



City of Emeryville

C A L I F O R N I A

MEMORANDUM

DATE: April 19, 2022
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 2022-2023**

RECOMMENDATION

Staff recommends that the City Council adopt the above-entitled resolution establishing updated Development Impact Fees for fiscal year 2022-2023.

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 May 4, 2017, Ordinance No. 17-002, which had been passed by the City Council on April 4, 2017, took effect. This Ordinance 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.

On April 20, 2021, the City Council passed Resolution No. 21-31 approving an annual increase of 2.55%, based on the increase in the Engineering News-Record Construction Cost Index for San Francisco for March 2021 compared to that for March 2020. The table of impact fees was 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.

DISCUSSION

The purpose of this item is for the City Council to review and approve the annual increase to the Development Impact Fees. Since the Development Impact Fees were adopted in 2014, these annual increases have ranged from 0.28% to 6.33%, and have averaged about 2.73%. As discussed above, they have been based on the percentage increase in the Engineering News-Record Construction Cost Index for San Francisco, California, as stipulated in the adopting resolutions. However, this metric for fee increases is not codified in the Emeryville Municipal Code, and the City Council has discretion to use a different metric if deemed appropriate.

Comparing the Engineering News-Record Construction Cost Index for San Francisco for March 2022 to that for March 2021 yields an annual increase of 15.15%, more than five times the annual average of the past seven years. In staff's view, this is excessive and would place an undue burden on the development community. A more appropriate metric to use this year would be the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics. This index is typically used by the City of Emeryville to develop the annual increases in the Master Fee Index, which covers most City fees other than the Development Impact Fees. The CPI is published every two months; the most recent index for the San Francisco Bay Area is for February 2022, and is a 5.2% annual increase compared to February 2021, which is still almost double the average annual Development Impact Fee increase of the past seven years.

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 19, 2022 City Council meeting to allow 60 days to elapse before the effective date of July 1, 2022. As discussed above, the Development Impact Fees in the attached table have been increased by 5.2%, the annual CPI increase for the San Francisco Bay Area for February 2022, to establish the fees for fiscal year 2022-2023.

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 seven-and-a-half fiscal years since these Development Impact Fees took effect, they have generated about \$9.7 million, including \$4.6 million for transportation, \$2.5 million for parks, and \$2.6 million for affordable housing. This includes significant fees paid by 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 seven-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.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has had no communication with the public on this agenda item.

CONCLUSION

Staff recommends that the City Council adopt the attached updated Development Impact Fees for fiscal year 2022-2023 based on the annual increase in the Consumer Price Index for the San Francisco Bay Area.

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 2022-2023

RESOLUTION NO. 22-40

Resolution Of The City Council Of The City Of Emeryville Establishing Updated Development Impact Fees For Fiscal Year 2022-2023

WHEREAS, on July 15, 2014, the City Council of the City of Emeryville passed and adopted Ordinance No. 14-008 amending the City of Emeryville Planning Regulations to enable Development Impact Fees, including fees for transportation and park and recreation facilities; and

WHEREAS, on July 15, 2014, the City Council of the City of Emeryville passed and adopted Ordinance No. 14-009 amending the City of Emeryville Planning Regulations to enable an Affordable Housing Impact Fee; and

WHEREAS, on July 15, 2014, the City Council of the City of Emeryville passed Resolutions No. 14-103, 14-104, and 14-105, establishing, respectively, an Affordable Housing Impact Fee, a Parks and Recreation Facility Impact Fee, and a Transportation Facility Impact Fee; and

WHEREAS, Resolutions No. 14-103, 14-104, and 14-105, stipulate that, for any annual period during which the City Council does not review the development impact fees, they shall be increased on July 1 based on the percentage increase in the Engineering News-Record Construction Cost Index for San Francisco, California; and

WHEREAS, the City Council has reviewed the development impact fees, and has determined that, for Fiscal Year 2022-2023, the appropriate index to use for the annual increase is the Consumer Price Index (CPI) published by the U.S. Bureau of Labor Statistics; and

WHEREAS, the table entitled “City of Emeryville Development Impact Fees, Fiscal Year 2022-2023”, attached hereto as Exhibit A, includes adjusted fees based on the 5.2% increase in the Consumer Price Index for the San Francisco Bay Area from February 2021 to February 2022; and

WHEREAS, prior to adoption of the updated development impact fees, the City Council held a noticed public hearing to receive written and oral testimony regarding said fees in accordance with the requirements of Government Code Section 66016; and

WHEREAS, prior to adoption of the updated development impact fees, notice of said public hearing, as well as data relating to the proposed amendments have been published and made available to the public and interested persons in accordance with the requirements of Government Code Section 66016; now, therefore, be it

RESOLVED, that the City Council of the City of Emeryville, hereby adopts updated development impact fees for Fiscal Year 2022-2023 as set forth in Exhibit A, attached hereto and incorporated herein, effective July 1, 2022.

Resolution No. 22-40
Updated Development Impact Fees for FY2022-23
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ADOPTED by the City Council of the City of Emeryville at a regular meeting held on Tuesday, April 19, 2022, by the following vote:

AYES:	<u>5</u>	Mayor Bauters, Vice Mayor Medina and Council Members Donahue, Martinez and Welch
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

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John Bauters

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MAYOR

ATTEST:

APPROVED AS TO FORM:

DocuSigned by:

Sheri Hartz

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CITY CLERK

DocuSigned by:

John Kennedy

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CITY ATTORNEY

ATTACHMENTS

- Exhibit A – Development Impact Fees



City of Emeryville
Development Impact Fees
 Fiscal Year 2022-2023 (valid July 1, 2022 through June 30, 2023)

Use Type	Affordable Housing	Park and Recreation Facility	Transportation Facility	TOTAL IMPACT FEES
Residential Use Types				
Single Unit	\$0	\$4,746	\$3,182	\$7,928 / dwelling unit
Two Unit and Multi-Unit				
<i>Rental - Apartment</i>	\$33,478	\$4,570	\$1,974	\$40,022 / dwelling unit
<i>In TH Transit Hub Overlay Zone</i>	\$33,478	\$4,570	\$1,909	\$39,957 / dwelling unit
<i>Owner - Condominium</i>	\$0	\$4,570	\$1,653	\$6,223 / dwelling unit
<i>In TH Transit Hub Overlay Zone</i>	\$0	\$4,570	\$1,593	\$6,163 / dwelling unit
<i>Owner - Townhome</i>	\$0	\$4,746	\$1,653	\$6,399 / dwelling unit
<i>In TH Transit Hub Overlay Zone</i>	\$0	\$4,746	\$1,593	\$6,339 / dwelling unit
Domestic Violence Shelter	\$0	\$1,787	\$703	\$2,490 / bed
Group Residential	\$0	\$1,787	\$703	\$2,490 / bed
Mobile Home Park				
<i>Rental</i>	\$33,478	\$4,570	\$1,974	\$40,022 / dwelling unit
<i>Owner</i>	\$0	\$4,746	\$1,653	\$6,399 / dwelling unit
Residential Care Facility	\$5.08	\$6.90	\$2.38	\$14.36 / square foot
Supportive Housing	\$0	\$1,787	\$703	\$2,490 / bed
Transitional Housing	\$0	\$1,787	\$703	\$2,490 / bed
Accessory Dwelling Units (including Junior ADUs)	\$0	\$0	\$0	\$0 / dwelling unit
Commercial and Institutional				
Adult Oriented Businesses				
<i>Retail</i>	\$5.08	\$2.55	\$5.93	\$13.56 / square foot
<i>Performance</i>	\$5.08	\$1.94	\$123.04	\$130.06 / square foot
Animal Care and Sales				
<i>Grooming</i>	\$5.08	\$2.30	\$4.63	\$12.01 / square foot
<i>Kennel/Animal Care</i>	\$5.08	\$3.57	\$17.66	\$26.31 / square foot
<i>Pet Stores</i>	\$5.08	\$2.55	\$5.93	\$13.56 / square foot
<i>Veterinary Services</i>	\$5.08	\$2.30	\$15.01	\$22.39 / square foot
Arts and Entertainment				
<i>Gallery</i>	\$5.08	\$0.38	\$0.57	\$6.03 / square foot
<i>Indoor Entertainment</i>	\$5.08	\$1.54	\$15.63	\$22.25 / square foot
<i>Outdoor Entertainment</i>	TBD	TBD	TBD	TBD
Banks and Financial Institutions	\$5.08	\$2.55	\$13.52	\$21.15 / square foot
Business Services	\$5.08	\$2.55	\$23.60	\$31.23 / square foot
Colleges and Trade Schools	\$0.00	\$2.30	\$8.09	\$10.39 / square foot
Community Assembly	\$0.00	\$0.62	\$8.72	\$9.34 / square foot
Day Care Centers	\$0.00	\$3.57	\$17.66	\$21.23 / square foot
Eating and Drinking Establishments				
<i>Bars/Nightclubs/Lounges</i>	\$5.08	\$6.38	\$10.84	\$22.30 / square foot
<i>Restaurants</i>				
Quality (ITE Land Use 931)	\$5.08	\$6.38	\$7.17	\$18.63 / square foot
High Turnover (ITE Land Use 932)	\$5.08	\$6.38	\$9.39	\$20.85 / square foot
Fast Food (ITE Land Use 933)	\$5.08	\$6.38	\$41.59	\$53.05 / square foot
Fast Food with Drive-Thru (ITE Land Use 934)	\$5.08	\$6.38	\$51.96	\$63.42 / square foot
<i>Mobile Food Vendors</i>	\$0.00	\$0.00	\$0.00	\$0.00
Emergency Shelters	\$0	\$1,787	\$703	\$2,490 / bed
Funeral Homes, Mortuaries and Mausoleums	\$5.08	\$0.62	\$1.75	\$7.45 / square foot

Use Type	Affordable Housing	Park and Recreation Facility	Transportation Facility	TOTAL IMPACT FEES
Health Care				
<i>Clinics and Medical Offices</i>	\$5.08	\$4.65	\$11.36	\$21.09 / square foot
<i>Hospitals</i>	\$5.08	\$3.70	\$2.96	\$11.74 / square foot
<i>Medical Laboratories (non research)</i>	\$5.08	\$2.30	\$10.02	\$17.40 / square foot
Instructional Services				
<i>Individual/ Small Group Instruction</i>	\$5.08	\$0.75	\$3.08	\$8.91 / square foot
<i>Group Instruction</i>	\$5.08	\$0.75	\$3.08	\$8.91 / square foot
Libraries and Museums				
<i>Libraries</i>	\$5.08	\$1.78	\$23.23	\$30.09 / square foot
<i>Museums</i>	\$5.08	\$0.38	\$0.57	\$6.03 / square foot
Live/Work Unit	\$5.08	\$1.94		\$7.02 / square foot plus
plus			\$2,068	\$2,068 / unit
Lodging				
<i>Hotels and Motels</i>	\$5.08	\$1.27		\$6.35 / square foot plus
plus			\$1,336	\$1,336 / room
<i>Bed & Breakfast</i>	\$0.00	\$0.00	\$0.00	\$0.00 / square foot
Major Public Services	\$5.08	TBD	TBD	TBD / square foot
Marina	\$0	\$1,276	\$604	\$1,880 / berth
Motor Vehicle Sales and Services				
<i>Cleaning (Self-Service Car Wash - ITE Land Use 947)</i>	\$5.08			\$5.08 / square foot plus
plus		\$320	\$8,813	\$9,132 / stall
<i>Rentals</i>	\$5.08	\$1.94	\$3.19	\$10.21 / square foot
<i>Sales and Leasing</i>	\$5.08	\$1.66	\$8.33	\$15.07 / square foot
<i>Repair and Service</i>	\$5.08	\$1.27	\$14.19	\$20.54 / square foot
<i>Service Station</i>	\$5.08			\$5.08 / square foot plus
plus		\$320	\$8,825	\$9,145 / pump
<i>Towing and Impounding</i>	\$5.08	\$1.27	\$15.93	\$22.28 / square foot
Offices				
<i>General/Government/Walk-In Clientele</i>	\$5.08	\$4.65	\$4.74	\$14.47 / square foot
<i>Corporate Headquarters (ITE Land Use 714)</i>	\$5.08	\$4.65	\$4.50	\$14.23 / square foot
Parking	\$0.00	\$0.00	\$0.00	\$0.00 / square foot
Personal Services	\$5.08	\$2.55	\$4.63	\$12.26 / square foot
Public Safety Facilities	\$0.00	\$2.55	\$3.83	\$6.38 / square foot
Recreation				
<i>Gaming</i>	\$5.08	\$2.55	\$42.74	\$50.37 / square foot
<i>All Other</i>	\$5.08	\$2.55	\$11.24	\$18.87 / square foot
Repair Services	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Retail				
<i>Food and Beverage Sales</i>				
<i>Supermarket (ITE Land Use 850)</i>	\$5.08	\$2.55	\$13.57	\$21.20 / square foot
<i>Convenience Market (ITE Land Use 851)</i>	\$5.08	\$2.55	\$50.03	\$57.66 / square foot
<i>All Other</i>	\$5.08	\$2.55	\$5.93	\$13.56 / square foot
Schools	\$0.00	\$1.27	\$3.81	\$5.08 / square foot
Social Service Facilities	\$0.00	\$4.09	\$4.74	\$8.83 / square foot

Use Type	Affordable Housing	Park and Recreation Facility	Transportation Facility	TOTAL IMPACT FEES
Industrial				
Arts-Industrial - All	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Commercial Kitchens	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Construction and Maintenance	\$5.08	\$0.89	\$1.01	\$6.98 / square foot
Crematories	\$5.08	\$2.80	\$2.34	\$10.22 / square foot
Food Production and Assembly - All	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Hazardous Waste Facilities - All	\$5.08	\$2.80	\$2.34	\$10.22 / square foot
Laundry and Dry Cleaning Services	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Manufacturing				
<i>Pharmaceutical</i>	\$5.08	\$1.27	\$3.08	\$9.43 / square foot
<i>Custom</i>	\$5.08	\$1.27	\$2.07	\$8.42 / square foot
<i>Light</i>	\$5.08	\$1.27	\$3.08	\$9.43 / square foot
<i>General</i>	\$5.08	\$1.27	\$2.34	\$8.69 / square foot
<i>Heavy</i>	\$5.08	\$1.27	\$2.34	\$8.69 / square foot
<i>Cannabis Manufacturing</i>	\$5.08	\$1.27	\$3.08	\$9.43 / square foot
Recycling Facilities - All	\$5.08	\$2.80	\$2.34	\$10.22 / square foot
Research and Development	\$5.08	\$3.20	\$3.41	\$11.69 / square foot
Salvage and Wrecking	\$5.08	\$2.80	\$2.34	\$10.22 / square foot
Storage and Distribution				
<i>Indoor and Outdoor</i>	\$5.08	\$0.89	\$1.01	\$6.98 / square foot
<i>Personal</i>	\$5.08	\$0.04	\$0.81	\$5.93 / square foot
Agricultural				
Community Gardens	\$0.00	\$0.00	\$0.00	\$0.00
Indoor Agriculture	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Outdoor Agriculture	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Animal Husbandry	\$5.08	\$1.66	\$3.08	\$9.82 / square foot
Communication, Transportation and Utilities				
Communication Facilities				
<i>Transmission Towers</i>	\$0.00	\$0.00	\$0.00	\$0.00
<i>Equipment within Buildings</i>	\$5.08	\$0.05	\$0.31	\$5.44 / square foot
Transportation and Delivery Services				
<i>Bus/Rail Passenger Stations</i>	\$5.08	TBD	TBD	TBD / square foot
<i>Truck/Rail Freight Terminals</i>	\$5.08	\$1.66	\$2.65	\$9.39 / square foot
<i>Human-Powered</i>	\$5.08	\$0.89	\$1.01	\$6.98 / square foot
<i>Light Fleet</i>	\$5.08	\$0.89	\$1.01	\$6.98 / square foot
Utility Services	\$5.08	\$9.30	\$2.43	\$16.81 / square foot