

ORDINANCE NO. 04-001

AN ORDINANCE OF THE CITY OF EMERYVILLE ADDING ARTICLE 5 TO CHAPTER 2 OF TITLE 3 TO THE EMERYVILLE MUNICIPAL CODE TO ESTABLISH THE GENERAL PLAN MAINTENANCE FEE FUND AND AMENDING EXHIBIT A TO SECTION 3-7.05 OF CHAPTER 7 OF TITLE 3 OF THE EMERYVILLE MUNICIPAL CODE, REGARDING FEES COLLECTED PURSUANT TO THE CITY OF EMERYVILLE MASTER FEE SCHEDULE TO INCLUDE A GENERAL PLAN MAINTENANCE FEE TO FUND THE UPDATE OF THE EMERYVILLE GENERAL PLAN AND ZONING ORDINANCE.

WHEREAS, the City of Emeryville provides various services to the public and collects fees to recover the usual and current expenses of the City in providing such services; and

WHEREAS, the fees charged for certain City services are reviewed and adjusted to reflect the addition of new programs and the cost to the City of Emeryville to provide these services; and

WHEREAS, fees charged by the City of Emeryville need to be updated to include a General Plan Maintenance Fee to fund the update of the Emeryville General Plan and Zoning Ordinance as described in the staff report dated March 16, 2004; and

WHEREAS, based on the information set forth in the March 16, 2004 staff report, the City of Emeryville proposes to establish a fee of 0.5% of the construction valuation as determined by the Building Official on each building permit in order to pay for the costs reasonably necessary for the City to prepare, update and revise the Emeryville General Plan, the Emeryville Zoning Ordinance, and the plans and policies which the City is required to adopt before it can make any necessary findings and determinations as required by law; now, therefore, be it

RESOLVED, that the City Council of the City of Emeryville does hereby ordain as follows:

SECTION ONE. PURPOSE AND INTENT. The purpose and intent of this Ordinance is to establish a fee to be charged by the City of Emeryville upon issuance of any building, electrical, plumbing, mechanical, grading or fire permit to recover the usual and current expenses of the City of Emeryville in preparing, updating and revising the Emeryville General Plan and Zoning Ordinance, as described in the staff report dated March 16, 2004. The General Plan Maintenance Fee shall be 0.5% of the construction valuation as determined by the Building Official on each building, electrical, plumbing, mechanical, grading or fire permit, which fee shall be charged and collected by the Building Official upon the issuance of such permits.

SECTION TWO. ADDING ARTICLE 5 TO CHAPTER 2 OF TITLE 3 OF THE EMERYVILLE MUNICIPAL CODE. Article 5 of Chapter 2 of Title 3 of the Emeryville Municipal Code is hereby added to read as follows:

Article 5. General Plan Maintenance Fee Fund.

3-2.501. Created.

There is hereby created in the City Treasury a special fund to be known as the "General Plan Maintenance Fee Fund," which fund shall be maintained and administered in accordance with the provisions of this article.

3-2.502. Determination of Valuation.

As used in this article, the determination of "construction valuation" for purposes of calculating the General Plan Maintenance Fee shall be made by the Building Official and shall be the total value of all construction work for which a building permit is issued, as well as all grading, finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment.

3-2.503. General Plan Maintenance Fee.

A general plan maintenance fee ("fee") is hereby established on issuance of all building, electrical, plumbing, mechanical, grading and fire permits ("building permit") within the City of Emeryville. The City Council shall establish the fee as a percentage of construction valuation declared on a building permit. The fee shall be adopted as part of the City of Emeryville Master Fee Schedule. As provided in Section 3-2.502 above, the Building Official shall determine the construction valuation covered by the building permit and then calculate the fee as a percentage of construction valuation at the rate as established by the Master Fee Schedule. The fee shall be charged and collected by the Building Official upon issuance of a building permit.

3-2.504. Use of Fee.

The revenues raised by payment of this fee shall be placed in the General Plan Maintenance Fee Fund, and such revenues, along with any interest earnings earned on that account, shall be used solely for costs reasonably necessary for the City to prepare, update and revise the City of Emeryville General Plan, the City of Emeryville Zoning Ordinance, and any other such plans or policies that the City is required to adopt before it can make any necessary findings and determinations required by law.

3-2.505. Annual Review.

On an annual basis the Planning Department, in conjunction with the Finance Department, shall review the fee rate, the Fund balance, and projected construction valuation in the City of Emeryville in relation to the costs incurred and projected to be incurred by the City to prepare, update and revise its plans and policies. As a result of such review, the City Council shall make such necessary adjustments to the fee so that it does not exceed the estimated reasonable cost of preparing, updating and revising the City of Emeryville General Plan, the City of Emeryville Zoning Ordinance, and any other such plans or policies that the City is required to adopt before it can make any necessary findings and determinations required by law.

SECTION THREE. AMENDING EXHIBIT A TO SECTION 3-7.05 OF CHAPTER 7 OF TITLE 3 OF THE EMERYVILLE MUNICIPAL CODE. The City of Emeryville Master Fee Schedule, also known as Exhibit A to Section 3-7.05 of Chapter 7 of Title 3 of the Emeryville Municipal Code, is hereby amended to provide for the General Plan Maintenance Fee, as shown in Exhibit "A", attached hereto and incorporated herein.

SECTION FOUR. EXEMPTION FROM CEOA. The City Council finds, pursuant to Title 14 of the California Administrative Code, Section 15061(b)(3) and 15378(a), that this Ordinance is exempt

from the requirements of the California Environmental Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt under the definition of Project in Section 15378(b)(3) in that it concerns general policy and procedure making. The Council therefore directs that a Notice of Exemption be filed with the Alameda County Clerk in accordance with Section 21152 of the Act.

SECTION FIVE. SEVERABILITY. The City Council hereby declares that every section, paragraph, clause, and phrase of this Ordinance is severable. If, for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses, or phrases.

SECTION SIX. EFFECTIVE DATE OF THE ORDINANCE. This Ordinance shall take effect thirty (30) days following its final passage.

SECTION SEVEN. POSTING OF THE ORDINANCE. The City Clerk shall cause this Ordinance to be posted or published in accordance with California Government Code Section 36933.

SECTION EIGHT. CODIFICATION. Section TWO of this Ordinance shall be codified in the Emeryville Municipal Code. Sections ONE, THREE, FOUR, FIVE, SIX, SEVEN and EIGHT shall not be codified in the Emeryville Municipal Code.

INTRODUCED and FIRST READ at a regular meeting of the City Council of the City of Emeryville held on Tuesday, March 16, 2004, and **PASSED AND ADOPTED** at a regular meeting held on Tuesday, April 20, 2004 by the following vote:

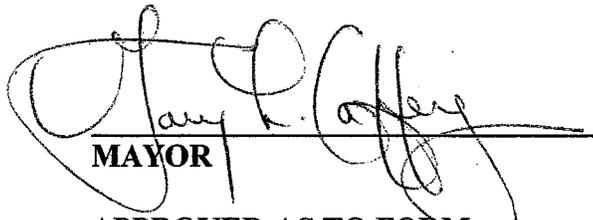
AYES:(5)Mayor Caffey, Vice Mayor Bukowski and Councilmembers Atkin, Davis and Kassis

NOES:(0) _____ **None** _____ **ABSTAINED:** _____ **None** _____

EXCUSED: _____ **None** _____ **ABSENT:** _____ **None** _____

ATTEST:

CITY CLERK


MAYOR

APPROVED AS TO FORM:


CITY ATTORNEY

**City of Emeryville
Master Fee Schedule
Planning and Building Department**

DESCRIPTION

**PROPOSED
FEE**

General Plan Maintenance Fee

0.5% of construction valuation

charged at issuance of
any type of building permit