

RESOLUTION NO. 14-103

Resolution Of The City Council Of The City Of Emeryville Establishing Affordable Housing Impact Fees

WHEREAS, to mitigate the impact of new development on the need for affordable housing within its boundaries, the City of Emeryville (the "City") in 1990 adopted an ordinance requiring that a percentage of units in residential projects be set aside as housing affordable to moderate, median, low, and very low income households (the "Affordable Housing Ordinance"); and

WHEREAS, to implement more effectively the affordable housing goals and programs of the Emeryville Housing Element 2009-2014 (the "Housing Element") given current market conditions, the Emeryville City Council has considered and passed on this same date an ordinance to amend the Affordable Housing Program (Article 4, Chapter 5, of the Emeryville Planning Regulations) which authorizes the imposition of affordable housing impact fees on rental residential developments and nonresidential developments to mitigate the impact of such developments on the need for affordable housing in the City; and

WHEREAS, to ensure that the affordable housing impact fees adopted by this resolution do not exceed the actual affordable housing impacts attributable to the development projects on which the fee is imposed, the City Council has received and considered two reports from Keyser-Marston Associates dated June 2014 and entitled, "Residential Nexus Study" (attached as Exhibit "B") and "Non-Residential Jobs-Housing Nexus Study" (attached as Exhibit "C")(collectively the "KMA Studies"); and

WHEREAS, the KMA Studies demonstrate that, to fully mitigate the burdens created by rental residential projects on the need for very low, low, median, and moderate-income housing, an affordable housing impact fee of \$35,600 per unit of new market rate development would be needed; and

WHEREAS, the KMA Studies further demonstrate that, to fully mitigate the burdens created by nonresidential development on the need for very low, low, median, and moderate-income housing, an affordable housing impact fee of \$66.80 to \$244.90 per square foot of new nonresidential development would be needed; and

WHEREAS, the City Council now desires to adopt affordable housing impact fees for rental residential developments and nonresidential developments as authorized by the Affordable Housing Program, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the developments on which the fees are imposed; and

WHEREAS, to ensure that development projects remain economically feasible, the affordable housing impact fees adopted by this resolution are lower than the amount found by the KMA Studies to be needed to fully mitigate the burdens created by new rental residential projects and new nonresidential development on the need for

affordable housing, and certain nonresidential projects are exempt from payment of the fees; and

WHEREAS, at least ten days prior to the date this resolution is being heard, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including general fund revenues, in accordance with Government Code Section 66019; and

WHEREAS, at least fourteen days prior to the date this resolution is being heard, notice was provided to any persons or organizations who had requested notice, in accordance with Government Code Section 66019; and

WHEREAS, notice of the hearing on the proposed fee was published twice in the manner set forth in Government Code Section 6062a as required by Government Code Section 66018; and

WHEREAS, a duly and properly noticed public hearing was conducted by the City Council on July 1, 2014; now, therefore, be it

RESOLVED, after review of the KMA Studies, staff reports, and public comment at a public hearing thereon:

Section 1. The City Council finds as follows:

- A. The foregoing recitals are true and correct.
- B. The purpose of the affordable housing impact fee is to mitigate the burdens created by new rental residential and nonresidential development projects on the need for very low, low, median, and moderate-income housing.
- C. In compliance with the Affordable Housing Program, all affordable housing impact fees collected shall be deposited into the City's affordable housing fund to be used solely to increase and preserve the supply of housing affordable to households of very low, low, median, and moderate incomes (including necessary administrative costs).
- D. After considering the KMA Studies, the testimony received at the public hearing, and the evidence in the record, the Council approves and adopts the attached KMA Studies, and incorporates the KMA Studies into this resolution by this reference, and further finds that new rental residential development and nonresidential development will create a need for affordable housing by:

1. Aggravating the existing shortage of affordable housing by reducing the supply of land for affordable housing and increasing the price of remaining land.
2. Increasing local employment at very low, low, median, and moderate-income wage levels, which increases the demand for and exacerbates the shortage of housing available to persons at those income levels.

E. There is a need in the City of Emeryville for housing affordable to households of very low, low, median, and moderate incomes.

F. The facts and substantial evidence in the record establish that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the KMA Studies for which the corresponding fee is charged, and there is also a reasonable relationship between the fee's use and the type of development for which the fee is charged, as is described in more detail in the KMA Studies attached to this resolution.

G. The cost estimates set forth in the KMA Studies are reasonable cost estimates for constructing affordable housing, and the fees expected to be generated by new development will not exceed these costs.

H. Adoption of this resolution is exempt from the California Environmental Quality Act because the adoption of this resolution is not a project in that it is a government funding mechanism which does not involve any commitment to any specific project. (CEQA Guidelines Section 15378(b)(4).)

Section 2. The City Council hereby adopts the affordable housing impact fees and exemptions shown on Exhibit "A," incorporated by this reference.

Section 3. The City Council may review and amend the affordable housing impact fee from time to time. For any annual period during which the City Council does not review the housing impact fee, 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.

Section 4. An affordable housing impact fee shall be collected by the City's Chief Building Official from all development subject to the fee, as shown in Exhibit "A."

Section 5. This Resolution shall go into full force and effect on September 13, 2014, or upon the effective date of the above-referenced Ordinance to amend the Affordable Housing Program, whichever occurs later.

Section 6. Any judicial action or proceeding to attack, review, set aside, void or annul this resolution shall be brought within the 120-day time period as established by Government Code Section 54995.

APPROVED by the City Council of the City of Emeryville at a regular meeting held on Tuesday, July 15, 2014.



MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK



CITY ATTORNEY

Exhibits:

- A. Affordable Housing Impact Fees and Exemptions
- B. Residential Nexus Study
- C. Non-Residential Jobs-Housing Nexus Study



EXHIBIT A

<u>LAND USE</u>	<u>AFFORDABLE HOUSING IMPACT FEE</u>
Rental Residential Projects (Planning Regulations Section 9-5.419(p))	\$ 20,000 per dwelling unit
Nonresidential Development, except where exempt as shown below	\$4.00 per square foot

A "nonresidential project," as defined in Planning Regulations Section 9-5.419(k), includes any development of nonresidential uses in the City for which a discretionary permit or building permit is required, including an addition to an existing use, the new construction of gross square feet of nonresidential space, the conversion of residential use to a nonresidential use, or the conversion of one nonresidential use to another nonresidential use for which an affordable housing impact fee or larger affordable housing impact fee is required.

Nonresidential Use Types Exempt from Payment of Affordable Housing Impact Fees (Planning Regulations Section Numbers and Use Types):

- 9-2.313 Colleges and Trade Schools
- 9-2.315 Community Assembly
- 9-2.317 Day Care Centers
- 9-2.321 Emergency Shelters
- 9-2.327 Instructional Services
- 9-2.329 Libraries and Museums
- 9-2.337 Marinas
- 9-2.343 Parking
- 9-2.347 Public Safety Facilities
- 9-2.349 Recreation
- 9-2.355 Schools
- 9-2.357 Social Service Facilities