



Office of the City Manager

15

PUBLIC HEARING
March 23, 2021

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Interim Director, Planning and Development Department

Subject: Updated Fees for the Building Emissions Savings Ordinance

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution amending the Planning Department fee schedule (Resolution No. 67,985-N.S.) by updating the administrative fees charged to building owners filing for a Time of Listing Deferral under the Building Emissions Saving Ordinance (BESO), and creating an administrative late fee.

FISCAL IMPACTS OF RECOMMENDATION

Adoption of the resolution will generate funds to recover additional costs associated with implementing the updated BESO requirements, adopted by the City Council in December 2020. All fees collected through this program are deposited into the BESO Fees Account in the Permit Service Center Fund.

The proposed increase to the Time of Listing Deferral fee from \$48 to \$110 would generate an additional \$36,208 per year. The fee increase will accurately reflect the staff time and technology resources needed to process deferrals and incorporate the new fuel source disclosure requirement. Staff is also proposing to establish an administrative late fee of \$85. No other changes to the existing fees for filing BESO compliance reports are proposed.

The following table shows the current BESO fees and the proposed update (see **Attachment 2** for more detailed calculations):

| Building Size | Filing Fee Frequency | Current Fee | Proposed Fee |
|---|-----------------------------|--------------------|---------------------|
| Large (25,000 and over sq ft) | Every 5 years | \$240 | No change |
| Medium (5,000 to 24,999 sq ft) | At point-of-listing | \$152 | No change |
| Small (below 5,000 sq ft and 1-4 units) | At point-of-listing | \$79 | No change |
| Time of Listing Deferrals | At point-of-listing | \$48 | \$110 |
| Administrative Late Fee | N/A | N/A | \$85 |

CURRENT SITUATION AND ITS EFFECTS

The Building Emissions Savings Ordinance is a Strategic Plan Priority Project, advancing the City's goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. BESO requires building owners and homeowners to complete and publicly report comprehensive energy assessments to uncover energy and greenhouse gas (GHG) emissions saving opportunities and promote electrification amongst Berkeley's existing buildings.

In December 2020, City Council amended BESO to make the current time of sale assessment requirement due at time of listing, and to require disclosure of the fuel sources for all major energy systems and appliances for a building when applying for a deferral. These updates require the BESO team to collect additional building asset information through a new application process and generate custom informational material which is disclosed to all potential buyers when a building is listed for sale. These additional steps increase the administrative staff time to process Time of Listing Deferrals. The majority of buildings (75%) currently request to defer the assessment requirement to the buyer.

The updated Time of Listing Deferral process will require additional staff time and software updates to implement. Staff estimate that the updated BESO deferral costs \$110 per application. Please see **Attachment 2** for the full cost breakdown in support of the proposed fee changes.

Late compliance and non-compliance require significant staff time to identify, contact and inform building owners of the requirements and the necessary steps to bring their building into compliance. The BESO team will need to review listings to ensure that the proper fuel disclosure and electrification information has been disclosed. An administrative late fee will enhance enforcement and recover the staff time and material cost spent.

BACKGROUND

Since BESO was established in 2015, administrative filing fees have been assessed for the submission of Energy Reports (due at time of sale and/or every five years, based on building size) and Deferrals (when the seller applies to defer compliance to the buyer time of sale). Fees are currently not required for buildings reporting annual energy usage benchmarks.

The filing fees were calculated by estimating the staff resources required per building for each size class. The fees cover the staff time needed to process the energy reports and the additional administrative costs, such as outreach and education, compliance tracking, as well as developing and maintaining information technology systems for customer service, on-line application, and energy information disclosure.

Over the course of BESO's implementation it has become evident that the filing fee to defer the assessment does not accurately reflect the staff time required to process the deferral and the additional follow-up with building owners once a deferral has expired.

ENVIRONMENTAL SUSTAINABILITY

The adoption of BESO was a key implementation action of the Climate Action Plan (CAP). Existing buildings are the second largest source of GHG emissions and account for 37% of GHGs in Berkeley's most recent emission inventory.

RATIONALE FOR RECOMMENDATION

The proposed fee update is expected to recover costs related to additional staff time and technology improvements needed to process Time of Listing Deferrals and outreach for late compliance and non-compliant buildings.

ALTERNATIVE ACTIONS CONSIDERED

No change to the BESO fee structure. The increased implementation costs for Time of Listing Deferral would need to be covered by General Fund.

CONTACT PERSON

Billi Romain, Sustainability Manager, Planning & Development Department, 510-982-7432

Attachments:

1: Resolution

Exhibit A: BUILDING EMISSIONS SAVING ORDINANCE FEE SCHEDULE

2: Detailed calculations for proposed BESO fees

3: Public Hearing Notice

RESOLUTION NO. ##,###-N.S.

BUILDING EMISSIONS SAVING ORDINANCE FEE; AMENDING RESOLUTION NO. 67.985-N.S.

WHEREAS, in order to more effectively reduce greenhouse gas emissions and enable increased energy and water efficiency, Council adopted an amendment to the Building Emissions Saving Ordinance (BESO) on December 1, 2020; and

WHEREAS, in order to make the BESO Program sustainable, the filing fees shall be reassessed to cover additional staff and program costs of the new requirements approved by Council in the BESO amendment adopted December 1, 2020; and

WHEREAS, the current BESO filing fee to defer the assessment requirement does not accurately reflect the staff time required to process the deferral; and

WHEREAS, the BESO Program has been unable to recover staff time and program costs associated with late compliance or non-compliant buildings,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby amends Resolution No. 67,985-N.S. to adopt an updated fee schedule for BESO as set forth below and in Exhibit A.

The following fee schedule applies to all buildings that file an Energy Assessment Report in compliance of BESO:

| <u>Building Type</u> | <u>Fee Amount</u> |
|---|-------------------|
| Small Buildings (Under 5,000 square feet or Residential 1-4 units) | \$79 |
| Medium Buildings (5,000 to 24,999 square feet) | \$152 |
| Large Buildings (Over 25,000 square feet) | \$240 |
| Deferral (all building types) | \$110 |
| Administrative Late Fee (all building types) | \$85 |

- Exhibits
A: BESO Fee Schedule

| CHAPTER G- OFFICE OF ENERGY AND SUSTAINABLE DEVELOPMENT | | | |
|--|--|--------------------------|-----------|
| FEE TYPE / DESCRIPTION | | FEE | REMARKS |
| I. Building Emissions Saving Ordinance (BESO): Fees due with compliance filing at intervals shown | | | |
| | <u>Building size/type:</u> | <u>Filing frequency:</u> | |
| A. | Large Buildings, ≥ 25,000 square feet | Every 5 years | \$ 240.00 |
| B. | Medium Buildings, between 5,000 and 24,999 square feet | At point-of-listing | \$ 152.00 |
| C. | Small Buildings, < 5,000 square feet, excluding 1-4 unit residential buildings | At point-of-listing | \$ 79.00 |
| D. | Residential Buildings of 1-4 units | At point-of-listing | \$ 79.00 |
| E. | Deferral of BESO compliance to buyer | At point-of-listing | \$ 110.00 |
| F. | Administrative Late Fee | N/A | \$ 85.00 |

BESO COMPLIANCE FEE CALCULATIONS**TABLE 1: CITY COSTS INCURRED FOR BESO SERVICES**

| Application Type | % Staff Time - CSSII | CSSII Cost | % Staff Time - Intern | Intern Cost | Total Personnel Cost | Total Cost (Including Software & Materials) | Avg. # of Buildings per year | Cost Per Application |
|---|-----------------------------|-------------------|------------------------------|--------------------|-----------------------------|--|-------------------------------------|-----------------------------|
| Large Buildings 25k+ sqft | 0.02 | \$3,922 | 0 | \$ - | \$3,922 | \$10,725 | 45* | \$238 |
| Medium Buildings 5k-25k sqft | 0.02 | \$3,922 | 0.1 | \$1,976 | \$5,898 | \$6,632 | 42 | \$158 |
| Single Family Homes (1-4 units) + Small Buildings <5k sqft | 0.23 | \$45,109 | 0.4 | \$7,904 | \$53,013 | \$59,607 | 737 | \$81 |
| Deferrals (75% of sales) | 0.25 | \$49,032 | 0.4 | \$7,904 | \$56,936 | \$64,017 | 584 | \$110 |
| Non-Compliance - Administrative Late Fee | 0.05 | \$9,806 | 0.1 | \$1,976 | \$11,782 | \$13,247 | 156** | \$85 |

*Number of buildings based on projected 5 year average

**Estimate 20% of time-of-listing buildings comply late or are non-compliant

TABLE 2: BESO FEE REVENUE ESTIMATES

| Building Size | Cost per Application (Table 1) | BESO Filing Fee | Applications (Avg. per year) | Annual Fee Revenue |
|---|---------------------------------------|------------------------|-------------------------------------|---------------------------|
| Large (25,000 and over sq ft)* | \$238 | \$240 | 45 | \$10,800 |
| Medium (5,000 to 24,999 sq ft) | \$158 | \$152 | 42 | \$6,384 |
| Small (below 5,000 sq ft) excluding 1-4 units | \$81 | \$79 | 55 | \$4,345 |
| Single family homes (1-4 units) | \$81 | \$79 | 682 | \$53,878 |
| Time of Listing Deferral (75% of sales) | \$110 | \$110 | 584 | \$64,268 |
| | | Totals: | 1,408 | \$139,675 |

**NOTICE OF PUBLIC HEARING – BERKELEY CITY COUNCIL
PUBLIC PARTICIPATION BY REMOTE VIDEO ONLY**

**UPDATED FEES FOR THE BUILDING EMISSIONS SAVINGS
ORDINANCE**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted on March 23, 2021, at 6:00 p.m. via videoconference pursuant to Governor’s Executive Order N-29-20, at which time and place all persons may be heard upon the following:

The Department of Planning and Development is proposing to increase BESO Time of Listing deferral filing fee and establish an administrative late fee.

Current Fees

| | |
|--|-------|
| Small Buildings (Under 5,000 square feet or Residential 1-4 units) | \$79 |
| Medium Buildings (5,000 to 24,999 square feet) | \$152 |
| Large Buildings (Over 25,000 square feet) | \$240 |
| Deferral (all building Types) | \$48 |

Proposed Fees

| | |
|--|-------|
| Small Buildings (Under 5,000 square feet or Residential 1-4 units) | \$79 |
| Medium Buildings (5,000 to 24,999 square feet) | \$152 |
| Large Buildings (Over 25,000 square feet) | \$240 |
| Deferral (all building Types) | \$110 |
| Administrative Late Fee | \$85 |

The hearing will be held on March 23, 2021 at 6:00 p.m., A copy of the agenda material for this hearing will be available on the City’s website at www.CityofBerkeley.info as of **MARCH 11, 2021. Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology.**

For further information, please contact Billi Romain, Sustainability Manager, at 510-982-7432

Written comments should be mailed directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or emailed to council@cityofberkeley.info in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact

information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City’s website, on March 11, 2021.

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Mark Numainville, City Clerk