

ORDINANCE NO. _____ (2024 SERIES)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, AMENDING SECTION 4.56.050 (PAYMENT OF FEES) OF THE MUNICIPAL CODE TO ESTABLISH A DEVELOPMENT IMPACT FEE DEFERRAL PROGRAM FOR ELIGIBLE AFFORDABLE HOUSING PROJECTS. THE PROJECT IS EXEMPT FROM ENVIRONMENTAL REVIEW (CEQA) (IMPACT FEE DEFERRAL PROGRAM)

WHEREAS, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chambers of City Hall, 990 Palm Street, San Luis Obispo, California, on November 21, 2000, adopting Council Resolution No. 9131 (2000 Series) for the purpose of waiving city-wide development impact fees for affordable housing units in excess of inclusionary requirements; and

WHEREAS, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chambers of City Hall, 990 Palm Street, San Luis Obispo, California, on June 5, 2007, adopting Council Resolution No. 9903 (2007 Series), which superseded and replaced Resolution No. 9131 (2000 Series); and

WHEREAS, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chambers of City Hall, 990 Palm Street, San Luis Obispo, California, on September 17, 2024, adopting Council Resolution No. XXXX (2024 Series), which superseded and replaced Resolution No. 9903 (2007 Series); and

WHEREAS, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California on September 17, 2024, for the purpose of considering the amendments amendment to Section 4.56.050 (Payment of Fees) of the Municipal Code to implement the Development Impact Fee Deferral Program; and

WHEREAS, the City has identified Housing as a Major City Goal; and

WHEREAS, the City's Housing Element Programs 2.9 and 6.16 supports incentivization of affordable housing incentives; and

WHEREAS, impact fees are an identified barrier to production of affordable housing; and

WHEREAS, impact fees for affordable housing projects have been deferred by the City to help accelerate production of affordable housing; and

WHEREAS, the aforementioned Program formalizes a process for applying for and receiving impact fee deferrals; and

WHEREAS, deferral of impact fees structured as a loan owed to the City provides defined terms of repayment and ensures no ultimate loss of revenue to cover the ongoing impacts of the development; and

WHEREAS, the City Council finds that the proposed amendment is consistent with the General Plan, and other applicable City goals and policies as amended; and

WHEREAS, notices of said public hearing were made at the time and in the manner required by law; and

WHEREAS, the City Council has duly considered all evidence, including the deferral program's consistency with the Mitigation Fee Act and the California Constitution, the City's ongoing need to cover the costs of increased residential development, the input of interested parties, and evaluation and recommendations by staff.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Luis Obispo as follows:

SECTION 1. Incorporation of Recitals. The City Council find that the foregoing recitals and staff report presented with this ordinance are true and correct and are incorporated in the ordinance by this reference and adopted as the findings of the City Council.

SECTION 2. Findings. Based upon all the evidence, the City Council makes the following additional findings:

1. The proposed amendments to Section 4.56.050 to implement the Impact Fee Deferral Program will not cause significant health, safety, or welfare concerns since the amendments are consistent with the General Plan and directly implement City goals and polices.
2. The proposed amendments to Section 4.56.050 of the Municipal Code are consistent with the 6th Cycle Housing Element Program 6.18 which states "Actively seek and collaborate with non-profit housing providers to (jointly) apply for three revenue sources each year during the planning period, including State, Federal and private/non-profit sources, and financing mechanisms to financially assist with the development of housing affordable to extremely low, very low and low or moderate income households."

SECTION 3. Environmental Determination. This Ordinance is exempt from the California Environmental Quality Act (CEQA), because it is not a "project" under Public Resources Code § 21065 and the CEQA Guidelines §15378 in that the impact fee deferral program would not cause either a direct or reasonably foreseeable indirect physical change in the environment. Every development project subject to a development impact fee deferral loan would be required to undergo applicable development review, including CEQA compliance or finding of exemption.

SECTION 4. Section 4.56.050, entitled "Payment of fees" is hereby amended to read as follows:

A. Except as otherwise provided in Section 66007 of the Government Code, development impact fees shall be paid to the city upon final inspection or the date the certificate of occupancy is issued, whichever occurs first, unless the City requires payment of those fees at an earlier time as authorized by Government Code 66007. In cases where payment of all or part of the required fee is deferred beyond the earlier date of final inspection or certificate of occupancy, the community development director may require that the applicant, at the applicant's expense, execute a contract with the city to pay all deferred impact fees in accordance with the provisions of the City's Impact Fee Deferral Program, as further described in subsection B of this Section and further approved and amended through City Council Resolution.

B. Impact Fee Deferral Program

1. In accordance with the provisions and definitions of the City's Development Impact Fee Deferral Program Guidelines, an eligible applicant may enter into a development impact fee deferral loan agreement for a qualifying residential development project. The fee deferral agreement shall explicitly provide for the recordation of a lien against the real property on which the approved development project is to be located, which shall be removed upon payment in full of all deferred fees. All costs assessed by the county for the recordation of the documents set forth herein shall be paid by the applicant at the time of execution of the fee deferral agreement. Deferral is at the sole discretion of the City. The Community Development Director will consider the needs of the City and the feasibility of the deferral request on a case-by-case basis. The decision of the Community Development Director (or the Council, if approval is deferred to the City Council by the Community Development Director) on an impact fee deferral application is final and not appealable.
2. The development impact fees eligible for deferral shall be limited to the fees identified in Section 4.56.030. Special district fees, water and wastewater impact fees shall not be eligible for the Impact Fee Deferral Program.

SECTION 5. Severability. If any subdivision, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance, or any other provisions of the city's rules and regulations. It is the city's express intent that each remaining portion would have been adopted irrespective of the fact that any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

SECTION 6. Implementation. A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage in The New Times, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

INTRODUCED on the ____ day of _____, 2024, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the ____ day of ____, 2024, on the following vote:

AYES:
NOES:
ABSENT:

Mayor Erica A. Stewart

ATTEST:

Teresa Purrington
City Clerk

APPROVED AS TO FORM:

J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, on _____.

Teresa Purrington
City Clerk