includes units offered at market rate, these units shall also be identified on said tentative or final subdivision or parcel map. The tentative or final subdivision or parcel map shall be submitted with the fee deferral and waiver application. Prior to final map recordation, subsequent one-for-one changes of the identification of units on the tentative subdivision or parcel map shall require prior written approval of the Agency Engineer and shall be permitted only if the same deed of trust encumbers both of the lots for which the change is requested and provided that the percentage of Very Low Income household units and Low Income household units as set forth in the fee deferral and waiver application for said qualified single-family residential project and the accompanying certification from SHRA is not increased or decreased. Final map recordation of the tentative subdivision map shall be required to be in substantial conformance with the entire tentative subdivision map per Government Code Section 66442. Subsequent to final map recordation, one-for-one changes shall require prior written approval of the Agency Engineer and shall be permitted only if the same deed of trust encumbers both of the lots for which the change is requested and provided that the percentage of Low Income and Very Low Income household units as set forth in the fee deferral and waiver application for the entire qualified single-family residential project and the accompanying certification from SHRA is not increased or decreased.

(c) Notification by the title company of failure of any single or multi-family residential project to provide the percentages of Affordable Rents or Affordable Housing Costs for Low Income and Very Low Income households for which a fee deferral and waiver was sought pursuant to this Chapter shall result in the imposition of interest penalties calculated from the date of execution of the fee deferral and waiver agreement pursuant to Section 2.70.090 and payment of the fees secured by the deed of trust pursuant to the provisions set forth in the executed agreement entered into for the subject property pursuant to Section 2.70.070.

(d) Upon execution of the fee deferral and waiver agreement, an applicant who fails to provide the percentage of Affordable Rents or Affordable Housing Costs for Very Low Income households in either a single or multi-family project for which a fee waiver is sought in combination with a fee deferral request shall not be permitted to subsequently request a fee deferral for any portion of the units that no longer qualify for a waiver of fees.

(e) The approval of a fee deferral and waiver for a qualified residential project shall not be transferrable to

another project regardless of whether the applicant is the same for both projects or whether the other project is also a qualified residential project.

(f) Fee deferral and waiver approvals shall be valid for a maximum fifteen (15) months from the date of execution of the fee deferral and waiver agreement. If notification, in the form of a written demand letter, is not received from the title company by the last day of the fifteen (15) month period, all fees shall be due and payable pursuant to the provisions of the fee deferral and waiver agreement and shall be subject to the interest provisions of Section 2.70.090.

#### **2.70.070 DEFERRAL, WAIVER AND SUBORDINATION AGREEMENTS.**

Upon verification by the Agency Engineer of receipt of a complete application, the applicant shall enter into a deferral or waiver agreement or a single agreement for both with the Water Agency in a form satisfactory to the Agency Engineer and approved by the County Counsel. Such agreement shall, at a minimum, be site specific and provide for the enforcement of the provisions of this Chapter and shall be recorded with the Sacramento County Recorder's Office. A single agreement shall be entered into for each project whether or not the applicant is the same for multiple projects. In addition, the applicant shall execute a separate subordination agreement for each encumbrance or deed of trust other than one which secures repayment of acquisition or construction financing existing at the time of execution of the deferral or waiver or deferral and waiver agreement. Authority to execute these agreements on behalf of the Water Agency is hereby delegated to the Agency Engineer, subject to approval of the County Counsel as to form.

**2.70.080 FEE WAIVER CAP.** (a) The total number of fee waivers to be approved by the Sacramento County Water Agency shall be capped annually at 200 dwelling units or 5% of the number of dwelling units for which residential building permits for new construction were issued in the unincorporated area of the County in the previous fiscal year, whichever is greater. Calculation of the annual number of dwelling units shall be based on the County's fiscal year.

(b) For purposes of calculation of the cap, the date of the commitment letter from SHRA shall determine in which fiscal year the dwelling units for a particular qualified residential project will be included. For the sole purpose of calculation of the cap, SHRA may, with the prior approval of the Agency Engineer, substitute a letter of commitment for a new qualified residential project for another qualified residential project which already has a letter of commitment on file with the Sacramento County Water Agency only if this substitution occurs prior to the execution of the fee waiver agreement or fee deferral and waiver agreement for the qualified residential project already on file with the Sacramento County Water Agency. No substitutions whatsoever shall occur after execution of the fee waiver agreement.

(c) Failure to reach the cap in a particular fiscal year shall not result in a rollover of the surplus dwelling units to the next fiscal year.

(d) A qualified residential project, for which a letter of commitment has been received from SHRA, which does not execute the waiver or deferral and waiver agreement within the fiscal year for which it has qualified under the cap, may, with prior written notification to the Agency Engineer, roll-over the commitment letter until the end of the subsequent fiscal year. The rollover shall not be counted to the subsequent fiscal year calculation of the cap. No additional extensions shall be permitted. Failure of a qualified residential project to execute the waiver or deferral and waiver agreement within the extension period of time provided for in this Section shall result in the purging of the letter of commitment for said project from the Sacramento County Water Agency files. Ensuing requests for a fee waiver for the same project shall require the re-submittal of new documentation, including a new letter of commitment. Re-submittal shall be given no priority over new applications for a fee waiver and shall be subject to the provisions of the cap set forth in this Section in the same manner as new applications.

(e) Failure of a particular applicant to satisfy the requirements set forth in this Section for the Fee Waiver Program shall not result in the replacement of those dwelling units into the pool of dwelling units available pursuant to the cap in a particular fiscal year.

**2.70.090 INTEREST.** (a) For qualified residential projects, which have been approved for a deferral of fees pursuant to this Chapter, no interest shall accrue during the period of deferral. However, in the event that the applicant fails to provide the percentage of Low or Very Low income units or rentals as stated in the fee deferral application, an interest penalty equal to the annual rate of interest earned by the Treasurer of the County of Sacramento on the investment of pooled funds on that amount of disqualified deferred fees, computed from the date of execution of the fee deferral or fee deferral and waiver agreement, shall be assessed and shall be due and payable pursuant the provisions of the agreement entered into for the subject project pursuant to Section 2.70.070.

(b) In the event that an applicant fails to provide the percentage of Very Low income units approved in the fee waiver application, an interest penalty equal to the annual rate of interest earned by the Treasurer of the County of Sacramento on the investment of pooled funds on that amount of disqualified waived fees, computed from the date of execution of the fee waiver or fee deferral and waiver agreement, shall be assessed and shall be due and payable pursuant to the provisions of the agreement entered into for the subject project pursuant to Section 2.70.070.

**2.70.100 FEE INCREASES.** Fees which qualify for a fee deferral or waiver or a combination fee deferral and waiver shall not be subject to fee increases which may occur from the date of

execution of the agreement required pursuant to Section 2.70.070 to the end of the fifteen (15) month maximum period permitted under this Chapter. However, subsequent applications for the same qualified residential project shall be subject to the fee rate in effect at the time of submittal of the subsequent application.

**2.70.110 RECORDATION COSTS.** All costs of recordation of documents required pursuant to this Chapter shall be paid by the applicant.

**2.70.120 FEE DEFERRAL/WAIVER APPLICATION AND ADMINISTRATIVE PROCESSING FEES.** A non-refundable fee deferral/waiver application fee of \$600.00 is hereby established and shall be paid at the time of application for a fee deferral or fee waiver or fee deferral and waiver pursuant to this Chapter. A non-refundable administrative processing fee of \$275.00 is hereby established for payment at the time of each individual building permit issuance for the purpose of funding the costs of administering the fee deferral/waiver program established by this Chapter. These fees may from time to time be amended by resolution of the Board of Directors.

**Section 4.** This ordinance was introduced and the title thereof read at the regular meeting of the Board of Directors on OCTOBER 20, 1998 and on OCTOBER 20, 1998 further reading was waived by the unanimous vote of the Directors present.

This ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date of its passage it shall be published once with the names of the members of the Board of Directors of the Sacramento County Water Agency voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Director DICKINSON, seconded by Director COLLIN, the foregoing ordinance was passed and adopted by the Board of Directors of the Sacramento

County Water Agency, this 27th day of OCTOBER, 1998, by  
the following vote:

AYES: Directors,

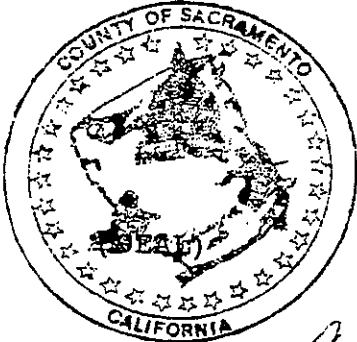
DICKINSON, JOHNSON, COLLIN

NOES: Directors,

COX, NOTTOLI

ABSENT: Directors,

NONE



Gus Collins  
Chairperson of the Board of Supervisors  
and Ex-officio Chairperson of the Board of  
Directors of Sacramento County Water Agency

In accordance with Section 25103 of the Government Code of  
the State of California a copy of this document has been  
delivered to the Chairman of the Board of Supervisors, County  
of Sacramento on

ATTEST:

Gray H. Turner  
Clerk of the Board of  
Supervisors and Ex-officio Clerk  
of the Board of Directors

OCT 27 1998

Kay F. Johnson  
Deputy Clerk, Board of Supervisors

FILED

OCT 27 1998

BOARD OF DIRECTORS

By Gray H. Turner  
Clerk of the Board