

# Request for Policy Analysis (Council Referrals)

Department PBCE Rules Date February 11, 2026 Item C.1  
 Department Rep. Name/Ext. Chris Burton Councilmember Sponsorship Ortiz, Cohen, Mulcahy, Casey  
 Policy/Ordinance Subject Scaled Development Fee Framework and  
Deferred Development Impact Fees

Staff Recommendation			
<input checked="" type="checkbox"/> <b>GREEN</b> Adopt based on tradeoffs outlined on next page	<input type="checkbox"/> <b>YELLOW</b> Defer to a later designated date or the annual Budget Process	<input type="checkbox"/> <b>RED</b> Recommend Council not adopt nominated idea	<input type="checkbox"/> <b>NEEDS CLARIFICATION OR MORE TIME TO EVALUATE</b>

Staff Evaluation		
Is this already underway in a department work plan? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is this time critical or an emergency? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Will this require substantial resources, staffing, budget, strategic support, or reprioritizing existing work plan? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## Criterion to Determine Scale of Project Complexity

Project complexity is determined by scoring the project in each of the 3 criteria below and then summing the score.

a. Low Complexity is a sum of 6 or less.

b. Medium Complexity is a sum of 7 – 9. Total Score = 8

c. High Complexity is a sum of 10 or greater.

Scoring Criterion		Low Complexity	Medium Complexity	High Complexity
	Estimated Duration	6 – 9 months <input checked="" type="checkbox"/> = 1	9 - 18 months <input type="checkbox"/> = 2	More than 18 months <input type="checkbox"/> = 3
	Organizational Complexity (Internal)	Can easily be absorbed into existing work plan <input checked="" type="checkbox"/> = 1	Planned work (future) <input type="checkbox"/> = 2	Work not currently proposed <input type="checkbox"/> = 3
		Have staff with required skillset/knowledge <input type="checkbox"/> = 1	Have staff with required skillset/ requires moderate research <input checked="" type="checkbox"/> = 2	Do not have staff with required skillset/requires significant research <input type="checkbox"/> = 3
		Less than or equal 2 staff required <input checked="" type="checkbox"/> = 1	3 - 4 staff required <input type="checkbox"/> = 2	More than 5 staff required <input type="checkbox"/> = 3
DEPT. Required	(External)	1 Additional department; no community outreach required <input type="checkbox"/> = 1	2 Other departments Involved; some community outreach required <input type="checkbox"/> = 2	3 or more departments and/or external partners involved; significant community outreach required <input checked="" type="checkbox"/> = 3
		<input type="checkbox"/> Airport <input type="checkbox"/> Auditor <input type="checkbox"/> CMO <input type="checkbox"/> OEDCA <input type="checkbox"/> ESD <input type="checkbox"/> Fire <input type="checkbox"/> HR <input type="checkbox"/> IT <input checked="" type="checkbox"/> PRNS <input type="checkbox"/> Police <input type="checkbox"/> Retirement	<input type="checkbox"/> Finance <input checked="" type="checkbox"/> Housing <input type="checkbox"/> IPA <input type="checkbox"/> Library <input checked="" type="checkbox"/> PBCE <input checked="" type="checkbox"/> PW <input checked="" type="checkbox"/> DOT	

CMO Approval: /s/ Lee Wilcox Date 2/4/2026

<b>Analysis</b>
<b>Explain the rationale for staff recommendation, including any mitigating factors that need to be considered (recent legislative action, significant work plan changes, etc.). Please address the following as well.</b>
<p>GREEN LIGHT: The Administration can implement this nominated idea under its current work plan. Item should be sent to Council to add to department work plan. (1) How will the idea be approached? (2) If adopted, what is its impact and/or tradeoff to the City Council Focus Area or to a department work plan, including strategic support? (3) What is the minimum viable scope to move the idea forward and reduce its complexity?</p>
<p>Staff proposes to advance the proposal through three related workstreams:</p> <p>1. Development Fee Framework</p> <p>Within the interdepartmental Housing Catalyst Workplan, staff is developing a standardized approach to City impact fees and construction tax estimates through the Development Fee Framework. The Framework is intended to establish a structured set of standards to better align current and future fee programs. It is also designed to improve transparency and provide a more straightforward method for projects to estimate City fees as they evaluate development opportunities.</p> <p>Continued...</p>
<p>YELLOW LIGHT: Administration recommends Council defer this nominated idea to a later designated date or the annual Budget Process due to (describe cost implications, workload impacts, or other factors)</p>
<p>RED LIGHT: The Administration recommends Council not to adopt this nominated idea due to (describe reason implementation would be difficult if not impossible – conflict with other laws, etc.).</p>

## Analysis (Continued)

Work to date has included forming an internal working group of departments with existing impact fee programs. The first phase is development of a City Council Policy that would define and memorialize the Development Fee Framework. The working group has prepared an initial draft of the Council Policy, which will require additional internal review and revisions. Staff intends to bring the policy to City Council for adoption by the end of this calendar year.

### 2. Fee payment timing and implementation checkpoints

Through multiple incentive programs, including the North San José Traffic Impact Fee Incentive and the Downtown High-Rise Residential Incentive, staff has piloted allowing certain fees to be paid at Final Inspection or at issuance of the Certificate of Occupancy.

In September 2024, the State enacted Senate Bill 937, which supports housing production by deferring payment of certain local development fees until issuance of the first Certificate of Occupancy or first Temporary Certificate of Occupancy. The law also prohibits local governments from charging interest on deferred fees. SB 937 applies only to specified project types and fee categories. In San José, it currently applies to certain Development Impact Fees, including Traffic Impact Fees in applicable areas and Parks Impact Fees.

Staff will continue evaluating whether additional residential projects and additional local fees and taxes should be considered for similar treatment, based on operational feasibility and fiscal impact.

Currently, most fees are due at issuance of building permits, which provides an appropriate checkpoint to confirm fee alignment with the approved project scope and to avoid downstream construction delays. To accommodate expanded fee deferral, staff is developing new process checkpoints to ensure projects are not delayed at later stages due to outstanding fees. Staff will return with the updated Development Fee Framework described above, including an implementation update on this program.

### 3. Aligning NOFA timing with State cycles

In coordination with the Housing Department, staff is evaluating how best to align the City's Notice of Funding Availability cycle with the State's funding cycle. This includes, but is not limited to, issuing preliminary letters of commitment at the time of application that remain subject to final City Council approval.