



## CITY COUNCIL STAFF REPORT

DATE: MARCH 4, 2009 CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF PROPOSED ORDINANCE  
TEMPORARILY DELAYING THE PAYMENT OF QUIMBY PARK FEES  
AND PUBLIC ARTS FEES.

FROM: David H. Ready, City Manager

BY: James Thompson, City Clerk

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### RECOMMENDATION:

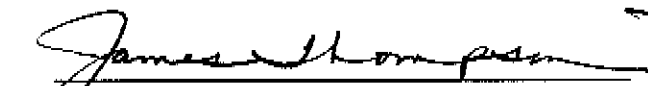
Waive further reading and adopt Ordinance No. 1757, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROVIDING FOR THE DEFERRAL OF PAYMENT OF CERTAIN DEVELOPMENT IMPACT FEES."

### STAFF ANALYSIS:

At its February 18, 2009, meeting proposed Ordinance No. 1757 was introduced by the following vote:

**ACTION:** 1) Waive the reading of the ordinance text in its entirety and read by title only; and 2) Introduce on first reading Ordinance No. 1757, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROVIDING FOR THE DEFERRAL OF PAYMENT OF CERTAIN DEVELOPMENT IMPACT FEES." **Motion Councilmember Foat, seconded by Councilmember Hutcheson and unanimously carried (4-0) on a roll call vote, noting the absence of Mayor Pro Tem Mills.**

This report provides for the City Council to waive further reading and adopt the ordinance. The ordinance shall be effective 30-days from adoption.

  
JAMES THOMPSON, City Clerk

  
DAVID H. READY, City Manager

Attachments:  
Ordinance No. 1757

ITEM NO. 2.E.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROVIDING FOR THE DEFERRAL OF PAYMENT OF CERTAIN DEVELOPMENT IMPACT FEES.

City Attorney Summary

*Currently, certain Development Impact Fees are payable upon the issuance of a building permit. This Ordinance provides for the temporary deferral of payment of Quimby Park Fees (In Lieu of Dedication) and Public Art Fees, to be payable upon the earlier of final inspection or certificate of occupancy.*

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS FINDS:

- A. The City Council of the City of Palm Springs has adopted certain park and public art fees and charges relating to mitigation of the impact of new development upon City municipal services and infrastructure (collectively the "Development Impact Fees").
- B. Pursuant to the provisions of the Palm Springs Municipal Code, Development Impact Fees are currently required to be paid by the developers of new development at the time of issuance of building permits or prior to recordation of final tract map.
- C. Due to recent adverse changes in economic conditions in the housing and construction market throughout the nation, including the City of Palm Springs, construction of development projects previously approved, or in the process of being approved, by the City of Palm Springs have slowed down due to such economic conditions;
- D. The City of Palm Springs relies on new development in the City to stimulate the local economy and provide direct and indirect benefits to the City and its residents and businesses by creating construction jobs, new market-rate and affordable housing units, and new tax bases and revenues to the community;
- E. It is therefore in the public interest and to the public benefit for the City Council to stimulate and encourage new development in the City of Palm Springs by the adoption an ordinance that would provide for the temporary deferral of the Development Impact Fees.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. TEMPORARY DEFERRAL OF PAYMENT OF PARK IN LIEU OF DEDICATION FEES.

Notwithstanding any other requirements of Subsection X of Section 2 of Ordinance No. 1632, the City Manager shall have the authority to consider and approve the deferral of payment of Park In Lieu of Dedication fees to the earlier of final

inspection or Certificate of Occupancy, or one year from the date the deferral is approved by the City Manager.

SECTION 2. TEMPORARY DEFERRAL OF PAYMENT OF PUBLIC ARTS FEES.

Notwithstanding any other requirements of Palm Springs Municipal Code Section 3.37.070(c), the City Manager shall have the authority to consider and approve the deferral of Public Arts fees to the earlier of final inspection or Certificate of Occupancy, or one year from the date the deferral is approved by the City Manager.

SECTION 3. DEFERRAL OF COST INDEX INFLATORS.

Notwithstanding any other provision in Subsection D of Section 2 of Resolution No. 21578, as amended, adopting a comprehensive fee schedule, the City Manager shall not adjust Park In Lieu fees or Public Arts fees by the cost index inflator.

SECTION 4. This Ordinance shall automatically expire and be of no force and effect on July 1, 2010 unless the City Council shall have first acted to extend or otherwise alter the provisions of this Ordinance prior to that time.

SECTION 5. Nothing contained in this Ordinance shall be deemed to authorize or permit the deferral of payment of any fee or charge imposed upon development within the City except for those Development Impact Fees expressly enumerated in Sections 1 and 2 of this Ordinance.

SECTION 6. Nothing contained in this Ordinance shall be deemed to create any new fee charge, or increase any existing fee or charge, to which the procedures specified in Section 66017 of the Government Code of the State of California would be applicable.

SECTION 7. As a condition of the deferment of time of payment of any Development Impact Fee(s) pursuant to this Ordinance, the City shall require the property owner, or lessee if the lessee's interest appears of record, prior to and as a condition of issuance of the building permit, to execute either a contract secured by a lien or a letter of agreement secured by a irrevocable letter of credit and/or security instrument as approved by the City Manager. In either event, the Development Impact Fee(s) shall be paid prior to final inspection or issuance of a Certificate of Occupancy, whichever occurs earlier, as set forth below.

- (a) With regard to a contract, the obligation to pay the Development Impact Fee(s) shall inure to the benefit of, and be enforceable by, the City regardless of whether the City is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of Riverside County and, from the date of recordation, shall constitute a lien for the payment of the Development Impact Fee(s) which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the

grantor-grantee index in the name of the City of Palm Springs as grantee and in the name of the property owner or lessee as grantor. The City shall record a release of the obligation, containing a legal description of the property, when the obligation is paid in full. The contract shall require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the City of Palm Springs from the sale proceeds in escrow prior to disbursing proceeds to the seller. The executed contract shall be deemed to supersede any conflicting provision contained in any applicable development agreement with regard to the time of payment of any Development Impact Fee(s).

(b) As an alternate to recording a contract that constitutes a lien, the property owner or lessee if the lessee's interest appears of record may, prior to and as a condition of issuance of the building permit, execute a letter of agreement and provide an irrevocable letter of credit and/or security instrument approved by the City Manager.

SECTION 8. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, this Ordinance shall be deemed invalid. The City Council hereby declares that it would not have adopted this Ordinance if any of the sections or provisions thereof may be declared invalid or unconstitutional or contravened via legislation.

SECTION 9. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provision of law, and this Ordinance shall take effect thirty (30) days after adoption.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 4<sup>TH</sup> DAY OF MARCH, 2009.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. \_\_\_\_\_ is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on February 18, 2009, and adopted at a regular meeting of the City Council held on March 4, 2009, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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James Thompson, City Clerk  
City of Palm Springs, California