




AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: William A. Gilchrist
Director, Planning &
Building Department

SUBJECT: SUPPLEMENTAL – Impact Fees
Annual Report

DATE: March 29, 2021

City Administrator Approval 

Date: Apr 21, 2021

RECOMMENDATION

Staff Recommends That The City Council Receive The Annual Report On The Affordable Housing, Transportation, Capital Improvements, and Jobs/Housing Impact Fees.

REASON FOR SUPPLEMENTAL

At its February 23, 2021 meeting, the Community and Economic Development (CED) Committee, requested that staff return with additional information regarding how Impact Fees are assessed, collected and deployed, among other questions regarding systems (information technology) issues, and the origin of the Impact Fee Zone Maps. This supplemental report has been prepared in response to that request.

BACKGROUND / LEGISLATIVE HISTORY

Oakland Municipal Code (OMC) Chapter 15.68 (Ordinance No. 12442 C.M.S.), Chapter 15.72 (Ordinance No. 13365 C.M.S.), and Chapter 15.74 (Ordinance No. 13366 C.M.S) established the Jobs/Housing, Affordable Housing, Transportation and Capital Improvement Impact Fee program in the City of Oakland to ensure that market-rate development projects pay their fair share to compensate for the increased demand for affordable housing, city assets (i.e., capital improvements), and transportation infrastructure generated by such development projects within the City of Oakland.

Under the Mitigation Fee Act, California Government Code (GC) Sections 66000 through 66008, local jurisdictions must provide an annual report with the following requirements as they pertain to Impact Fees for the prior fiscal year (FY):

- a. A brief description of the type of fee in the account or fund.

CED Committee
April 27, 2021

- b. The amount of the fee.
- c. The beginning and ending balance of the account or fund.
- d. The amount of the fees collected and the interest earned.
- e. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.
- f. An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.
- g. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
- h. The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

An Annual Report on the Affordable Housing, Transportation, Capital Improvements, and Jobs/Housing Impact Fees that included the statutory elements was first heard at the February 23, 2021 CED Committee. The item was continued, and the Committee directed staff to return with additional information.

Additional Data Elements Requested by CED Committee

On February 23, 2021, the Planning and Building Department (PBD) presented the Annual Impact Fee Report for fiscal year ending June 30, 2020 to the CED Committee of Oakland's City Council. Based upon public testimony and comments received from members of the public, including the Policy Director of the East Bay Housing Organizations (EBHO), the Committee requested that staff return with the following information for each development project:

- a. *Name and location of project.*
- b. *The impact fee zone in which the project is located.*
- c. *Number of housing units.*
- d. *Whether the project was exempt from paying the fee and the reason for such exemption (affordable housing projects and secondary units).*
- e. *Amount of fee assessed.*
- f. *Date building permit application was submitted.*
- g. *Date building permit was issued.*
- h. *Expected completion date of project.*
- i. *For development projects normally subject to the fee, the number and affordability level of units provided in lieu of paying the fee.*

It was also requested that staff provide a breakdown of the fees that have been assessed but not yet paid and distinguish between projects that have not yet been issued a building permit (projects that have not paid any of the assessed fees) and projects that were issued a building permit (projects that paid the first installment and, therefore, are expected to pay the second installment when the project is completed). **Attachment A** is intended to be responsive to that request.

Description of Data Fields in Attachment A and Relationship to Data Request from CED Committee

The data contained in **Attachment A** comes from Accela – PBD’s permit tracking system. The report covers the time period of July 1, 2019 to June 30, 2020. The data contained in the report and its relationship to the CED Committee’s data request is provided below. The Excel version document may be downloaded here: <https://www.oaklandca.gov/documents/city-of-oakland-annual-impact-fee-reports>. Readers should note that each time a fee is assessed, a transaction line is then generated, so some records appear several times.

- a. Name and location of project.
 - Record ID: The record number used to identify the project (Column A)
 - Address: The project address (Column B)
- b. The Impact Fee Zone in which the project is located.
 - Impact Fee: The Impact Fee Zone where the project is located. The Impact Fee Zones correspond with the maps that were adopted at the time the ordinances went into effect. (Column C)
- c. Number of housing units
 - Housing Units: The total number of housing units to be constructed. (Column D)
- d. Whether the project was exempt from paying the fee and the reason for such exemption (affordable housing projects and secondary units)
 - None of the projects presented on this spreadsheet were exempted from impact fees. Projects that have received exemption from impact fees were noted in Attachment B to the CED Committee report that was presented on February 23, 2021.
- e. Amount of fee assessed.
 - Amount Fee: The impact fee that was assessed for that project. (Column E)
 - Description: The fee that has been assessed for a given project. (Column F)
 - Date Assessed: The date that the impact fee was assessed for the project. (Column G)
 - Date Invoiced: The date that the impact fee was invoiced. (Column H)
 - Amount Due: The current impact fee invoiced and due for the project at time of report (Column I)
 - Amount Paid: The amount of impact fee paid. (Column J)
- f. Date building permit application was submitted.
 - Open Date: The date the building permit application was filed with the City of Oakland. (Column K)
- g. Date building permit was issued.
 - Current Record Status: Projects that have had permits issued will have a status of “Permit Issued” or “Issued”. (Column L)
 - Record Status Date: This column contains the date that the record status was updated. It is aligned with the Current Record Status. (Column M)
- h. Expected completion date of project.
 - Staff cannot predict the date of completion of any project. Staff can only report on the status of the project at a given point in time.

- i. For development projects normally subject to the fee, the number and affordability level of units provided in lieu of paying the fee.
 - This information was presented as Attachment B as part of the February 23, 2021 CED Committee report.
- j. Other data included in **Attachment A**
 - Several other data elements were included in the report that may be of interest to Council and the public, these include:
 - i. Job Value – Total project cost. (Column N)
 - ii. The Number of Affordable Units (Column O)
 - iii. Market Existing – The number of existing market rate units on the site. (Column P)
 - iv. Market Demolition – The number of existing market rate units to be demolished or removed from the property. (Column Q)
 - v. Market New – The number of new market rate units to be constructed. (Column R)
 - vi. Moderate Existing – The number of existing moderate-income units on the site. (Column S)
 - vii. Moderate Demolition – The number of existing moderate-income units to be demolished or removed from the property. (Column T)
 - viii. Moderate New – The number of new moderate-income units to be constructed. (Column U)
 - ix. Low Existing – The number of existing low-income units on the site. (Column V)
 - x. Low Demo – The number of existing low-income units to be demolished or removed from the property. (Column W)
 - xi. Low New – The number of new low-income units to be constructed. (Column X)
 - xii. Very Low Existing – The number of existing very low-income units on the site. (Column Y)
 - xiii. Very Low Demo – The number of existing very low-income units to be demolished or removed from the property. (Column Z)
 - xiv. Very Low New – The number of new very low-income units to be constructed. (Column AA)
 - xv. Extremely Low Existing – The number of existing extremely low-income units on the site. (Column AB)
 - xvi. Extremely Low Demo – The number of existing extremely low-income units to be demolished or removed from the property. (Column AC)
 - xvii. Extremely Low New – The number of new extremely low-income units to be constructed. (Column AD)
 - xviii. Total Affordable Units Existing – The number of existing affordable housing units on the property. (Column AE)
 - xix. Total Affordable Units Demolition – The number of existing affordable housing units to be demolished or removed from the property (Column AF)
 - xx. Total Affordable Units New – The number of new affordable housing units to be constructed. (Column AG)

Expired Permits

Staff cannot predict when or whether a project with an expired or inactive permit will resume. That decision is outside PBD's purview; however, staff is able to report on the status of permits that have been applied for or issued. The procedures for addressing expired permits is included in the Administrative Guidelines for Impact Fees ("[Administrative Guidelines](#)"). Building permits issued by the City of Oakland are valid for 720 days. In addition, if there is no activity for six (6) months (i.e., no inspections) the project will become inactive. At this point, the applicant can reactivate the permit; however, the project will be reassessed and re-evaluated for impact fees. If the impact fee has changed, then new fees will be assessed. If the project was not completed at the end of 720 days and therefore has expired, the project will be re-evaluated to see whether the project has progressed. If no progress has been made, then the project is subject to updated fees and the applicant will be required to apply for a new building permit. However, if progress has been made and the permit did not expire, then the impact fees for the project will not be increased. If the project has not been completed by the end of the third year, then new impact fees will be assessed. The applicant may either request a waiver of, a reduction of or appeal the impact fee assessments as provided in the Administrative Guidelines.

There are projects that have expired permits that have had fees assessed but were not collected due to the expiration. These uncollected, assessed fees were captured in Table 6: Summary of Impact Fees Collected and Assessed, which was included in the [February 23, 2021 CED Committee Impact Fee Report](#). That table contains a summary of all impact fees that were assessed irrespective of whether they were collected. The total amount that was assessed contains the amount of impact fees that the City has already collected, the amount of Impact Fees assessed to projects that have expired, and the amount of Impact Fees that were assessed to active projects. The amount of Impact Fees that the City can reasonably expect to collect is the total Impact Fee assessed minus the Impact Fees attached to expired projects and minus the Impact fees the City has already collected.

For the purpose of clarification, please note for any reporting period that the category of **Outstanding** Assessed Impact Fees does not include:

1. Projects where the impact fee payment has already been collected or
2. Projects whose permits have expired.

By contrast, the category of **Total** Assessed Impact Fees does include all impact fee assessments that have been calculated over the reporting period whether or not the corresponding project has paid its impact fee or had its permit expire. This category captures all assessments calculated at the time of permit issuance.

The relationship among these categories is expressed by the following:

Total Assessed Impact Fees = Outstanding Assessed Impact Fees (pending collection on active permits) + Collected Impact Fees (collected on active permits) + Expired Assessed Impact Fees (uncollected on inactive permits)

Systems Issues

Staff was unable to identify any functional systems deficiency that inhibited the accuracy of reporting impact fees. PBD is meeting monthly with the Housing and Community Development Department (HCD) to discuss data and reporting related to the impact fee program among other programs where the departments interact.

Impact Fee Zone Maps

The CED Committee requested more information related to the Impact Fee Zone maps for the Affordable Housing, Capital Improvement, and Transportation Impact Fees noted in the report. At the meeting, staff noted that those maps were adopted when the fees were put in place in 2016. The legislative record at the time of adoption indicates that the creation of different geographic zones was determined by the City Council. The agenda report for the [January 26, 2016 CED Committee](#) included seven (7) questions, one of which was “[s]hould different geographic areas (zones) of the City have different fee levels?” The Council deliberated on that question at the January 26, 2016, February 9, 2016, and March 22, 2016 CED meetings, and at the April 19, 2016 City Council hearing. The upcoming Impact Fee Five-Year Report will afford the City Council the opportunity to analyze data and consider the effect of having multiple zones, and determine whether to maintain or amend the Impact Fee Zone Map.

ANALYSIS AND POLICY ALTERNATIVES

As noted in the February 23, 2021 CED Committee Report, the Five-Year Impact Fee Report will provide the City Council with data and analysis that will help them to determine how the City’s Impact Fee Program may be amended. The report will analyze data from FY 2016-17 through FY 2020-21. The City is negotiating an agreement with Hausrath Economics Group to prepare an updated Impact Fee Nexus Study in accordance with the provisions of the California Government Code Section 66000 et seq., as amended by the Assembly Bill (AB) 518 and Senate Bill (SB) 1693. The development of the Five-Year Impact Fee Report will be initiated by June 1, 2021. The five-year report will be released later this year after the end of FY 2020-21. A hearing date will be scheduled upon completion of the report.

FISCAL IMPACT

The report provides supplemental information to a prior informational report; there is no financial impact to the City associated with the preparation of this report.

COORDINATION

This report was prepared with support and input from PBD, HCD, the City Administrator’s Office.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive The Annual Report On The Affordable Housing, Transportation, Capital Improvements, and Jobs/Housing Impact Fees.

For questions regarding this report, please contact Albert Merid, Acting Administrative Services Manager II at 510-238-3588.

Respectfully submitted,



WILLIAM A. GILCHRIST
Director, Planning and Building Department

Prepared by:
Angela Robinson Piñon, Assistant Director
Bureau of Operations & Administration

Albert Merid, Acting Administrative Services
Manager II
Bureau of Operations & Administration
Planning and Building Department

Attachment(s):
A. FY 2019-20 Impact Fee Data