

APPENDIX H

POLICY ON PRE-PAYMENT OF DEVELOPMENT IMPACT FEES

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CITY OF CLOVIS
POLICY
FOR PRE-PAYMENT OF
DEVELOPMENT IMPACT FEES

March 21, 2006

PURPOSE

The purpose of this policy document is to provide direction and guidance to staff with regard to the issue of applying new or revised Development Impact Fees to developments which had entered the review process prior to the effective date of the new or revised fees. Since fees typically increase, it can be financially advantageous to such applicants to be permitted to pre-pay the fees at the rate in effect prior to the change.

This policy sets forth the conditions under which it is appropriate that an applicant be permitted to “pre-pay” the applicable Development Impact Fees at the rates currently in effect prior to the change. It also prescribes conditions under which deferred fees will be permitted to be paid at current rates.

POLICY

1. Final Maps

To be eligible to pre-pay Development Impact Fees, the Final Map must be ready for submittal by City staff to the City Council by the close of business on the last working day prior to the fee change date. To be deemed ready for submittal, the following shall have been provided to City Development Review staff:

- A. 1. An original map that satisfies all the technical requirements of the Subdivision Map Act, with all staff comments addressed.
2. The map signed and stamped by the appropriate professional licensed in the State of California.
3. The map signed by all the property owners.
4. The required number of copies of the map for the City Council Agenda Report.
- B. All documents including the Subdivision Agreement, Covenants, Subordinations, Easement or Right of Way Deeds, and any other required documents, signed and notarized. If Easement or Right of Way Deeds have not as yet been obtained, the Applicant may

submit a cash deposit, in an amount determined by the City, to satisfy this requirement.

- C. All required Improvement Security.
- D. Substantially complete Improvement Plans. This means the plans shall have progressed to at least the third submittal, and except for a few minor changes, have been determined by the City Engineer to be substantially complete. Third submittal plans still in need of significant revision will be deemed not substantially complete, which will be grounds for denial by the City Engineer for pre-payment of fees.
- E. Certification that all Conditions of Approval have been met or are addressed in the Subdivision Agreement to the satisfaction of the City Engineer.
- F. All non-deferred fees are paid. See Sections 4, 5, and 6 herein on deferred fees. The required Deferment Agreement must be executed by the applicant, notarized and submitted with all other required documents. No partial payment of non-deferred fees will be allowed, except those for which time-payment is permitted by the various chapters of the Municipal Code. If this alternative is used, the required Time-payment Agreement must be executed by the applicant, notarized, and submitted with all other herein-required documents.

If DRU staff determines the foregoing requirements have not been met in all respects, the request to pre-pay the Development Impact Fees will be denied in writing to the Applicant (see Section 7, Appeals).

2. Parcel Maps

To be eligible to pre-pay Development Impact Fees, the Parcel Map, accompanied by all required documents, shall have been submitted to the City Engineer for approval and signature by the close of business on the last working day prior to the fee change date. To be deemed ready for approval and signature, the following shall have been provided to City Development Review staff:

- A.
 - 1. A map that satisfies all the technical requirements of the Subdivision Map Act, with all staff comments addressed.
 - 2. The map signed and stamped by the appropriate professional licensed in the State of California.
 - 3. The map signed by all the property owners.
- B. All documents including the Parcel Map Agreement, Covenants, Easement or Right of Way Deeds, and any other required documents, signed and notarized. If Easement or Right of Way

Deeds have not as yet been obtained, the Applicant may submit a cash deposit, in an amount determined by the City, to satisfy this requirement.

- C. All required Improvement Security.
- D. Substantially complete Improvement Plans. This means the plans shall have progressed to at least the third submittal, and except for a few minor changes, have been determined by the City Engineer to be substantially complete. Third submittal plans still in need of significant revision will be deemed not substantially complete, which will be grounds for denial by the City Engineer for pre-payment of fees.
- E. Certification that all Conditions of Approval have been met or are addressed in the Parcel Map Agreement to the satisfaction of the City Engineer.
- F. All non-deferred fees are paid. See Sections 4, 5, and 6 herein on deferred fees. The Deferment Agreement must be executed by the applicant, notarized, and submitted with all other required documents. No partial payment of non-deferred fees will be allowed, except those for which time-payment is permitted by various chapters of the Municipal Code. If this alternative is used, the required Time-payment Agreement must be executed by the applicant, notarized, and submitted with all other herein-required documents.

If DRU staff determines the foregoing requirements have not been met in all respects, the request to pre-pay the Development Impact Fees will be denied in writing to the Applicant (see Section 7, Appeals).

3. Site Plan Review and CUP

To be eligible to pre-pay Development Impact Fees, all documents must be complete in a form sufficient to permit the issuance of a Building Permit by the close of business on the last working day prior to the fee change date. To be deemed sufficient for issuance of a Building Permit, the following conditions shall apply:

- A. The City Building Official has certified to the City Engineer that all plans, terms and conditions of the Building Division have been completed or met and that a Building Permit is issuable subject to payment of the fee therefore and furnishing other information required to complete the issuance.
- B. Engineering improvement plans are substantially complete. This means the plans shall have progressed to at least the third submittal, and except for a few minor changes, have been

determined by the City Engineer to be substantially complete. Third submittal plans still in need of significant revision will be deemed not substantially complete, which will be grounds for denial by the City Engineer for pre-payment of fees.

- C. All documents including the Development Agreement (if applicable), Covenants, Easement or Right of Way Deeds, and any other required documents, signed and notarized, have been submitted to the City Development Review staff. If Easement or Right of Way Deeds have not as yet been obtained, the Applicant may submit a cash deposit, in an amount determined by the City, to satisfy this requirement.
- D. All non-deferred fees are paid. See Sections 4, 5, and 6 herein on deferred fees. The required Deferment Agreement must be executed by the applicant and notarized with all other required documents. No partial payment of non-deferred fees will be allowed, except those for which time-payment is permitted by various chapters of the Municipal Code. If this alternative is used, the required Time-payment Agreement must be executed by the Applicant, notarized, and submitted with all other herein-required documents.

If DRU staff determines the foregoing requirements have not been met in all respects, the request to pre-pay the Development Impact Fees will be denied in writing to the Applicant (see Section 7, Appeals).

If the request to prepay the Development Impact Fees is approved, and if within 30 days after the effective date of the revised and/or new Development Impact Fee(s), the Applicant has not paid the required Building Permit fee and/or has not submitted the required information to the Building Official to allow issuance of a Building Permit, the revised and/or new Development Impact Fee(s) shall apply thereafter. In conjunction with issuance of a Building Permit subsequent to the 30-day period, the Applicant shall pay the difference between the new/revised Development Impact Fee(s) and any amounts previously pre-paid.

4. Fees Subject To Deferment

Subject to the terms and conditions of Chapter 3.6.05, Title 3, of the Clovis Municipal Code, as may be amended from time to time, the following fees are subject to deferment. As provided above, deferred fees shall be paid at the rate in effect at the time of payment as defined in Section 6 herein. The fees listed below are those contained in the Municipal code as of the date of this policy. This list is therefore subject to change, and shall not be taken as a complete list.

- a) Oversize Sewer Charges
- b) Sewer Connection Charges
- c) Housebranch Sewer Charges
- d) Gross Acreage Charge (water)
- e) Water Meter
- f) Lateral Installation Fee (City- installed water services)
- g) Capital Outlay Charges (Community Sanitation)
- h) Park Acquisition and Development Fee
- i) Utility Underground Fee
- j) Underground Administration Charge
- k) Street Fee Administration Charge
- l) Outside Travel Lane Fee
- m) Center Travel Lane Fee
- n) Traffic Signal Fee
- o) Bridges Fee
- p) General Plan Fee
- q) Fire Department Fee
- r) Water Tender Fee
- s) Police Department Fee
- t) Nonpotable Water System Fee

5. Deferment of Parcel Map and Tract Map Fees for Commercial, Professional, Industrial, and Multifamily Zoned Property

Subject to the terms and conditions of Chapter 3.6.06, Title 3, of the Clovis Municipal Code, as may be amended from time to time, the development fees associated with the development of a Parcel Map or Tract Map with Commercial, Professional, Industrial or Multifamily zoning, (including churches, schools, and public facilities) may be deferred at the time the Parcel Map or Tract Map is recorded on all unimproved lots. The deferred fees and any new fees in effect shall be paid prior to the issuance of any other development entitlements on the unimproved parcels at the fee rate in effect at the time of payment as defined in Section 6 herein. The developer/owner shall enter into a Deferment Agreement with the City.

The following fees are subject to deferment with the Tract or Parcel Map, in accordance with the provisions of this Section and the above-cited Clovis Municipal Code sections. The fees listed below are those

contained in the Municipal code as of the date of this policy. This list is therefore subject to change, and shall not be taken as a complete list.

- a) Oversize Sewer Charges
- b) Sewer Connection Charges
- c) Housebranch Sewer Charges
- d) Gross Acreage Charge (water)
- e) Water Meter
- f) Lateral Installation Fee (City-installed Water Services)
- g) Capital Outlay Charges (Community Sanitation)
- h) Park Acquisition and Development Fee
- i) Utility Underground Fee
- j) Underground Administration Charge
- k) Street Fee Administration Charge
- l) Outside Travel Lane Fee
- m) Center Travel Lane Fee
- n) Traffic Signal Fee
- o) Bridges Fee
- p) General Plan Fee
- q) Fire Department Fee
- r) Major Facilities Sewer
- s) Northwest Area Sewer Surcharge
- t) Front Footage Sewer
- u) Major Facilities Water
- v) Front Footage Water
- w) Water Tender Fee
- x) Police Department Fee
- y) Nonpotable Water System Fee

6. Pre-payment of Deferred Fees

Certain Development Impact Fees may be deferred pursuant to Chapter 3.6, Title 3, of the Clovis Municipal Code. To defer payment of any fee, a Deferment Agreement must be executed.

The Municipal Code allows that a deferred fee can be paid prior to the time that it is actually required to be paid pursuant to the Code, but must be paid at the rate in effect when the payment is made ("Time of Payment").

If, therefore, a new/revised fee will become effective prior to the time that a deferred fee must be paid under the terms of the Municipal Code and the Deferment Agreement, an applicant is permitted to pre-pay the fee at the rate in effect at the time of payment.

"Time of payment" is hereby defined as the time when a payment, including any mailed payment, is actually received at the office of the City Engineer. Therefore, to be permitted to pre-pay a deferred fee at the current rate, the time of payment shall be no later than the close of the work day preceding the effective date of the new/revised fee(s).

When deferred fees have been prorated among the various lots of a subdivision or parcel map, or among buildings or structures within a commercial, industrial, professional or institutional development, and an applicant elects to pay a portion of the fees in advance of the time they are due as prescribed in the Municipal Code, the applicant will have the option of: a) Paying the total amount of all the prorated fees due on a particular lot, building, or structure; or, b) Paying the total amount of any one or more of the deferred fees due on the entire subdivision, parcel map, or commercial, industrial, professional, or institutional development.

7. Appeals

Application of this policy shall be the responsibility of the City Development Review Unit (DRU) staff. If an Applicant disagrees with a decision made by the DRU staff to deny the eligibility for pre-payment of fees, an appeal may be filed with the City Engineer. Such an appeal must be made in writing and within thirty (30) calendar days of the date of written notification by DRU staff that the request to pre-pay fees was denied. The appeal shall clearly and fully state the nature of the disagreement, and the justification upon which the appeal is based.

If the appeal is denied by the City Engineer, the denial will be made in writing. The Applicant may then file an appeal with the City Manager. Such appeal must be in writing and within thirty (30) calendar days of the date of written notification by the City Engineer that the request to pre-pay fees was denied. The appeal shall clearly and fully state the nature of the disagreement, and the justification upon which the appeal is based.

The decision by either the City Engineer or the City Manager will be based upon the information contained in the written appeal. In arriving at a decision, a hearing will only be conducted if it is determined by the City Engineer or the City Manager that it will aid in the process. All decisions will be made in writing to the Applicant.

Filing of an appeal will not in and of itself alter any of the requirements presented in this policy. The development will continue to be processed provided that all fees shall be paid at the revised/new rate. If the appeal is subsequently upheld, the difference between the old and revised/new fees will be refunded to the Applicant.

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