

**ORDINANCE NO. 179554**

An ordinance adding Article 3 to Division 5, Chapter 4 of the Los Angeles Administrative Code to codify the Development Fee Subsidy Policy previously adopted by the City Council.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Article 3 is added to Division 5, Chapter 4 of the Los Angeles Administrative Code to read:

**ARTICLE 3**

**DEVELOPMENT FEE SUBSIDY POLICY**

**Sec. 5.65. Development Fee Subsidy Policy.**

(a) All subsidies of development or construction related fees (Development Fees) must be approved by the City Council. Development Fee subsidies may only be provided for projects undertaken by non-profit organizations when those projects promote a public purpose and provide a minimum level of public benefit, as those terms are defined in this Article. Council must adopt findings, supported by specific facts, that a project for which a Development Fee subsidy is provided will promote a public purpose for the City and provide the minimum level of public benefit.

(b) As proof of their non-profit status, all non-profit organizations requesting Development Fee subsidies must provide a letter of determination by the IRS that the organization is exempt from federal income taxes under the Internal Revenue Code as an organization described in Section 501(c)(3) or other similar provision of the Internal Revenue Code.

(c) Development Fee subsidies may also be provided for public physical plant type construction projects (e.g. street resurfacing, sewers, storm drains, sidewalks, sidewalk repairs, curbs and gutters) undertaken by individuals, non-profit organizations or for-profit organizations at their own expense, in the public right-of-way, and for which no profit will be realized by such organization from the project. Such qualifying projects in the public right-of-way relieve the City of financial responsibility to undertake those public improvements, thereby providing a valuable benefit to the public, far exceeding the cost of the construction-related fees that would be subsidized. Council must adopt findings, supported by specific facts, that a public physical plant type construction project for which a Development Fee subsidy is provided will promote a public purpose for the City and provide a public benefit.

(d) Development Fee subsidies shall be limited to 50 percent of the total eligible fees, and may not exceed a total of \$50,000 for any project to be built on a specific site.

Further, subsidies shall be limited to one project annually, on a fiscal year basis, for any qualifying organization, including subsidiaries, affiliated or related entities.

(e) In the case of joint-use projects, the Development Fee subsidy shall be prorated for the public purpose portion of the construction project based on square footage or the percentage of the organization's financial participation in the project, whichever is greater. A joint use project, for purposes of this Article, is a project to construct a structure in which a public purpose use (e.g. health care center, childcare center, senior citizens service center, after school programs) is operating in the structure along side a profit-making venture (e.g. leased office space, storage, mini-market, restaurant).

(f) Development Fee subsidies shall not be granted for fees imposed by the State or other government agencies including, but not limited to, fees set by the State Department of Health Services, State Department of Industrial Relations (Occupational Safety and Health Administration), South Coast Air Quality Management District, and the Los Angeles Unified School District. In addition, Quimby fees and Arts Development fees shall not qualify for subsidies.

(g) The organization receiving the benefit of the Development Fee subsidy must provide written assurances to the City's satisfaction that the facility will be used for the stated public purpose for the expected useful life of the facility or improvement. If the use of the facility or improvement changes so that it becomes a private or religious use, then the organization must reimburse the City for the fee subsidy, on a pro-rata basis, from the date of the change in use to the end of the useful life of the building, plus applicable interest at the legal rate specified in California Civil Code Section 1916-1 or any successor provision, as amended from time to time.

(h) Organizations receiving the benefit of the Development Fee subsidy for projects that are not public physical plant type projects in the public right-of-way, must certify annually to the Chief Legislative Analyst (under penalty of perjury) for the life of the facility or improvement, that the public benefit required continues to be, and will continue to be provided for the time specified. If at any time the required annual certification is not provided when due and, after reasonable notice to cure that default is not provided, the organization must reimburse the City for the fee subsidy, on a pro-rata basis, from the date of the delinquency to the end of the useful life of the construction project, plus applicable interest at the legal rate specified in California Civil Code Section 1916-1 or any successor provision, as amended from time to time.

(i) Development Fee subsidies shall not be granted to religious organizations other than for fees that apply to construction of facilities or improvements that will be utilized exclusively for secular purposes and that meet all of the requirements of this Article.

(j) Requests for Development Fee subsidies shall be referred to the City Administrative Officer (CAO) for review and recommendation prior to consideration by the City Council. The CAO shall review the request for compliance with this Article and

include a determination of the ability of the organization to fund the total cost of the project. Requests for Development Fee subsidies from non-profit organizations with an operating budget of less than \$5.0 million will qualify for consideration by the City Council if all applicable requirements of this Article are met. A non-profit organization may be disqualified for consideration for a Development Fee subsidy depending on the organization's operating budget and capital budgets, or its refusal to provide sufficient financial information to the CAO to make a determination of its financial capability.

(k) Development Fee subsidy requests must be made in writing setting forth all relevant information and demonstrating and documenting compliance with the requirements set forth in this Article. In order to be considered by the City Council, a Development Fee subsidy request must be presented by written motion by a Member of the Council. No Development Fee subsidy shall be provided for any project unless first approved by the City Council.

(l) Each action by the City Council to approve a Development Fee subsidy request must include a transfer of funds in the amount approved from the General City Purposes Fund No. 100/56, Special Fund Fee Subsidy Account, or other available source of funds, to the appropriate department fund and account.

(m) The Chief Legislative Analyst shall track the number and amount of Development Fee subsidies approved by the Council and forward that information to the CAO for inclusion in financial status reports.

(n) The Chief Legislative Analyst shall monitor Development Fee subsidy recipients for annual certification of provision of the public benefit required and to report to the Council periodically, as necessary, when organizations do not comply with the public benefit requirements.

(o) The CAO and the Chief Legislative Analyst shall review the Development Fee Subsidy Policy set forth in this Article annually, in conjunction with the annual budget deliberations, and report to the City Council on the fiscal impact on the General Fund.

(p) Development Fees shall not be waived except as expressly authorized by applicable law. Subsidies of Development Fees shall be provided only in accordance with this Article.

**SEC. 5.66. Definition of "Public Purpose", Minimum Requirement For Provision Of "Public Benefit".**

(a) For purposes of the Development Fee Subsidy Policy set forth in this Article, a public purpose project is defined as a project that enhances the activities and services routinely provided by governmental entities and that will generally be open and available for use by the public. In order to approve a Development Fee subsidy request, the Council must adopt a finding, supported by specific facts, that the project will promote a public purpose for the City.

(b) For purposes of the Development Fee Subsidy Policy set forth in this Article, with regard to all construction projects, except public right-of-way infrastructure projects, the following minimum level of Public Benefit will be required to promote community and economic development:

(1) Create or retain at least one full-time equivalent, permanent job for each \$10,000 of fees subsidized or portion thereof, for the expected useful life of the project for persons who qualify for one or more of the following, effective upon issuance of certificate of occupancy:

A. Aid to Families with Dependent Children (AFDC);

B. Resident of Public and Indian Housing units;

C. Has been homeless for a minimum of 30 days, at the time of hiring;

D. Low-skilled or low and moderate-income persons, who will be provided advancement assistance, such as through job training; or

E. Resides within a census tract (or block group) that has at least 40 percent of its residents who are in poverty; and

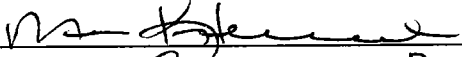
(2) Provide goods or services annually to low and moderate income residents of an area, in an amount at least ten times the amount of the Development Fees subsidized.

(c) The non-profit organization must maintain adequate records to demonstrate the level of public benefit, based on the above minimum requirements, that is actually achieved following project completion, and copies of those records must be submitted in conjunction with the annual certification to the Chief Legislative Analyst.

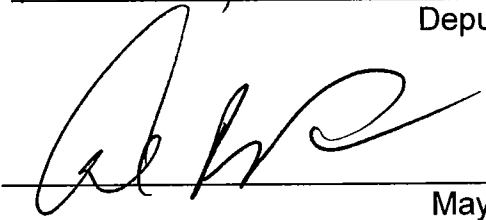
Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles at its meeting of JAN 23 2008.

FRANK T. MARTINEZ, City Clerk

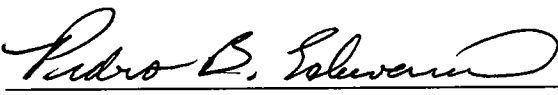
By   
Deputy

Approved FEB 07 2008  
**FEB 07 2008**

  
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By   
PEDRO B. ECHEVERRIA  
Chief Assistant City Attorney

Date 12/13/07

File No. .

07-4006