



# REPORT TO DEVELOPMENT OVERSIGHT COMMISSION City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
**July 7, 2008**

Honorable Members of the Development Oversight Commission:

**Subject:** Development Fee Deferral Program

**Location/Council District:** Citywide

**Recommendation:** Staff recommends the Commission provide review and comment regarding the latest Development Fee Deferral Program Draft

**Contact:** William A. Thomas, Director of Development Services, (916) 808-1918; Janis Franklin, Program Specialist, (916) 808-7705

**Presenters:** William A. Thomas, Director of Development Services; Janis Franklin, Program Specialist

**Department:** Development Services

**Division:** Administration

**Organization Number:** 4811

## **Description/ Analysis:**

**Issue:** Lump sum payment of development fees at the time of building permit issuance can be a burden and sometimes a barrier to development. As a means to stimulate residential and commercial development, the City of Sacramento offers a fee financing program to developments meeting certain criteria. The existing program, introduced in 1994, provides for fees to only be deferred through bond financing under an established community facilities district. In this manner the City fees are paid with bond proceeds and the bonds are repaid through a special tax and lien on the property. At the request of City Council, Staff is also proposing a Development Fee Deferral Program. The intent of the new program would be to permit fees to be deferred and then paid at a pre-determined time. The program draft has been revised, reflecting the input from the fee subcommittee and stakeholders since the June DOC meeting.

**Policy Considerations:** The recommendations described in this report are consistent with the Commission's Strategic Plan Focus Areas as well as direction

from the City Council at the May 6, 2008 Development Oversight Commission Annual Report presentation.

**Committee/Commission Action:** On May 19, 2008, the Development Oversight Commission fee subcommittee provided review and comment regarding the draft Development Fee Deferral Program. On Jun 2, 2008 the Development Oversight Commission provided review and comment.

**Environmental Considerations:** The draft Development Fee Deferral Program does not constitute a “project” and is therefore exempt from the California Environmental Quality Act (CEQA) according to Section 15601(b) (3) of the CEQA guidelines.

**Rationale for Recommendation:** Based on an extensive survey conducted by the City Treasurer’s Office, about 70% of the 17 agencies surveyed allow some kind of fee deferral. Four cities including Folsom, Elk Grove, Rancho Cordova and Anaheim are proposing fee deferral programs to their City Councils this month. The fee deferral program is designed to mitigate the financial cash flow impacts of development fee payments and encourage economic development within the City. Development Services, Economic Development, Budget, City Treasurer and City Manager staff have contributed to the proposed program draft. In addition, the DOC Fee Subcommittee provided review and comment on 5/19/08. Staff will continue to working more in-depth with internal and external stakeholders to refine the program prior to presentation to the City Council in August 2008. Staff’s recommendation is to provide review and comment regarding the enclosed City of Sacramento Development Fee Deferral Program Draft.

**Financial Considerations:** The proposed program would defer the collection of city controlled fees until certificate of occupancy or close of escrow, or 36 months after the effective date of the fee deferral agreement, whichever is first, depending on the option selected by the developer and approved by the City Manager or designee. If not paid within the initial 36 months of the fee deferral and without City Manager approval, interest shall accrue based on the annual rate of prime on any unpaid balance. In addition, an administrative processing fee will be assessed based on the hourly rate set in the fee schedule as computed by the City Treasurer’s Office. Fees not eligible for deferral include fees collected for non-City agencies, and fees that would result in a negative financial impact to the City, as determined by the City Treasurer. Total financial impact to the City is unknown at this time.

**Emerging Small Business Development (ESBD):** There are no ESBD considerations with this report.

Respectfully submitted by:



Janis Franklin  
Program Specialist

Recommendation Approved:



Bill Thomas  
Director of Development Services

Attachments:

- 1 Proposed Development Fee Deferral Program Draft Pg 4-7

**CITY OF SACRAMENTO  
DEVELOPMENT FEE DEFERRAL PROGRAM  
DRAFT**

Fees imposed on development can pose a substantial financial burden on many projects, especially if developers must pay the fees up front, when building permits are issued. To help stimulate commercial and residential development, the City of Sacramento offers fee-financing and fee-deferral programs for development projects that meet certain criteria.

**THE FEE-FINANCING PROGRAM**

Established in 1994 and amended in 1996 and 2004, the fee-financing program is designed for larger commercial, industrial, and residential development projects. It enables developers to finance the payment of development fees over time. This is done by including the project within a community facilities district and levying special taxes. For more information on the fee-financing program, see the guidelines posted at: [http://www.cityofsacramento.org/planning/public-improvement-financing/documents/Development\\_Fee\\_Financing\\_Program.pdf](http://www.cityofsacramento.org/planning/public-improvement-financing/documents/Development_Fee_Financing_Program.pdf) .

Developers and landowners should discuss the legal and financial aspects of the program with their advisors and consultants.

**THE FEE WAIVER PROGRAM**

The City is investigating a fee waiver program designed for non profits. Issues including gift of public funds and prevailing wage are being considered prior to the creation of this program.

**THE FEE-DEFERRAL PROGRAM**

Slated for adoption in fall 2008, the fee-deferral program will allow a developer to defer payment fees of City controlled fees, until the City issues a certificate of occupancy for the project or at close of escrow, depending on the option selected by the developer and approved by the City Manager or designee. The residential fee-deferral program will be available until June 30, 2009, and the commercial fee-deferral program, for targeted non-residential and multi family developments as defined in the eligibility section will be on-going:

**Eligibility for the fee-deferral program**

To participate in the fee-deferral program, a development project must satisfy the following requirements:

1. The project must be on property within the City of Sacramento.
2. All payments of taxes and assessments on the property must be current.

**CITY OF SACRAMENTO  
DEVELOPMENT FEE DEFERRAL PROGRAM  
DRAFT**

3. The applicant and partners must have all necessary land-use entitlements for the project.
4. Applicant and/or partners may be subject to a risk assessment, conducted by the City, that will include the following stipulations:
  - (a) Applicant and/or partners have not had a foreclosure on any of its properties in the last four years.
  - (b) Applicant and/or partners have not had any bankruptcy filing in the past four years.
  - (c) Applicant and/or partners have no outstanding civil judgments.
5. A commercial project will be considered if it meets at least one of the following conditions:
  - It is located in a redevelopment area or in a neighborhood commercial corridor identified in the adopted City Economic Development Strategy.
  - It is a high job creation project. The project must create a minimum of 35 new permanent full-time jobs with a minimum annual wage greater than 80% of area median income as defined by the Sacramento Redevelopment Agency.
  - It is a locally owned and operated business and creates a minimum of 3 new full-time jobs.
  - It is a “catalyst project.” The proposed project furthers the goals of the City’s adopted Economic Development Strategy and/or Implementation Strategies for one of the City’s Redevelopment Areas.
  - The project complies with goals of sustainability master plan and is considered LEED or green build compliant.
6. Developer must pay all non-City controlled fees due prior to the execution of the fee-deferral agreement.
7. The developer must enter into a fee-deferral agreement that provides as follows:
  - (a) The developer must post security for payment of the deferred fees. Security must be one of the following: Assigned passbook or CD; irrevocable letter of credit; surety bond; lien against the property (senior lien in favor of the City); negotiable securities if approved by City Council; or reservation of funds within the escrow account of the senior lender. All security must be acceptable to the City Treasurer. The City will not issue building permits for the project until the required security has been posted. All recording, escrow, and reconveyance costs shall be borne by the applicant.
  - (b) The developer must begin construction within 60 days after the effective date of the fee-deferral agreement. Unless the City Manager or designee agrees

**CITY OF SACRAMENTO  
DEVELOPMENT FEE DEFERRAL PROGRAM  
DRAFT**

to extend this deadline, the deferred fees will become immediately due and payable should the developer fail to begin construction on time.

- (c) The City will not issue a temporary certificate of occupancy or a certificate of occupancy for the project until the developer has paid all deferred fees.
  
- (d) The developer must pay all deferred fees no later than the earlier of the following:
  - (1) For residential and commercial projects, within 36 months after the effective date of the fee-deferral agreement, except that the City Manager (or the City Manager's designee) may extend this deadline by up to one year. If not paid within the initial 36 months of the fee deferral and without City Manager approval, interest will accrue at the annual rate of prime on any unpaid balance, and an administrative processing fee will be assessed.

**How the program works**

Developers who wish to participate in this program must submit an application to the Development Services Department, which must be approved by the City Manager or designee.

The City will defer fees after the developer has entered into a fee-deferral agreement with the City and posted the required security.

The City will not issue building permits for the project until the developer paid all non-City controlled fees due, and has an approved fee deferral agreement accompanied by security acceptable by the City Treasurer.

**Payment Options:**

- a. Pay non-City controlled fees at issuance of permit and balance prior to Temporary Certificate of Occupancy or Certificate of Occupancy or
  
- b. Pay non-City controlled fees at issuance of permit with balance paid out at escrow. Time limitations described in the eligibility section of this document will apply to both options.

**Fees eligible for deferral**

City Controlled Fees.

**CITY OF SACRAMENTO  
DEVELOPMENT FEE DEFERRAL PROGRAM  
DRAFT**

**Fees not eligible for deferral**

Fees not specifically listed above as eligible may not be deferred. The fees ineligible for deferred include but are not limited to the following:

- Fees the City collects for non-City agencies.
- Fees that are listed above as eligible if the City Treasurer's Office determines that deferral would result in a negative fiscal impact to the City.

**Fee-deferral process**

Process	Time Frame
Applicant submits plans to City and pays initial fees due	
Application for deferral of applicable fees submitted to the Development Services Department	
Application Review : approved applications forwarded for final approval	5-7 working days
City Manager or designee letter of approval	5-7 working days
If secured by negotiable securities, request is scheduled to be heard before City Council	21-35 days depending on Council schedule
If approved: Draft set of documents prepared	10-12 working days
Finalization of Deferral Agreement and Deed of Trust <b>(contact staff 7-10 working days prior to anticipated date of permit issuance to fully execute Agreement and Deed of Trust)</b>	7-10 working days
Fees deferred -Building permit issued – Project constructed	
Payment of deferred fees prior to issuance of Temporary Certificate of Occupancy or of Certificate of Occupancy <b>(Contact staff 5-7 working days prior to anticipated date of Certificate of Occupancy issuance)</b>	5-7 working days
Reconveyance Issued	