

ADMINISTRATIVE GUIDELINES FOR THE DEVELOPMENT FEE DEFERRAL PROGRAM

1. Definitions

- a. “Affordable Housing” means housing available at affordable housing cost, as defined by Section 50052.5 of the California Health and Safety Code, to persons and families of low or moderate income, as defined in section 50093 of the California Health and Safety Code, lower income households as defined by Section 50079.5 of the California Health and Safety Code, very low income households, as defined in section 50105 of the California Health and Safety Code, and extremely low income households as defined by section 50106 of the California Health and Safety Code, that is occupied by these persons and families.
- b. “Authorized Officer” means the City Manager or his designee.
- c. “Change in Control” means a transaction whereby a transferee acquires a beneficial ownership interest in an Owner such that after such transaction there is a change of identity of the person or entity that has the power to direct or cause the direction of the management and policies of the Owner, whether through the ownership of voting securities, by contract or otherwise.
- c. “City” means the City of Manteca, California.
- d. “Development Fees” means fees as defined in the State Mitigation Fee Act and established or imposed by the City of Manteca.
- e. “Municipal Code” means the Municipal Code of the City.
- f. “Owner” means the owner of property on which a Qualified Project will be developed.
- g. “Qualified Project” means a commercial, industrial or Affordable Housing project on one parcel of land or on a group of contiguous parcels of land owned by the same property owner.

2. Deferral

- a. The City may enter into an agreement with an Owner to defer one or more Development Fees for a Qualified Project under the following conditions:
 - i. The Owner submits an application requesting deferral of one or more Development Fees.
 - ii. The total amount of Development Fees due and payable at the time of issuance of a building permit for the Qualified Project exceeds \$20,000.

- iii. The Authorized Officer has determined that the Qualified Project provides extraordinary economic benefits to the City and deferral of one or more Development Fees is necessary to secure those benefits or the Authorized Officer determines that the Project provides substantial Affordable Housing.
- iv. The Authorized Officer determines that the deferral of Development Fees will not prevent or delay the implementation of any mitigation measure required by the California Environmental Quality Act.

b. The agreement to defer payment of Development Fees shall specify the specific fees and specific amounts to be deferred and shall include, at a minimum, the following provisions:

- i. Prior to issuance of a building permit, the Owner must pay 10% of the total amount of deferred Development Fees in connection with the Qualified Project.
- ii. The Owner must pay the remaining 90% of the deferred Development Fees in annual installments over a period of no more than five years unless the Owner demonstrates to the satisfaction of the Authorized Officer that further deferral is necessary to secure the benefits of the Qualified Project, in which case the Authorized Officer may allow the property owner to make annual payments for a period of no more than ten years.
- iii. The annual installments are comprised of equal annual payments of the principal amount of the deferred Development Fees plus the accrued interest for each interest payment period. Interest shall accrue on the unpaid balance of Development Fees at an annual interest rate equal to the 11th District cost of funds plus one percent. The interest rate shall be set at the time that a deferral agreement is executed and shall be adjusted to reflect the current 11th District cost of funds plus one percent upon the due date of each annual payment of deferred Development Fees.
- iv. The unpaid balance of Development Fees shall be due and payable in full upon the sale, transfer, conveyance or assignment of the property on which the Qualified Project is located or upon a Change in Control of the Owner.

3. Security

a. The Owner shall execute and deliver a deed of trust to be recorded in the office of the Recorder of the County of San Joaquin securing payment of the Development Fees pursuant to the agreement to pay development fees.

b. The Owner shall submit proof satisfactory to City that the deed of trust is not secondary to any existing encumbrance or the Authorized Officer may agree that the Deed of Trust shall be subordinate and junior to an existing or future lien securing construction or

permanent financing for the Project provided that: (i) the Authorized Officer has determined that the subordinate Deed of Trust and any other collateral for or guaranty of the Owner's obligations provide adequate security and adequate assurance of repayment; (ii) the holder of the senior lien executes and acknowledges a subordination agreement in recordable form which includes reasonable provisions enabling the City to protect its security in the event of a default under the senior lien, including the right to receive notices of default under the senior loan documents from the senior lender and a reasonable opportunity to cure the default; and (iii) the subordination agreement is recorded against the Project. The Authorized Officer may approve and execute such subordination agreements on behalf of the City.

4. Procedures for Deferral

- a. An Owner may submit an application for deferral of one or more Development Fees imposed on a Qualified Project.
- b. The application must include a preliminary title report, legal description of the property on which the Qualified Project is located and a brief description of the Qualified Project.
- c. The Authorized Officer shall review applications for deferral of Development Fees on a Qualified Project and determine, in the Authorized Officer's sole discretion, whether such Qualified Project is eligible for deferral of Development Fees and, if so, which Development Fees should be deferred.
- d. If the Authorized Officer determines that a Qualified Project is eligible for deferral of one or more Development Fees, the Authorized Officer shall cause to be prepared the agreement to defer Development Fees, the deed of trust, and any other documents that the Authorized Officer determines are necessary to defer Development Fees on a Qualified Project.
- e. Upon execution and recording, as applicable, of the documents required by the preceding paragraph, and upon payment of all Development Fees owed before issuance of a building permit, the Authorized Officer may allow the appropriate building permits to be issued.

5. Changes to Guidelines

The City Manager may make revisions or additions to these Guidelines that the City Manager reasonably determines are necessary to clarify its provisions or to clarify the process for deferral of Development Fees. Any material changes to these Guidelines shall only be made after approval by the City Council.