



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: April 20, 2021
TO: Christine Daniel, City Manager
FROM: Charles S. Bryant, Community Development Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Establishing Updated Development Impact Fees For Fiscal Year 2021-2022**

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled resolution establishing updated Development Impact Fees for fiscal year 2021-2022.

BACKGROUND

On July 15, 2014, the City Council adopted two ordinances amending the Emeryville Municipal Code (Ordinance Nos. 14-008 and 14-009) to enable Development Impact Fees for affordable housing, parks and recreation, and transportation, and passed three resolutions establishing the fees. The fees were based on impact fee studies ("nexus studies") that had been prepared for the City by various consultants. The impact fee studies identified the maximum fee, or cap, that could justifiably be imposed on new development. The City Council established the Affordable Housing Fee at \$20,000 per unit for rental housing, or about 56% of the cap. The Parks and Recreation Impact Fee was set at 25% of the cap, and the Transportation Impact Fee was set at 20% of the cap.

The resolution adopting the Affordable Housing Impact Fee (Resolution No. 14-103) listed several land uses that are exempt from the fee, and established the fee at \$4.00 per square foot for all other non-residential land uses. The nexus studies for the Parks and Recreation Impact Fee and the Transportation Impact Fee listed the fee for many common land uses (Resolution Nos. 14-104 and 14-105). The adopting resolutions provided that land uses not included in the nexus studies shall have their fee determined by the Community Development Director using the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual and the same methodology as used in the nexus studies.

The resolutions also provided that "The City Council may review and amend the impact fees from time to time. For any annual period during which the City Council does not review the impact fees, fee amounts shall be adjusted once as of July 1st by the Community Development Director based on the percentage increase in the Engineering News-Record Construction Cost Index for San Francisco, California."

On June 2, 2015, the City Council passed Resolution No. 15-49 approving an annual increase of 2.46%, based on the increase in the Engineering News-Record Construction

Cost Index for San Francisco for April 2015 compared to that for April 2014. In adopting this resolution, the Council approved a table developed by staff that listed all three fees, and their totals, for every use classification included in the Planning Regulations. The table approved by the City Council included the Community Development Director's interpretation of fees for a number of uses that were not listed in the nexus studies, as well as the Director's interpretation that some uses should be exempt from the affordable housing impact fee or should have all of their impact fees set at zero.

On October 20, 2015, the City Council passed Resolution No. 15-130, raising the Affordable Housing Impact Fee to \$28,000 per unit for rental housing.

On June 21, 2016, the City Council passed Resolution No. 16-88 approving an annual increase of 3.55%, based on the increase in the Engineering News-Record Construction Cost Index for San Francisco for April 2016 compared to that for April 2015. The Affordable Housing Impact Fee of \$28,000 per unit for rental residential projects was not increased because the City Council had already adjusted it (from \$20,000 to \$28,000) during the past year.

On April 18, 2017, the City Council passed Resolution No. 17-48 approving an annual increase of 0.44%, based on the increase in the Engineering News-Record Construction Cost Index for San Francisco for March 2017 compared to that for April 2016.

On April 4, 2017, the City Council passed Ordinance No. 17-002, effective May 4, 2017, which added two new use classifications to the Planning Regulations: Cannabis Sales and Cannabis Manufacturing. The land use and parking regulations for Cannabis Sales were based on those for Retail: Tobacco Shops, and those for Cannabis Manufacturing were based on those for Manufacturing: Pharmaceutical.

On April 17, 2018, the City Council passed Resolution No. 18-41 approving an annual increase of 3.49%, based on the increase in the Engineering News-Record Construction Cost Index for San Francisco for March 2018 compared to that for March 2017. The two new Cannabis-related use classifications were included in this fee update. The impact fees for Cannabis Sales would be the same as those for Retail: Tobacco Shops, which falls under "Retail: All Other", so no change to the table was necessary for this use. Cannabis Manufacturing was added to the Manufacturing section, with fees set the same as those of Pharmaceutical Manufacturing.

On April 16, 2019, the City Council passed Resolution No. 19-39 approving an annual increase of 0.28%, based on the increase in the Engineering News-Record Construction Cost Index for San Francisco for March 2019 compared to that for March 2018.

On April 21, 2020, the City Council passed Resolution No. 20-35 approving an annual increase of 6.33%, based on the increase in the Engineering News-Record Construction Cost Index for San Francisco for March 2020 compared to that for March 2019.

DISCUSSION

The purpose of this item is for the City Council to review and approve the annual increase to the development impact fees based on the percentage increase in the Engineering News-Record Construction Cost Index for San Francisco, California, as stipulated in the adopting resolutions. Because State law stipulates that fee increases for development projects shall take effect no sooner than 60 days after their adoption (California Government Code Section 66017), this item has been scheduled for the April 20, 2021 City Council meeting to allow 60 days to elapse before the effective date of July 1, 2021. Comparing the Engineering News-Record Construction Cost Index for San Francisco for March 2021 to that for March 2020 yields an annual increase of 2.55%. As stipulated by the adopting resolutions, the Development Impact Fees in the attached table have been increased by this amount to establish the fees for fiscal year 2021-2022. The attached table has been modified from previous years to add Accessory Dwelling Units (including Junior ADUs) under Residential Use Types to make it explicit that ADUs are exempt from development impact fees, thereby memorializing the City's past practice.

Prior to adoption of the updated fees, the City Council must hold at least one public hearing and receive written and oral testimony. Notice of the meeting and the data relating to the proposed amendments have been published and made available to the public and interested persons in accordance with the requirements of the Government Code.

FISCAL IMPACT

In the six-and-a-half fiscal years since these Development Impact Fees took effect, they have generated about \$9.1 million, including \$4.1 million for transportation, \$2.4 million for parks, and \$2.6 million for affordable housing. This includes significant fees paid for the Hyatt Place Hotel, Stanford Health Center, EmeryStation West/Transit Center, Estrella Vista, AvalonBay Public Market, and Sherwin Williams projects. Major residential projects that have been approved since these fees took effect have opted to provide affordable units within the developments, so they have not generated Affordable Housing Impact Fees, although they may have generated Transportation and Parks and Recreation Impact Fees.

Revenues from the impact fees are being programmed, as appropriate, to fund projects in the Capital Improvement Program, as specified in the adopting resolutions. During the past six-and-a-half fiscal years, Transportation Impact Fee funds have been used for the Christie Avenue Bay Trail, Horton Street Traffic Calming, Powell/Doyle Traffic Signal, South Bayfront Bicycle/Pedestrian Bridge, Emeryville Greenway Stanford-Powell, SafeTREC Powell Street Corridor Study, Transit Center Public Parking, Powell Street Bridge Widening, and Emery Go-Round Shuttle Bus Yard projects. Park and Recreation Impact Fees have been used for the Stanford Avenue Park Expansion, Horton Landing Park Expansion, South Bayfront Bicycle/Pedestrian Bridge, and Emeryville Greenway Stanford-Powell projects. Affordable Housing Impact Fee funds have been used to help finance the Estrella Vista affordable housing project at 3706 San Pablo Avenue, and have

been committed to assist the San Pablo Affordable Apartments at 3600 San Pablo Avenue.

The City Council has also approved three impact fee credits in exchange for the provision of public facilities that could otherwise have been funded from the impact fees. These include a credit to the Public Market project for the redesign and expansion of Christie Avenue Park, a credit to the EmeryStation West/Transit Center project for the Transit Center plaza and platform extension, and a credit to the Sherwin Williams project for construction of a new City park and Greenway extension. While these credits have reduced the total revenue into the various impact fee funds, they have resulting in new public facilities without any expense to, or construction activity by, the City.

Further detail is contained in the annual report on the impact fees that is provided to the City Council in November or December of each year.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved this staff report and the attached resolution.

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution
- Exhibit A: Development Impact Fees for Fiscal Year 2021-2022