

**RESOLUTION NO. \_\_\_\_\_ (2024 SERIES)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, SUPERSEDING RESOLUTION NO. 9903 (2007 SERIES) PROVIDING FOR THE DEFERRAL OF CITY-WIDE DEVELOPMENT IMPACT FEES FOR ELIGIBLE AFFORDABLE HOUSING PROJECTS. THE PROJECT IS EXEMPT FROM ENVIRONMENTAL REVIEW (CEQA), AS REPRESENTED IN THE STAFF REPORT AND ATTACHMENTS DATED SEPTEMBER 17, 2024**

**WHEREAS**, the City's General Plan requires that the costs of public facilities and services needed for new development shall be borne by new development unless the community chooses to help pay the costs of a certain development to obtain community-wide benefits; 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 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Palm Street, San Luis Obispo, California, on June 5, 2007, adopting Council Resolution No. 9903 (2007 Series), which superseded and replaced Resolution No. 9131 (2000 Series); and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, to introduce an ordinance to amend Section 4.56.050 of the Municipal Code to establish a development impact fee deferral program for qualifying affordable housing projects; and

**WHEREAS**, at said hearing on September 17, 2024, the City Council 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; and

**WHEREAS**, fee deferral serves a public purpose because it would incentivize the development of affordable housing within the City by deferring certain up-front costs which can be burdensome and cost-prohibitive for developers of affordable housing and/or benefit the competitive score needed to secure state low-income tax credit financing.

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

**SECTION 1. Environmental Review.** This fee deferral program is exempt from the California Environmental Quality Act (CEQA), because it is not a “project” under Public Resources Code § 21065 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 2.**

1. In accordance with Ordinance No. XXXX (2024 Series) and the City’s Affordable Housing Development Impact Fee Deferral Program Guidelines, as modified from time to time, a developer of Affordable Housing projects may apply for a Development Impact Fee Deferral from the City. If the application is approved, the developer will be required to execute a Development Impact Fee Deferral Agreement and a Promissory Note, secured by a Deed of Trust. The Promissory Note and Deed of Trust will be recorded on the property. The Promissory Note shall describe the deferral as a loan on the property for a term of 20 years and shall account for an annual simple fixed interest rate of three percent, to be paid in full at the end of the term. The amount of deferred fees (the loan amount) will be calculated according to the City’s Fee Schedule in effect at the time the fees would otherwise become due, or as otherwise determined by the City, and shall be reflected in the Promissory Note.
2. The Community Development Director is authorized to approve and execute any eligible fee deferral under this Program. The Community Development Director may, at their discretion, refer approval of an impact fee deferral application to the City Council on an as-needed basis or concurrently with Affordable Housing Fund (AHF) awards.
3. The fee deferral period for any approved development project is twenty (20) years from the date of final occupancy for the project, with no payments required during the deferral period. Prior to or at the end of the deferral period, the impact fees and associated interest must be repaid in full in a single payment.
4. An annual simple fixed interest rate of three percent (3%) shall be paid in full at the end of the term. Interest shall accrue starting at the commencement of the deferral period for an approved development project.
5. The impact fee deferral plus any accrued interest may be paid at any time prior to the end of the deferral period without penalty. An early payment in the full amount plus interest would remove any loan contingencies.
6. Upon full repayment of the loan, the City shall cooperate with the applicant in recording a notice of cancellation of the lien.

**SECTION 3.** “Affordable housing” means housing which can only be purchased or rented by a household with extremely low, very low-, low-, or moderate-income, as described in the City’s Below Market Rate Housing Standards. Eligible Affordable Housing projects are those as defined in the City’s Affordable Housing Development Impact Fee Deferral Program Guidelines, as modified from time to time.

**SECTION 4.** Water and wastewater development impact fees shall not be eligible for deferral under this Resolution or the adopted Affordable Housing Development Impact Fee Deferral Program Guidelines.

**SECTION 5.** This deferral only applies to City-wide development impact fees; it does not apply to fees, assessments, or special taxes for infrastructure improvements applicable to special benefit areas.

**SECTION 6.** This Resolution supersedes and replaces Resolution No. 9903 (2007 Series) adopted by this Council on June 5, 2007. This Resolution shall become effective thirty (30) days after final passage of Ordinance No. XXXX (2024 Series.)

Upon motion by \_\_\_\_\_, seconded by \_\_\_\_\_, and on the following roll call vote:

- AYES:
- NOES:
- ABSENT:

The foregoing resolution was adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
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