



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. R 23 - 0415
NOV 02 2023

REPORT RE:

DRAFT ORDINANCE AMENDING ARTICLE 9 OF CHAPTER 1 OF THE LOS ANGELES MUNICIPAL CODE TO ESTABLISH THREE NEW PLANNING AND LAND USE FEES AND ALIGN THE ADOPTION OF FEES WITH THE PROCESSES AND PROCEDURES ORDINANCE (ORDINANCE NUMBERS 187,712 and 187,930)

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Article 9 of Chapter 1 of the Los Angeles Municipal Code (LAMC) to establish three new planning and land use fees and to implement the previously authorized Annual Inflation Adjustment, as outlined in the attached fee schedule.

Background and Summary of Ordinance Provisions

On March 16, 2023, the Department of City Planning (DCP) transmitted its recommendation to establish three new planning and land use fees (New Planning Fees) and to clarify the process for implementation of the first automatic annual inflation adjustment since the Comprehensive Fee Update was adopted in December 2021 (Ordinance No. 187,237). DCP's recommendation also included an updated NBS Comprehensive Fee Study Memo (2023 NBS Fee Study) that analyzes the New Planning Fees, along with a corresponding Proposed Fee Schedule Update (dated

March 2023) that reflects a 4.9% automatic annual inflation adjustment as applied to existing fees.

The New Planning Fees consist of the following three entitlement processes: (1) Alternative Compliance (allowing applicants to propose an alternative design for projects that comply with the intent of the zoning standard); (2) Modification of Entitlement (allowing applicants to make slight changes to their original site design or conditions of approval for projects that have been approved by DCP, but are pending issuance of a Certificate of Occupancy by the Los Angeles Department of Building and Safety); and (3) Pre-Application Historic Assessment Review (an existing service of reviewing historic sources assessment reports that are not related to a proposed entitlement project or environmental case, and for which a new cost recovery fee will be levied).

On August 7, 2023, DCP revised its recommendations to reflect DCP's effectuation of the first automatic annual inflation adjustment that took effect on July 1, 2023, as well as the adoption of Ordinance No. 187,930 on July 7, 2023, that extended the operative date of the Processes and Procedures Ordinance (Ordinance Nos. 187,712 and 187,930) to January 22, 2024. DCP's recommendation with respect to the New Planning Fees, to recover cost for services, remains the same.

On August 15, 2023, the Planning and Land Use Management Committee (PLUM Committee) considered and adopted the DCP's recommendation, in conjunction with the 2023 NBS Fee Study and Proposed Fee Schedule Update, subject to the following amendments: (1) request that the New Planning Fees be operative and in alignment with the Process and Procedures Ordinances, and (2) instruct the City Administrative Officer (CAO) to prepare a report for Council's consideration as to the fiscal impact of the recommended New Planning Fees.

On September 13, 2023, the CAO submitted a report outlining the fiscal impact of the New Planning Fees. The CAO concurs with DCP's recommendation that the New Planning Fees be set at cost recovery level for the services provided to minimize impacts to the General Fund, and calculated that the New Planning Fees will provide approximately \$84,420 in total projected Fiscal Year 2023-24 revenue.

Charter Findings Not Required

The enclosed draft ordinance strictly relates to an increase in an existing fee in the fee schedule and is not a land use ordinance under City Charter Section 558. For this reason, this draft ordinance is not subject to approval by the City Planning Commission.

Fee Notice Requirements

Prior to adopting a new fee or increasing an existing fee, the City Council must conduct a public hearing concerning the matter, as required by Government Code Section 66016. Notice of the time and place of the meeting at which the hearing will be held, including a general description of the matter to be considered, must be published in accordance with Government Code Section 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

CEQA Determination

The DCP recommends that the City Council determine that the adoption of this ordinance does not constitute a "project," as defined by CEQA pursuant to CEQA Guidelines Section 15378(b)(4), which states that a "project" does not include "[t]he creation of government funding mechanisms or other government fiscal activities which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment."

Furthermore, even if it were found to be a "project" under CEQA, the DCP recommends that the adoption of this ordinance is exempt from CEQA based upon CEQA Guidelines Section 15061(b)(3), which states that a project is exempt from CEQA if "[t]he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." If the City Council concurs, it must comply with CEQA by making this determination prior to or concurrent with its action on the ordinance.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety with a request that all comments be presented directly to the City Council or its Committees when this matter is considered.

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If you have any questions regarding this matter, please contact Deputy City Attorney Kimberly Huangfu at (213) 978-8257. A member of this Office will be present when you consider this matter to answer questions you may have.

Very truly yours,

HYDEE FELDSTEIN SOTO, City Attorney

By 

KIMBERLY HUANGFU
Deputy City Attorney

JWH:KAH:jr
Transmittal