



**DATE:** November 18, 2019

**TO:** HARD Board of Directors

**FROM:** City of Hayward Development Services Director

**SUBJECT** Revisions to Park Impact Fees and Ordinance

## **RECOMMENDATION**

That the HARD Board review the proposed park impact fees and related revisions to the Municipal Code and provide a formal recommendation of adoption to the Hayward City Council.

## **SUMMARY**

The attached nexus study (Attachment II), prepared by Community Attributes, Inc. (CAI), shows the maximum allowable park impact fees that could be assessed on different development types. Based on the nexus study, impact and permitting fees in neighboring jurisdictions, and feedback from the City Council, HARD Board of Directors, Council Economic Development Committee (CEDC), and representatives from the development community, staff recommends the following changes to the City of Hayward's park impact fees and Municipal Code:

- Park impact fees should be assessed by bedroom count for residential dwelling units, ranging from \$3,091 for studios and ADUs up to \$21,211 for a unit with four or more bedrooms.
- Park impact fees should be assessed on industrial development at a rate of \$0.55 per square foot.
- Exemptions for park fees should be expanded to include all 100 percent affordable projects (affordable to households up to 120 percent of the Area Median Income) by non-profit developers.
- Park fees should be reduced by 50 percent for 100 percent affordable projects by for-profit developers and for affordable units built on site.
- Credits should be allowed for park and recreation facilities that exceed code requirements, are publicly accessible, and receive approval from the HARD Board of Directors.

## BACKGROUND

In May 2018, the City entered into a contract with CAI to conduct a comprehensive nexus-study for park impact fees to align with current economic and development activities within Hayward. The last nexus study and fee schedule update occurred in 2003.

A project kick-off meeting was held in October 2018. Participants included City staff from Development Services, the City Manager's Office, and the Finance Department; HARD staff; and CAI. Based on the discussion at the kickoff meeting, CAI developed recommendations regarding the methodology for the nexus study and followed up with City and HARD staff during a conference call in December 2018 for additional guidance and input. CAI then developed park impact fee calculations, which calculate the maximum fees for different development types that would be legally defensible based on land acquisition and development costs (Attachment II).

On May 6, 2019, the park fee calculations were presented to the Council Economic Development Committee (CEDC)<sup>1</sup>. From their discussion, the CEDC had general consensus around the following recommendations:

- Minimal or no park fees should be assessed on non-residential development, particularly commercial development, which the City has a hard time attracting.
- Residential park fees should be assessed per bedroom rather than by development type (single-family, multifamily, etc.).
- Accessory dwelling units (ADUs) should be assessed the same rate as studios, regardless of the number of bedrooms that they include.
- While park fees should be increased, the increase must be reasonable.

On June 18, 2019, the park fee calculations from the nexus study were presented at a joint City Council/HARD Board work session<sup>2</sup>. Based on that presentation, the HARD Board of Directors provided City staff with the following feedback:

- Some Board members supported assessing park fees on non-residential development, while others preferred to continue assessing fees on only residential development.
- The maximum allowable fees should be charged. If Council elects to assess less than the maximum fee, the fee should be phased up to the maximum over no more than three years from adoption of the Ordinance.
- No types of development should be exempt from park fees. ADUs should be charged the studio rate.
- Park fees should be assessed based on bedroom count.

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<sup>1</sup><https://hayward.legistar.com/LegislationDetail.aspx?ID=3937516&GUID=6C808068-7305-42DC-B7ED-510C04E2BB0A&Options=&Search=>

<sup>2</sup><https://hayward.legistar.com/LegislationDetail.aspx?ID=3985845&GUID=8BB7EBC6-CE27-45AD-9E05-FC8CA953C375&Options=&Search=>

- A majority of Board members would consider recommending park dedication credits if a developer can clearly demonstrate community benefit and the park land is publicly accessible.

On August 15, 2019, staff held a stakeholder meeting with active developers in Hayward to solicit their feedback on the park fee calculations. The stakeholders in attendance had mixed feedback that included the following:

- Developers expressed concerns about any additional fees the City may add on top of an increased park fee.
- The City should consider median home values in determining the increase in park fees.
- Assessing fees by bedroom count will promote smaller units and penalize larger units, which has an impact on “family size” units.
- Residential developers liked the idea of sharing the fee burden with commercial development, but thought these fees should be kept low.
- Since the new industrial regulations require employee amenities and open space, assessing park fees could be seen as double charging.
- Concern was expressed regarding the timing of implementation. Developers wanted to see existing projects in the pipeline grandfathered to the old fees and they supported a phased approach to any fee increase.
- Fees should remain payable at occupancy instead of permit issuance.

On October 15, 2019, staff presented the following recommendations to the Council for their consideration:<sup>3</sup>

- Assess park impact fees on residential development only.
- Calculate fees by bedroom count rather than by product type.
- Reduce park fees below the maximum allowable, ranging from approximately \$3,100 for studios and ADUs to \$21,500 for units with four or more bedrooms.
- Expand the range of affordable projects and units that would be exempt from park fees, including allowing exemptions for all 100 percent affordable projects by non-profit developers and a 50 percent reduction in fees for 100 percent affordable projects by for-profit developers and for any affordable units that are built on-site.
- Consider additional credits that could be counted toward park fee requirements, such as trails and open space, and relaxing or eliminating the specific size requirements for required amenities.

Council supported all of staff's recommendations, though they wanted to see park fees increased within the next few years. Council also supported assessing a small fee on industrial development, but not on other types of non-residential development.

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<sup>3</sup><https://hayward.legistar.com/LegislationDetail.aspx?ID=4165485&GUID=F11CC4E1-B46B-4C5D-9146-540702F4328A>

## DISCUSSION

Based on the feedback received from the HARD Board of Directors, CEDC, and representatives of the development community, as well as comparative research regarding permitting and impact fees in neighboring jurisdictions, the City Council has directed staff to make the following changes to Hayward Municipal Code, Chapter 10, Article 16, Property Developers – Obligations for Parks and Recreation.<sup>4</sup> A redline version of the Ordinance incorporating the changes discussed below is included as Attachment III. A “clean” version of the Ordinance is included as Attachment IV.

### Park In-Lieu Fees

As shown in Table 1, the nexus study calculated the maximum allowable park impact fees that could be assessed on different types of development based on their respective impacts to the City’s parks and recreation facilities.

At the work session on October 15, Council directed staff to set park fees below the maximum allowable so that fees for residential development would range from approximately \$3,100 for studios and ADUs up to approximately \$21,500 for units with four or more bedrooms. Council’s desired range in fees is achieved when the maximum allowable residential fees shown in Table 1 are reduced by 30 percent.

Council also directed staff to assess fees on industrial development, but no other types of non-residential development. This is due to the difficulty the City has experienced attracting commercial development in recent years, with the notable exception of industrial development, which has been flourishing. As a result, staff proposes assessing industrial development at a consistent 30 percent reduction from the maximum allowable.

**Table 1: Maximum Allowable and Proposed Park Impact Fees**

<i>Type of Development</i>	<i>Max. Allowable Fee</i>	<i>Proposed Fee</i>	<i>Percent reduction from Max. Allowable</i>
<b>Residential</b>			
0 Bedrooms/ADU	\$4,416	\$3,091	30%
1 Bedroom	\$6,915	\$4,841	30%
2 Bedrooms	\$12,474	\$8,732	30%
3 Bedrooms	\$21,784	\$15,249	30%
4+ Bedrooms	\$30,301	\$21,211	30%
<b>Non-Residential</b>			
Office/Other Commercial	\$7.88/sq. ft.	-	100%
Retail	\$9.72/sq. ft.	-	100%
Industrial	\$0.78/sq. ft.	\$0.55/sq. ft.	30%
Government	\$9.00/sq. ft.	-	100%
Education	\$2.87/sq. ft.	-	100%

<sup>4</sup>[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10P\\_LZOSU\\_ART16PRDEBLPARE](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10P_LZOSU_ART16PRDEBLPARE)

The proposed fees are below the maximum allowable, and thus the revenue generated from park fees alone will not be enough to sustain the City of Hayward's current level of service for parks and recreation facilities. However, Council and staff agree that the proposed reductions are necessary given the limited feasibility of multifamily development, the difficulty the City has in attracting commercial development, and the impact fees of neighboring jurisdictions that the City competes with for new development. In addition, as shown in Attachment V, the City's current level of service is approximately 6.5 acres of parks and recreational facilities per 1,000 residents, which exceeds the General Plan parkland standard of 5.0 acres per 1,000 residents. While the proposed fees will likely result in a reduced level of service from current levels, the overall level of service will continue to surpass the General Plan standard throughout the planning horizon.

To help reduce the funding gap in the future, Council expressed interest in potential phased increases to the park impact fee, in support of the recommendation from the HARD Board of Directors. Table 2 shows options for what a phased increase could look like. Council may opt to establish a set timeframe for phased increases when they consider the revised Ordinance in December. Alternatively, they may elect to revisit options for future park fee increases after the City considers a new transportation impact fee, which is anticipated for 2020-2021.

**Table 2: Options for Fee Increases**

Type of Development	Proposed Fee (30% reduction)	Potential Future Fee Increases		
		Option #1 (20% reduction)	Option #2 (10% reduction)	Option #3 (Max. Allowable)
Residential				
0 Bedrooms/ADU	\$3,091	\$3,533	\$3,974	\$4,416
1 Bedroom	\$4,841	\$5,532	\$6,224	\$6,915
2 Bedrooms	\$8,732	\$9,979	\$11,227	\$12,474
3 Bedrooms	\$15,249	\$17,427	\$19,606	\$21,784
4+ Bedrooms	\$21,211	\$24,241	\$27,271	\$30,301
Non-Residential				
Office/Other Commercial	-	-	-	-
Retail	-	-	-	-
Industrial	\$0.55/sq. ft.	\$0.62/sq. ft.	\$0.70/sq. ft.	\$0.78/sq. ft.
Government	-	-	-	-
Education	-	-	-	-

In any case, Council supports including an annual adjuster to the adopted park impact fee based on the percentage change in the Engineering News-Record Cost Index, San Francisco Area.

## Exemptions

Currently, the City exempts the following types of development from park impact fees:

- Senior housing that is owned or leased by a public agency
- Affordable rental housing (affordable to households earning up to 60 percent of the Area Median Income) owned by a non-profit
- Affordable ownership housing (affordable to households earning up to 95 percent of the Area Median Income) developed by public agency or non-profit
- Non-residential development

While the HARD Board of Directors recommended that no types of development be exempt from park impact fees, Council supports staff's recommendation of expanding current exemptions to include all 100 percent affordable residential projects (affordable to households earning up to 120 percent of the Area Median Income) developed by non-profit developers. In addition, Council supports a 50 percent reduction in fees for 100 percent affordable projects by for-profit developers and for affordable units that are built on site.

Again, while any exemptions in fees will result in a lower level of service, Council and staff deem these exemptions necessary given the extraordinary housing crisis our community and region is facing. In addition, the reduction in park fees for affordable units will incentivize developers to build required affordable units on site, which is a key priority of the City Council and Planning Commission.

## Credits

Council is in agreement with the HARD Board of Directors that any credits toward park fee requirements must be for park or recreation space that exceeds code requirements and is publicly accessible.

Currently, the Municipal Code provides credit for private park and recreational areas that equal at least 25 percent of the total parkland dedication requirement for the development, or 2400 square feet, whichever is greater.<sup>5</sup> In addition, private park and recreational areas must include at least two of the park elements listed in Table 3.

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<sup>5</sup>[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART16PRDEBLPARE\\_S10-16.32CRPRREIM](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART16PRDEBLPARE_S10-16.32CRPRREIM)

**Table 3: Private Park Criteria List**

<i>Recreational/Park Facility</i>	<i>Minimum Required Area per Facility</i>
1. Children's play apparatus area shall comply with federal public playground safety guidelines	1,200 sq. ft.
2. Courtyard with decorative paving and seating (exclusive of general circulation areas and not exceeding 3 percent slope)	1,200 sq. ft.
3. Family picnic area and park-like areas with associated facilities (exclusive of general circulation areas and not exceeding 10 percent slope)	2,400 sq. ft.
4. Game court area	2,500 sq. ft.
5. Turf playfield	10,800 sq. ft.
6. Swimming pool(s) <sup>1</sup> (800 square feet minimum water surface area per pool together with adjacent deck and/or lawn area twice that of the pool)	2,400 sq. ft.
7. Recreation center buildings (excluding offices, hallways, restrooms, and utility rooms)	1,200 sq. ft.
8. Other private park and recreation, including rooftop recreation areas	As determined appropriate by the City, with consultation with HARD

Note:

1. A swimming pool shall be determined to provide the two required park elements.

Source: Hayward Municipal Code, Section 10-16.32, Credit for Private Recreation Improvements, [https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART16P\\_RDEBLPARE\\_S10-16.32CRPRREIM](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART16P_RDEBLPARE_S10-16.32CRPRREIM)

Council supports relaxing the private park criteria by adding trails and open space to the list of qualifying recreational and park facilities. In addition, staff recommends removing the minimum required area per facility listed in Table 3 and instead requiring approval from the HARD Board of Directors for any publicly accessible private park space to be counted as credit towards a project's park dedication/fee requirements.

## **NEXT STEPS**

Staff is tentatively scheduled to bring the revised park impact fees and related revisions to the Municipal Code to the City Council for adoption at a public hearing on December 3.

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