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OAKLAND

2018 NOV -8 PM 12:41

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: William A. Gilchrist,
Director of Planning and
Building Department

SUBJECT: SUPPLEMENTAL - Residential Hotel
Regulations (Impact Fee)

DATE: November 5, 2018

City Administrator Approval

Date:

11/8/18

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt An Ordinance (1) Amending The Oakland Municipal Code To Establish A Citywide Residential Hotel Demolition And Conversion Impact Fee And Make Related And Conforming Amendments, (2) Amending The Master Fee Schedule (Ordinance No. 13497 C.M.S., As Amended) To Include The Residential Hotel Demolition and Conversion Impact Fee, And (3) Determining That The Adoption Of The Demolition and Conversion Impact Fee Is Exempt From CEQA And That Any Projects Funded By The Fee Revenue Will Be The Subject Of Future CEQA Analysis.

REASON FOR SUPPLEMENTAL

On October 23, 2018, the Community and Economic Development (CED) Committee reviewed proposed regulations related to the demolition, conversion and rehabilitation of Residential Hotel Units (as defined in the proposed legislation). The proposed regulations in the original Agenda Report included two ordinances that have now been bifurcated. The CED Committee forwarded the first ordinance, proposed Planning Code amendments, to the full City Council for a public hearing on November 27, 2018. The CED Committee requested that the second ordinance, the proposed impact fee, be continued to the November 13, 2018 CED Committee with a Supplemental Report, to provide the Committee with more time and information to consider the recommendation. If the CED Committee decides to forward the proposed impact fee ordinance on to City Council, it could be considered by the Council at its regularly scheduled meeting on December 4, 2018.

As currently proposed, the proposed impact fee would apply to any conversion or demolition of a Residential Hotel Unit, unless a replacement unit is provided (meeting the requirements of proposed Planning Code Section 17.153.050) or the proposal qualifies as one of the exceptions described in proposed Planning Code Section 17.153.060.

This supplemental report provides an updated proposed ordinance with clarified findings and updated potential effective dates. This report also includes additional information for the proposed impact fee, including a summary of the basis for the calculation of the justifiable

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CED Committee
November 13, 2018

impact fee of \$212,000. This proposed fee is necessary to mitigate the loss of Residential Hotel Units from the City's housing stock, as detailed in the report dated October 5, 2018 titled *Nexus Analysis – Impact Fee to Mitigate Loss of Residential Hotel Units in Oakland (Attachment F* to the 10/23 CED Agenda Report, referred to as the "Nexus Analysis").

Key points from the Nexus Analysis are the following:

- The justifiable impact fee is based on the net cost to provide equivalent units to replace the Residential Hotel Units lost.
- These units are small, and most do not have in-unit kitchens or in unit bathrooms. Thus, per-unit development costs are lower than those for typical new residential development. The costs have been verified by several developers active in Oakland and are reasonable and appropriate for purposes of this impact fee analysis.
- The justifiable fee is lower than the gross development costs because it, appropriately, accounts for the capitalized value attributable to the modest net rental income that would be generated by such new units.

Basis for the Impact Fee Amount

The objective of the proposed impact fee is to provide the full net funding needed to produce a new Residential Hotel Unit that is equivalent—in affordability, size, services, facilities and location—to the unit lost from the City's housing stock, as further described below, and consistent with the requirement of the California Mitigation Fee Act that the fee be proportional to the relative impact of the loss of the existing unit:

1. Facilities: The analysis assumes a mix of Rooming Units and Efficiency Units generally representative of the current inventory, of two-thirds Rooming Units and one-third Efficiency Units, with representative unit size of 175 square feet for Rooming Units and 200 square feet for Efficiency Units. Rooming Units do not contain kitchens and may have either shared hallway bathrooms or in-unit bathrooms. Efficiency Units include in-unit bathrooms and kitchens/kitchenettes.
2. Affordability: Affordable to one-person households with extremely low incomes (25 to 30 percent of Area Median Income) or very low incomes (35 to 50 percent of Area Median Income), as published by the City of Oakland Housing and Community Development Department.
3. Services:
 - Utility costs typically included in rent.
 - Basic property management and maintenance services: routine maintenance, repair, and safety services; trash and recycling services; staffing (desk clerk, janitorial); and basic administrative overhead.
 - No on-site social, health, or other resident services.
4. Location: Located within two (2) miles of units lost. The large majority of Residential Hotel Units are located in and around the Downtown area.

Cost of Developing Equivalent Replacement Units

Development cost estimates for equivalent replacement units were prepared based on input provided by developers currently active in similar types of residential development in Oakland. Cost estimates considered current costs for micro-living units as the primary examples of small-living unit development and adjusted for differences for Residential Hotel occupancy. Costs for conventional and modular construction techniques were evaluated.

The development cost estimates for equivalent replacement units are as follows, in 2018 dollars:

- Rooming Unit – \$230,000 per unit (\$1,314 per sq. ft. for 175 sq. ft. unit)
- Efficiency Unit – \$270,000 per unit (\$1,350 per sq. ft. for 200 sq. ft. unit)

These costs assume basic construction and finishes to produce equivalent replacement units. The costs include land, building construction, other costs, and a contingency. The development costs are further detailed in **Table 1** (also included as **Table 4** of the nexus study, **Attachment F** to the 10/23 CED Agenda Report).

Table 1: Development Costs

Type III, Mid-rise Construction, No parking 7,000 sq. ft. land/site, 70 - 75 units, Approx. 426 units/acre density				
Development Costs (2018 dollars)	Rooming Units /a/		Efficiency Units /b/	
	Per Unit	Per Sq. Ft.	Per Unit	Per Sq. Ft.
Hard Construction Costs	\$117,000	\$669	\$140,000	\$700
Soft Costs /c/	50,000	286	60,000	300
Land Cost /d/	33,000	188	35,000	175
Contingency /e/	30,000	171	35,000	175
TOTAL	\$230,000	\$1,314	\$270,000	\$1,350

/a/ Without in-unit kitchens and with shared hallway bathrooms or in-unit bathrooms in some cases.

/b/ With in-unit bathrooms and kitchens/kitchenettes.

/c/ Includes costs for design/engineering/other consultants, permits and fees (excluding Oakland impact fees), legal and accounting, title, taxes, insurance, development overhead and fees, and construction period finance (as appropriate).

/d/ Land cost of \$350 per square foot land in Downtown area.

/e/ 15 percent contingency.

Source: Hausrath Economics Group based on input from residential developers currently active in Oakland.

The development costs per unit (\$230,000 and \$270,000) may seem low in the context of higher costs per unit that are often quoted. However, the costs have been verified by several sources and appear reasonable in light of several factors:

- The equivalent replacement units are very small, ranging from 175 to 200 square feet. Thus, the costs per unit are low relative to the costs for larger units. Average costs most

often cited for new housing are for larger units (studios, one-bedroom, or two-bedroom units) with higher per unit costs.

- In addition, the replacement units have no or limited kitchens and fewer bathrooms than other housing units built. Thus, development costs are also lower because kitchens and bathrooms are costly to build.
- The cost of developing replacement units with the impact fee funds also would be lower than the cost of developing affordable housing units with Federal/State/Local public funding. Affordable housing projects typically include common facilities and services, a unit mix with more larger units, and kitchens and bathrooms in each unit.

Justified Impact Fee to Mitigate Loss of Residential Hotel Units

The proposed impact fee is not solely based on development cost as there is a capitalized value attributable to the modest net rental income that would be generated from the new unit. Appropriately, the impact fee calculation considers both the development cost for a replacement unit and the capitalized net operating income for the new unit.

Representative Development Cost Scenario

The development scenario includes two-thirds Rooming Units (67 percent) and one-third Efficiency Units (33 percent). The weighted average development cost for that scenario is \$243,000 per unit.

Representative Value of Replacement Units

Analysis of rental income minus operating expenses indicates a modest weighted average value for the capitalized net operating income of approximately \$35,000 per unit.

Justified Impact Fee

Comparison of the development cost (\$243,000 per unit) and the capitalized value per unit (\$35,000 per unit) identifies the "gap" of development cost per unit less value per unit that requires additional funding ($\$243,000 - \$35,000 = \$208,000$ per unit). The resulting amount identifies a justifiable impact fee to produce equivalent replacement units of \$208,000 per unit.

It is appropriate to add a percentage to this calculated fee to account for necessary administrative and management costs for the fee program. With an administrative cost of two percent that is consistent with other Oakland impact fees, the justified impact fee totals \$212,000 per Residential Hotel Unit lost. The fee calculation is summarized in **Table 2** (also included as **Table 6** in the nexus study, **Attachment F** to the 10/23 CED Agenda Report).

Table 2: Calculation of Justified Impact Fee

Development Cost per Unit (see Table 1)		
67% Rooming Units		\$230,000
33% Efficiency Units		\$270,000
	Weighted Average Cost	\$243,000
Capitalized Value of New Unit		
	Weighted Average Value	\$35,000
Gap: Development Cost/Unit Less Value of New Unit		
		\$208,000
Justifiable Impact Fee to Replace Equivalent Units		\$208,000 per unit
Impact Fee with Administrative Cost of 2%		\$212,000 per unit

Source: Hausrath Economics Group

Use of Impact Fee Funds

Payments of the proposed impact fee would be deposited in a new account established in the City's Affordable Housing Trust Fund, which will only be used for replacement housing affordable to very-low and extremely low-income households.

The following identifies how the impact fee funds could be used to produce units equivalent to the Residential Hotel Units lost:

- Non-profit developers with a mission of providing affordable housing and building healthy neighborhoods are the most likely to be interested in developing replacement Residential Hotel Units with the impact fee funds.
- Non-profit developers have described how the impact fee funds are significant on a per-unit basis allowing them to develop units equivalent to the Residential Hotel Units lost and also use those funds to leverage the construction of other types of affordable housing units in a larger development with a mix of types of housing.
- The development of replacement Residential Hotel Units could be a component of larger Transit-Oriented Development, such as envisioned around Oakland BART stations including those in Downtown and West Oakland, in proximity to most of the existing Residential Hotels.
- The impact fee could facilitate the replacement of smaller numbers of Residential Hotel Units by allowing them to be included in larger developments. The replacement units could not be built and operated economically at a small scale.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt An Ordinance (1) Amending The Oakland Municipal Code To Establish A Citywide Residential Hotel Demolition And Conversion Impact Fee And Make Related And Conforming Amendments, (2) Amending The Master Fee Schedule (Ordinance No. 13497 C.M.S., As Amended) To Include The Residential Hotel Demolition and Conversion Impact Fee, And (3) Determining That The Adoption Of The Demolition and Conversion Impact Fee Is Exempt From CEQA And That Any Projects Funded By The Fee Revenue Will Be The Subject Of Future CEQA Analysis.

For questions regarding this report, please contact CHRISTINA FERRACANE, PLANNER III, at (510) 238-3903.

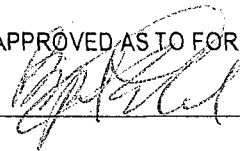
Respectfully submitted,



WILLIAM A. GILCHRIST
Director, Planning and Building Department

Reviewed by:
Ed Manasse, Interim Deputy Director/City
Planner

Prepared by:
Christina Ferracane, Planner III
Strategic Planning Division



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OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE (1) AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH A CITYWIDE RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE AND MAKE RELATED AND CONFORMING AMENDMENTS, (2) AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13497, C.M.S., AS AMENDED) TO INCLUDE THE RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE, AND (3) DETERMINING THAT THE ADOPTION OF THE RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE IS EXEMPT FROM CEQA AND THAT ANY PROJECTS FUNDED BY THE FEE REVENUE WILL BE THE SUBJECT OF FUTURE CEQA ANALYSIS

WHEREAS, there is a severe shortage of affordable rental housing in the City of Oakland and this shortage affects most severely the elderly, the disabled and very low and extremely low income persons; and

WHEREAS, many of the elderly, disabled, and very low and extremely low income persons reside in residential hotel units; and

WHEREAS, residential hotel units are a critical element of Oakland's housing inventory because the units have specific characteristics that make them uniquely affordable to people who have few if any alternative housing options; and

WHEREAS, residential hotels are often housing of last resort for the poor, especially in areas with extremely high costs of housing; and

WHEREAS, the City Council has determined that residential hotels are an essential component of the city's housing supply of Naturally Occurring Affordable Housing (NOAH) as they are a flexible and easily accessible form of housing that provides very low and extremely low income residents the ability to remain in Oakland and avoid homelessness; and

WHEREAS, the California State Legislature has recognized the need for retaining residential hotels to provide housing for low, very low, and extremely low income individuals in legislation, and in justifying such legislation:

The Legislature finds and declares that the need for decent housing among individuals of very low and low income is great, and that residential hotels are often the only form of housing affordable to these individuals. Many residential hotels are in poor condition and in need of rehabilitation, and many are being demolished or converted to other uses. California Health and Safety Code §

WHEREAS, the California State Legislature has additionally supported amendments to the Ellis Act exempting residential hotels in larger cities (“Residential hotels are considered a unique and important source of affordable housing in San Francisco and throughout California.” AB 1217 Assembly Bill, Bill Analysis); and

WHEREAS, residential hotel units are endangered housing resources and must be protected; and

WHEREAS, real estate market trends as well as city, regional, and state land use planning and development policies favoring the downtown and transit corridors where residential hotels were historically developed mean that residential hotel properties are susceptible to a more recent version of the development pressure that reduced the inventory in the 1960s and 1970s; and

WHEREAS, the City of Oakland Housing and Community Development Department prepared a report in September 2015 which states that from 1985 through 2015, the City lost approximately 799 residential hotel units; and

WHEREAS, the conversion and loss of residential hotel units results in the displacement of existing residents and permanently reduces the already scarce supply of housing in Oakland for those on the fringe of the housing market; and

WHEREAS, residents displaced from residential hotel units have limited means and few housing alternatives and are therefore at high risk of experiencing homelessness; and

WHEREAS, as a result of the conversion and loss of residential hotel units from the rental housing market, a housing emergency exists within the City of Oakland, acutely affecting elderly, disabled, and very low and extremely low income persons; and

WHEREAS, it is in the public interest that conversion and loss of residential hotel units be regulated and mitigated, and that remedies be provided where conversion occurs, in order to protect the resident tenants and to conserve the limited housing resources; and

WHEREAS, based on the previous findings, the City finds that there is a current and immediate threat to the public health, safety, and/or welfare associated with the Demolition and Conversion of Residential Hotel Units; and

WHEREAS, on October 4, 2016, the Oakland City Council adopted Resolution No. 86408 C.M.S., which requested that the City Planning Commission initiate action to amend Oakland's Planning Code to preserve the supply of residential hotels within six months of the Resolution's passage; and

WHEREAS, in recognition of the housing emergency caused by the loss of residential hotel units, on December 13, 2016, the City Council adopted interim Ordinance No. 13410, establishing a temporary moratorium on the conversion, demolition, reconfiguration, and rehabilitation of residential hotels, to take immediate effect; and

WHEREAS, on January 17, 2017, pursuant to Government Code 65858, the City Council extended the moratorium initially enacted under Ordinance No. 13410 C.M.S. for twenty-two (22) months and fifteen (15) days, following additional notice, and under Ordinance No. 13415

C.M.S., the moratorium thus was extended until December 11, 2018 or whenever permanent regulations are adopted, whichever occurs first; and

WHEREAS, Article XI, Section 5 of the California Constitution provides that the City, as a home rule charter city, has the power to make and enforce all ordinances and regulations in respect to municipal affairs, and Article XI, Section 7, empowers the City to enact measures that protect the health, safety, and/or welfare of its residents; and

WHEREAS, Section 106 of the Oakland City Charter provides that the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs; and

WHEREAS, the Mitigation Fee Act (AB 1600), codified in California Government Code Sections 66000-66025, establishes the legal requirements for a jurisdiction to implement a development impact fee program in conformance with constitutional standards; and

WHEREAS, on July 27, 2018, the Bureau of Planning, via a contractor assignment, initiated proceedings by entering into an agreement for as-needed consulting services contract with Hausrath Economics Group (“HEG”) to conduct a nexus analysis in support of an impact fee to mitigate the loss of residential hotel units in Oakland; and

WHEREAS, HEG has conducted a nexus analysis in accordance with the Mitigation Fee Act, and prepared a report entitled “Nexus Analysis – Impact Fee to Mitigate Loss of Residential Hotel Units in Oakland,” for the City of Oakland, dated October 5, 2018 (the “Nexus Analysis”), a copy of which was previously provided to the City Council and made available to the public; and

WHEREAS, the Nexus Analysis examined the significance of the remaining inventory of residential hotel units as housing supply for individuals with few housing options and the link between development actions that result in the loss of residential hotel units and displacement of residents who are at high risk of homelessness, therefore creating the need for replacement residential hotel units affordable to residents displaced; and

WHEREAS, the Nexus Analysis establishes a justifiable impact fee to replace residential hotel units lost due to demolition or conversion based on the objective of no net loss of residential hotel units and directly proportional, on a one-for-one basis, to the cost to develop an equivalent residential hotel unit; and

WHEREAS, the Nexus Analysis has documented and confirmed that the cost analysis is specific to Oakland’s real estate market and to residential development costs current as of 2018; and

WHEREAS, the fee is based on the cost to develop an equivalent residential hotel unit including land acquisition and new residential construction similar in characteristics to residential hotel units (consisting of rooming units or efficiency dwelling units) in buildings that have services and facilities comparable to those of existing residential hotels; and

WHEREAS, through the payment of the fee, developers who demolish or convert residential hotel units will address the impact of the loss of the residential hotel unit(s) and of the resultant displacement of residential hotel tenants; and

WHEREAS, impacts fees are necessary to replace the permanent loss of supply of residential hotel units in Oakland when these units are demolished or converted; and

WHEREAS, this Ordinance meets constitutional standards, and satisfies the requirements of the Mitigation Fee Act, the Oakland City Charter, and is consistent with the City's General Plan, specific plans and other land use plans; and

WHEREAS, Policy 5.4 of the Housing Element supports the preservation of single room occupancy hotels in Oakland, Policy 4.3 supports new policies to mitigate the loss of existing housing occupied by seniors, people with disabilities, and low income populations generally, and Policy 4.4 establishes the City's interest in preventing displacement; and

WHEREAS, *A Roadmap Toward Equity: Housing Solutions for Oakland, California* has a more specific action plan for a comprehensive housing policy to address equity concerns, repair disparities in opportunity that disproportionately impact Oakland's residents of color, and mitigate the loss of residential hotel units, whose residents are mostly people of color, as an important component of the housing equity strategy; and

WHEREAS, the proposed Residential Hotel Demolition and Conversion Impact Fee was considered at a regular, duly noticed (including newspaper ad published on October 5, 2018) meeting of the Community and Economic Development Committee of the City Council ("Committee"), on October 23, 2018; and

WHEREAS, the Committee recommended City staff return with a supplemental report to provide more time and information for the Committee to consider the recommendation; and

WHEREAS, the Residential Hotel Conversion and Demolition Impact Fee was considered at a regular, duly noticed, meeting of the Committee on November 13, 2018, and the Committee recommended adoption of this Ordinance; and

WHEREAS, this Ordinance was considered, after a duly noticed (including an additional newspaper ad published on November 9, 2018) public hearing, at a regular meeting of the City Council on December 4, 2018; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision, and are hereby adopted as findings.

Section 2. The City Council determines the adoption of this Ordinance is (1) not a Project under the California Environmental Quality Act ("CEQA") and is therefore exempt pursuant to CEQA Guidelines section 15378 (b)(4): (2) statutorily exempt pursuant to CEQA Guidelines section 15273(a)(4) (Rates, Tolls, Fares and Charges for obtaining funds for capital projects necessary to maintain service within existing service area); (3) statutorily exempt pursuant to CEQA Guidelines section 15267 (Financial Assistance to Low or Moderate Income Housing); (4) not in-and-of-itself a "Project" (pursuant to CEQA Guidelines 15378) since the adoption of the fee itself will not result in a physical change in the environment, though the actions authorized by this Ordinance may be part of a larger "Project" that will be subject to environmental review in accordance with CEQA at "the earliest feasible time" prior to "approval" consistent with CEQA Guidelines Sections 15004 and 15352, and the approval of any replacement residential hotel units or equivalent housing constructed with fee monies will be subject to appropriate review under CEQA prior to any administrative or City Council approvals; and/or (5) not intended to,

nor does it, provide CEQA clearance for future development-related projects by mere payment of the fees. Each of the foregoing provides a separate and independent basis for CEQA compliance and when viewed collectively provides an overall basis for CEQA compliance.

Section 3. This Ordinance shall be known as the “Residential Hotel Demolition and Conversion Impact Fee Ordinance.”

Section 4. Chapter 15.70 is hereby added to the Oakland Municipal Code to read as follows:

Chapter 15.70

RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE

Article I – General Provisions

15.70.010 – Purpose.

15.70.020 – Findings.

15.70.030 – Definitions.

15.70.040 – Applicability.

Article II – Fee Requirements and Procedures

15.70.050 – Amount of Impact Fees.

15.70.060 – Payment of Impact Fees.

15.70.070 – Reductions, Waivers, and Appeals.

15.70.080 – Enforcement.

Article III – Miscellaneous

15.70.90 – Administrative Regulations.

15.70.100 – Conflicting Provisions.

Article I – General Provisions

15.70.010 – Purpose.

The purpose of this chapter is to benefit the general public by minimizing the adverse impact on the housing supply and on displaced very low and extremely low income, elderly and disabled persons, which results from the loss of residential hotel units through conversion and demolition. This is to be accomplished by establishing impact fees in the City of Oakland sufficient to produce equivalent replacement units thereby mitigating the impacts of displacement of residential hotel residents when residential hotel units are demolished or converted.

15.70.020 – Findings.

- A. There is a severe shortage of affordable rental housing in the City of Oakland and this shortage most severely affects elderly, disabled, and very low and extremely low income persons.
- B. As a result of the removal of residential hotel units from the rental housing market, a housing emergency exists within the City of Oakland, acutely impacting elderly, disabled, and very low and extremely low income persons.
- C. It is in the public interest that the conversion and demolition of residential hotel units be regulated and mitigated. Furthermore, in order to protect the resident tenants and to conserve limited housing resources, remedies must be provided where conversion or demolition occurs.
- D. The City of Oakland conducted a Nexus Analysis that examined the significance of the remaining inventory of residential hotel units as housing supply for individuals with few housing options and the link between development actions that result in the loss of residential hotel units and displacement of residents who are at high risk of homelessness, therefore creating the need for replacement residential hotel units affordable to residents displaced; and
- E. The Nexus Analysis establishes a justifiable impact fee to replace residential hotel units lost due to demolition or conversion based on the objective of no net loss of residential hotel units and directly proportional, on a one-for-one basis, to the cost to develop an equivalent residential hotel unit. The purpose of the fee is for the City to generate funding to maintain the supply of residential hotel units by producing new residential hotel units equivalent to the units lost through demolition, conversion or rehabilitation.; and
- F. The Nexus Analysis has documented and confirmed that the cost analysis is specific to Oakland's real estate market and to residential development costs current as of 2018; and
- G. The fee is based on the cost to develop an equivalent residential hotel unit including land acquisition and new residential construction similar in characteristics to residential hotel units (consisting of rooming units or efficiency dwelling units) in buildings that have services and facilities comparable to those of existing residential hotels, and will be put towards these uses; and
- H. Through the payment of the fee, developers who demolish or convert residential hotel units will address the impact of the loss of the residential hotel unit(s) and of the resultant displacement of residential hotel tenants; and
- I. As documented in the Nexus Analysis, there is a reasonable relationship between the fee's use and the type of development project on which it is imposed. The fee revenue will be used to produce new residential hotel units to replace on a one-for-one basis units demolished, converted or rehabilitated to such an extent that they no longer serve as low-cost units for very low and extremely low income individuals. Thus, use of the fee mitigates the development action: displacement and the resultant increase in the number of people experiencing homelessness.
- J. As documented in the Nexus Analysis, there is a reasonable relationship between the need for equivalent new residential hotel units and the type of development project on which the fee is imposed. Demolition, rehabilitation and conversion of existing residential hotel units remove units from City inventory, thereby reducing the inventory of housing specifically

oriented to persons of very low and extremely low income and those least able to cope with displacement in the City of Oakland's housing market. Without equivalent replacement units, the number of people experiencing homelessness would increase. In addition, the substantial costs to shelter and serve those who are homeless are avoided if these residents are not displaced.

- K. Impacts fees are necessary to replace the permanent loss of supply of residential hotel units in Oakland when these units are demolished or converted; and
- L. The Residential Hotel Demolition and Conversion Impact Fee imposed under this Chapter serves the public interest and is necessary to protect the health, safety and welfare of the residents of Oakland.

15.70.030 – Definitions.

As used in this Chapter, the following terms have the following meanings, and to the extent a Planning Code and/or Municipal Code Chapter and/or Section is referenced herein, such reference shall also include future amendments, if any:

"Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, limited liability company, entity, combination of entities or authorized representative thereof, who undertakes, proposes or applies to the City for any Demolition or Conversion of a Residential Hotel Unit.

"Building Official" shall be as defined in Section 15.04.085 of the Oakland Municipal Code.

"City" means the City of Oakland.

"City Administrator" means the City Administrator of the City of Oakland or his or her designee(s).

"Commercial Hotel" means a hotel that operates as a Commercial Activity, as defined in Section 17.10.260, which provides lodging to guests that is not used or is not intended to be used as a primary residence.

"Commercial Hotel Unit" means a Rooming Unit or Efficiency Unit, as defined in Section 17.09.040 of the Oakland Planning Code, that operates within a Commercial Hotel or has been granted a Conditional Use Permit for conversion, as set forth in Section 17.153.050.

"Complete Building Permit Application" means an application for a building permit for vertical construction that is submitted after all necessary planning and zoning permits and approvals under Title 17 of the Oakland Planning Code are issued for the project and that contains all the application submittal materials required on the City's submittal checklist.

"Conversion" means any action that converts one or more existing Residential Hotel Units to a Commercial Hotel Unit, or converts the Residential Hotel to a Commercial Activity or another Residential Activity, as those terms are defined in Chapter 17.10 of the Oakland Planning Code, regardless of whether substantial improvements have been made to such units.

“Demolition” means any action that eliminates an existing Residential Hotel Unit, including but not limited to complete or partial demolition of a Residential Hotel Unit, combining two or more existing Residential Hotel Units to make a larger new unit, or any other action that eliminates one or more existing Residential Hotel Unit.

“Extremely low income households” shall be as defined in California Health and Safety Code Section 50106 and its implementing regulations.

“Fee Per Residential Hotel Unit” means the Impact Fee per residential hotel unit applicable to the Demolition or Conversion of a Residential Hotel Unit imposed under this chapter as contained in the City’s Master Fee Schedule.

“Impact Fee” means the Residential Hotel Demolition and Conversion Impact Fee imposed under this Chapter as set forth in the City’s Master Fee Schedule, as such Residential Hotel Demolition and Conversion Impact Fee may be adjusted for inflation pursuant to Section 15.70.050.

“Owner” means an owner of record of a Residential Hotel, or an entity or individual with a long-term lease or some form of equitable interest in a Residential Hotel.

“Residential Hotel” is defined in accordance with California Health and Safety Code Section 50519, and means any building built before 1960 containing six (6) or more Rooming Units, as defined in Section 17.09.040, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, and where the entrances to the individual units are generally accessed via a shared lobby area. See also the process for Status Determination in Section 17.153.030. Any building or units that are constructed to satisfy the requirements of Section 17.153.050(A) shall be subject to the provisions of this Chapter.

“Residential Hotel Unit” means a Rooming Unit or Efficiency Dwelling Unit, as those terms are defined in Section 17.09.040 of the Oakland Planning Code, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, and are located within a Residential Hotel. Any unit that is constructed to satisfy the requirements of Section 17.153.050(A) shall be subject to the provisions of this Chapter.

"Very Low Income Household" shall be as defined in California Health and Safety Code Section 50105 and its implementing regulations.

15.70.040 – Applicability.

A. Election of Applicant. Unless exempt from this Chapter, prior to the issuance of any permit to demolish or convert a Residential Hotel Unit, the Applicant for the Demolition or Conversion of a Residential Hotel Unit shall provide for one-for-one replacement of the units to be converted by electing one of the following methods: (1) to pay the Residential Hotel Demolition and Conversion Impact Fee under this Chapter; or (2) provide replacement rental units as required in Section 17.153.050 of the Oakland Planning Code. The regulations, requirements and provisions of this Chapter shall apply to any Applicant proposing Demolition or Conversion of a Residential Hotel Unit that decides to pay the Impact Fee instead of providing the replacement rental units as stated in Section 17.153.050

of the Oakland Planning Code. The Applicant for any Demolition or Conversion of a Residential Hotel Unit, as a condition of the building permit issuance, must pay to the City the required Impact Fee.

B. Effective date. Any Applicant for a Demolition or Conversion of a Residential Hotel Unit that does not satisfy the requirement to construct replacement rental units equivalent in affordability, size, services and facilities offered to each unit proposed for demolition or conversion pursuant to Subsection 17.153.050(A) for which a building Permit is issued on or after February 9th, 2019, must pay the Impact Fee in effect at the time of Complete Building Permit Application. If a building permit is issued after December 11th, 2018 but prior to February 9th, 2019, replacement rental units are required per Section 17.153.050 of the Oakland Planning Code.

Notwithstanding the above, this Chapter shall also apply to Applicants proposing Demolition or Conversion of a Residential Hotel Unit whose applications are determined and/or deemed complete on or after October 5, 2018, per the California Subdivision Map Act, Government Code Section 66474.2(b); provided, however, a vested right, as defined by California law, has not been obtained as of 60 days after the adoption of this Chapter.

C. Other requirements. Nothing in this Chapter shall be construed as waiving, reducing or modifying any other requirements for issuance of any permit, variance, approval or other entitlement by the City under any other law. The Impact Fee and requirements authorized by this Chapter are in addition to any other fees or mitigation measures otherwise authorized by law.

Article II – Fee Requirements and Procedures.

15.70.050 – Amount of Impact Fees.

The City Council hereby establishes a Residential Hotel Demolition and Conversion Impact Fee to be imposed on all Applicants for a Demolition or Conversion of a Residential Hotel Unit that do not satisfy the requirement to construct replacement rental units pursuant to Subsection 17.153.050(A) or are otherwise exempt pursuant to Section 17.153.060. The Impact Fees shall be calculated for each Demolition or Conversion of a Residential Hotel Unit as follows, pursuant to the Impact Fee amount as stated in the Master Fee Schedule in effect at the time of a Complete Building Permit Application:

$$\text{Total Impact Fee} = \text{Impact Fee Per Residential Hotel Unit} \times \text{Number of Residential Hotel Units Demolished and/or Converted}$$

The Impact Fee amount shall automatically be adjusted upward annually for inflation on July 1st beginning on July 1, 2020, by the City Administrator in accordance with the percentage increase from January to January in the residential building cost index published by Marshall and Swift, or if such index ceases to be published, by an equivalent index chosen by the City Administrator, with appropriate adjustments for regional and local construction costs as necessary. The adjustment shall be automatically effective whether or not the Master Fee Schedule has been amended to reflect the adjustment.

15.70.060 – Payment of Impact Fees.

Payment of the Impact Fees shall be due in one installment due prior to the issuance of a building permit for all or any portion of the Demolition and/or Conversion of a Residential Hotel Unit associated with the building permit, and shall be in the amount of one hundred percent (100%) of the Impact Fee.

Except as provided elsewhere in this chapter, no building permit may be issued for any Demolition and/or Conversion of a Residential Hotel Unit subject to this chapter unless the Impact Fee is paid in full to the Building Official. The Building Official shall deposit the Impact Fee in the Residential Hotel Unit Replacement Account of the Affordable Housing Trust Fund established under Chapter 15.62 of this Code.

As an alternative to payment of the Impact Fee set forth in this chapter, an Applicant for a Demolition or Conversion of a Residential Hotel Unit subject to the Impact Fee may elect to comply with those requirements through the provision of providing replacement rental units in Section 17.153.050 of the Oakland Planning Code.

15.70.070 – Reductions, Waivers, and Appeals.

A. Reductions, Waivers, and Appeals to the Impact Fee. A reduction, waiver, and/or appeal of the Impact Fee may be granted by the City Administrator to a Demolition or Conversion of a Residential Hotel Unit under any one of the following scenarios:

1. The Demolition or Conversion of a Residential Hotel Unit is subject to a higher Impact Fee than what would otherwise apply, solely and exclusively due to unusual delays, beyond the reasonable control of the Applicant, related to an appeal, litigation, unforeseen City delay and/or other similar circumstances;
2. The requirements of this Chapter have been incorrectly applied to a Demolition or Conversion of a Residential Hotel Unit; and/or
3. That application of the requirements of this Chapter to a Demolition or Conversion of a Residential Hotel Unit is, based upon the specific facts involved and in consultation with the City Attorney's Office, deemed to conflict with federal, state, or local law and/or regulation.

B. Applications for Reductions, Waivers, and/or Appeals. An application for a reduction, waiver and/or appeal of the Impact Fee must be made no later than the date of application for the building permit for the Demolition or Conversion of a Residential Hotel Unit on a form provided by the City, and shall include payment of fees as established in the Master Fee Schedule. The burden of establishing, by satisfactory factual proof, the applicability and elements of this Section shall be on the Applicant. The Applicant must submit full information in support of their submittal as requested by the City Administrator. Failure to raise each and every issue that is contested in the application and provide appropriate supporting evidence will be grounds to deny the application and will also preclude the Applicant from raising such issues in court. Failure to submit such an application shall be a failure by the Applicant of exhausting its administrative remedies and shall preclude such Applicant from challenging the Impact Fees in a judicial process. The City Administrator may require, at the expense of the Applicant, review of the submitted materials by a third party.

C. The City Administrator shall mail the Applicant a final, written determination on the application for a reduction, waiver, and/or appeal. The City Administrator's decision is final and not administratively appealable.

15.70.080– Enforcement.

A. Failure to comply with any of the provisions of this Chapter is declared to be prima facie evidence of an existing major violation and may be abated by the City Administrator in accordance with the provisions of this Chapter. Any person in violation will be subject to civil penalties, civil action and/or other legal remedies.

B. If the Applicant fails to comply with any provisions of this Chapter including failure to timely pay the Impact Fee, the City may take any of the following actions:

1. Withhold issuance of building-related permits;
2. Record a Special Assessment or other lien or liens against the real property which is the subject of the Demolition and/or Conversion of a Residential Hotel Unit for the amount of the Impact Fee;
3. Revoke or suspend the temporary certificate of occupancy and/or certificate of occupancy for the Demolition and/or Conversion of a Residential Hotel Unit;
4. Take any other action necessary and appropriate to secure payment, with interest accruing from the date of nonpayment; and/or
5. Assess civil penalties against an Applicant and/or associated parcel owner who fails to comply with this chapter, including failure to pay the impact fees, pursuant to Chapter 1.08 of this Code.

Violations of this Chapter are considered to be "Major" pursuant to Section 1.08.040D of this Code. The daily civil penalties described in Subsection (5) above shall continue until the violations are cured, including payment of the Impact Fee with accrued interest. Civil penalties established in this chapter are in addition to any other administrative or legal remedy which may be pursued by the City to address violations identified in this chapter.

Article III – Miscellaneous.

15.70.90 – Administrative Regulations.

The City Administrator is hereby authorized to adopt rules and regulations consistent with this Chapter as needed to implement this Chapter, subject to the review and approval as to form of the Office of the City Attorney, and to develop all related forms and/or other materials and take other steps as needed to implement this Chapter, and make such interpretations of this Chapter as he or she may consider necessary to achieve the purposes of this Chapter.

15.70.100 – Conflicting Provisions.

Where a conflict exists between the requirements in this Chapter and applicable requirements contained in other Chapters of this Code, the applicable requirements of this Chapter shall prevail.

Section 5. The following is hereby added to the Master Fee Schedule (Ordinance No. 13497 C.M.S., as amended):

PLANNING & ZONING

LL. RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE (Effective Feb. 9, 2019)

1 Residential Hotel Unit	212,000.00 Unit
The Records Management Fee and Technology Enhancement Fee do not apply to the above fee.	
2 Appeals	
a. Filing Fee	4,010.43 Appeal, or not to exceed 20% of the total Impact Fees appealing

Section 6. Section 1.08.020.A.1 of the Oakland Municipal Code is hereby amended to read as follows (additions are indicated with double-underlined text and deleted language is indicated with ~~strikeout text~~):

1.08.20 - Scope.

A. This chapter authorizes the administrative assessment of civil penalties to effect abatement of:

1. Any violations of provisions of the following Oakland Municipal Codes: Oakland Building Code (OMC Chapter 15.04), the Oakland Housing Code (OMC Chapter 15.08), Uniform Fire Code (OMC Chapter 15.12), Fire Damaged Area Protection & Improvement Code (OMC Chapter 15.16) Bedroom Window Security Bar & Smoke Detector Permit Code (OMC Chapter 15.64), Oakland Planning Code (OMC Title 17), Transient Occupancy Tax Code (OMC Chapter 4.24), Hotel Rates & Register Code (OMC Chapter 5.34), Food Vending Program (OMC Chapter 5.51), Animal Code (OMC Title 6), Health & Safety Code (OMC Title 8), Public Peace, Morals and Welfare Code (OMC Title 9), Vehicles and Traffic Code (OMC Title 10), Streets, Sidewalks & Public Places Code (OMC Title 12), Creek Protection, Storm Water Management and Discharge Control Code (OMC Chapter 13.16), Residential Hotel Demolition and Conversion Impact Fee (OMC Chapter 15.70), Affordable Housing Impact Fees (OMC Chapter 15.72), Transportation and Capital Improvements Impact Fees (OMC Chapter 15.74), and the Oakland Sign Code (OMC Chapter 14); or

Section 7. Chapter 15.62 is hereby amended to read as follows (additions are indicated with double-underlined text and deleted language is indicated with ~~strikeout text~~):

15.62.20 - Definitions.

As used in this chapter, the following terms have the following meanings:

"Affordable housing" means housing that is provided at an affordable rent or an affordable housing cost to lower income households or very low income households, except as provided for below. The terms "affordable rent" and "affordable housing cost" shall be as defined in California Health and Safety Code Sections 50053 and 50052.5 and their implementing regulations. Such housing shall have terms of affordability equivalent to those prescribed in California Health and Safety Code Sections 33334.3(f)(1)(A) for rental housing and 33334.3(f)(1)(B) for owner occupied housing.

Notwithstanding the above, for funds deposited into the Affordable Housing Trust Fund from the affordable housing impact fees, "affordable housing" means housing that is provided at an affordable rent or an affordable housing cost to moderate income households, lower income households or very low income households. Notwithstanding the above, for funds deposited into the Affordable Housing Trust Fund from the set-aside of funds distributed to the City as a taxing entity under the Dissolution Laws, "affordable housing" may also include ownership housing that is provided at an affordable housing cost to households with annual incomes at or below 120 percent of area median income for the Oakland area, adjusted for household size, or owner occupied housing that is being purchased with mortgage assistance by first-time homebuyers with annual household incomes at or below 120 percent of area median income for the Oakland area, adjusted for household size; and the use of such funds for development assistance or mortgage assistance to such housing shall be eligible uses under Section 15.68.100.

"City Administrator" means the City Administrator of the City of Oakland or his or her designees.

"Dissolution Laws" mean Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, commencing with Section 34170 and other statutes governing the dissolution of redevelopment agencies and the wind-down of redevelopment activities.

"Extremely low income households" shall be as defined in California Health and Safety Code Section 50106 and its implementing regulations.

"Lower income household" shall be as defined in California Health and Safety Code Section 50079.5 and its implementing regulations.

"Moderate income household" means persons and families of low or moderate income as defined in California Health and Safety Code Section 50093 and its implementing regulations.

"Substantial rehabilitation" means a project to repair or rehabilitate an existing building in which the cost of repairs or rehabilitation exceed twenty-five percent (25%) of the building's after-rehabilitation value.

"Very low income household" shall be as defined in California Health and Safety Code Section 50105 and its implementing regulations.

15.62.030 Funding sources.

The Affordable Housing Trust Fund shall receive funding from the sources set forth below. The Affordable Housing Trust Fund may also receive funds from any other source.

A. Jobs/Housing Impact Fees. The Affordable Housing Trust Fund shall receive all monies from jobs/housing Impact Fees contributed pursuant to Sections 15.68.050 and 15.68.060 of this Code.

B. Redevelopment Dissolution Funds. An amount equal to twenty-five percent (25%) of all funds distributed to the City as a taxing entity under the Dissolution Laws, including both one time and ongoing distributions, net of the amount of distributed funds that is deposited with the KIDS First! Oakland Fund for Children and Youth under Section 1300 of the Charter, shall be deposited into the Affordable Housing Trust Fund. The funds subject to this setaside shall include, without limitation, distributions of property tax from the Redevelopment Property Tax Trust Fund ("RPTTF"), distributions of sales proceeds and other revenues from the use or disposition of assets of the Oakland Redevelopment Successor Agency ("ORSA"), compensation paid to taxing entities by ORSA, and distributions of available cash assets of ORSA to taxing entities. This policy shall apply to distributions from the RPTTF under California Health and Safety Code Section 34183 starting in Fiscal Year 2015-2016, and shall apply to all other distributions received starting in Fiscal Year 2013-2014. As to distributions from the RPTTF, from Fiscal Year 2015-16 through Fiscal Year 2024-2025, this policy shall apply only to distributions to the City as a taxing entity of RPTTF funds under Subsection (a)(4) of California Health and Safety Code Section 34183, which are residual amounts distributed to the City after all other RPTTF allocations are made, and shall not apply to distributions of RPTTF funds to the City under Subsection (a)(1) of California Health and Safety Code Section 34183, which are amounts distributed to the City that the City would have received as passthrough payments if the Redevelopment Agency had not been dissolved. Starting in Fiscal Year 2025-2026, this policy shall apply to all distributions from the RPTTF to the City as a taxing entity under California Health and Safety Code Section 34183.

C. Fines and penalties. The Affordable Housing Trust Fund shall receive fines and penalties received under the Foreclosed and Defaulted Residential Property Registration Program pursuant to Section 8.54.620 of this Code.

D. Affordable Housing Impact Fees. The Affordable Housing Trust Fund shall receive all monies from Affordable Housing Impact Fees contributed pursuant to Chapter 15.72 of this Code.

E. Residential Hotel Demolition and Conversion Impact Fee. The Affordable Housing Trust Fund shall receive all monies from Residential Hotel Demolition and Conversion Impact Fees contributed pursuant to Chapter 15.70 of this Code.

15.62.040 Use of funds.

A. Funds deposited into the Affordable Housing Trust Fund, and all interest and investment earnings thereon, shall be used to increase, improve, and preserve the supply of affordable housing in the City, with priority given to housing for very low income households. For purposes of this paragraph, to "preserve" affordable housing means to acquire, finance, refinance, or rehabilitate housing that is at imminent risk of loss to the affordable housing supply (including housing that is restricted to affordable housing or housing that is otherwise provided at an affordable rent or an affordable housing cost to lower income households or very low income households) due to termination of use restrictions, non-renewal of subsidy contract, mortgage or tax default or foreclosure, rent increases, conversion to market-rate housing or other uses, demolition, or physical conditions that are likely to result in vacation of the property.

Funds may also be used to cover reasonable administrative or related expenses of the City not reimbursed through processing fees. No portion of the Affordable Housing Trust Fund may be diverted to other purposes by way of loan or otherwise.

Funds in the Affordable Housing Trust Fund shall be used in accordance with the adopted housing element to the City's General Plan, the Consolidated Plan, and subsequent housing plans adopted by the City Council, to subsidize or assist the City, other government entities, nonprofit organizations, private organizations or firms, or individuals in the construction, preservation or substantial rehabilitation of affordable housing. Monies in the Affordable Housing Trust Fund may be disbursed, hypothecated, collateralized or otherwise employed for these purposes from time to time as the City Administrator so determines is appropriate to accomplish the purposes of the Affordable Housing Trust Fund. Eligible uses include, but are not limited to, assistance with staff costs or other administrative costs attributable to a specific affordable housing project, equity participation in affordable housing projects, loans and grants (including, predevelopment loans or grants) to affordable housing projects, or other public/private partnership arrangements. Monies from the Affordable Housing Trust Fund may be extended for the benefit of rental housing, owner occupied housing, limited equity cooperatives, mutual housing developments, or other types of affordable housing projects. Not more than fifteen percent (15%) of the funds deposited into the Affordable Housing Trust Fund from Affordable Housing Impact Fees may be used for housing affordable to moderate income households unless this limit is waived by the City Council with a specific finding that the waiver is in the best interests of the City. The funds deposited into the Affordable Housing Trust Fund from Residential Hotel Demolition and Conversion Impact Fees may only be used for housing affordable to very low and extremely low income households.

B. Notwithstanding the provisions of Subsection A. above, funds deposited into the Affordable Housing Trust Fund from fines and penalties received under the Foreclosed and Defaulted Residential Property Registration Program pursuant to Section 8.54.620 of this Code, or from fines, penalties, or other funds under other programs that designate the use of funds deposited into the Affordable Housing Trust Fund for foreclosure prevention or mitigation purposes, may be used for foreclosure prevention and mitigation activities, including but not limited to homebuyer or tenant assistance, rehabilitation, housing counseling, education, outreach, and advocacy activities, along with staff costs or other administrative costs attributable to such activities. Upon a finding by the City Council or the City Administrator that funds are no longer needed for foreclosure prevention or mitigation activities, such funds may also be used for other eligible Affordable Housing Trust Fund uses or for other low income or very low income tenant or homebuyer assistance. Funds received pursuant to Section 8.54.620 shall be appropriated to a separate project. For funds received under the Foreclosed and Defaulted Residential Property Registration Program or other programs that designate the use of funds for foreclosure prevention or mitigation purposes, the City Administrator or his or her designee is authorized to award grants and enter into grant contracts or service contracts without returning to the City Council in amounts not to exceed one hundred thousand dollars (\$100,000.00).

C. Notwithstanding the provisions of Subsection A. above, until June 30, 2027, funds deposited into the Affordable Housing Trust Fund from the setaside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for services and interventions aimed at: preventing displacement of low income renters

from their homes; preventing the displacement of low income, senior, or disabled homeowners from their homes; rehousing for homeless residents; or protecting low-income renters from poor housing conditions leading to displacement. These services and activities may include, but are not limited to, housing counseling and outreach, rapid-rehousing, legal services, and housing assistance funds for tenants and homeowners who are lower income households or very low income households and who are at risk of losing their home or becoming homeless. Notwithstanding the above, until June 30, 2018, funds deposited into the Affordable Housing Trust Fund from the setaside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for services for homeless residents.

Section 8. The record before this Council relating to this Ordinance and supporting the findings made herein includes, without limitation, the following:

1. "Nexus Analysis Impact Fee to Mitigate Loss of Residential Hotel Units in Oakland" prepared by Hausrath Economics Group dated October 5, 2018;
2. All final staff reports, and other final documentation and information produced by or on behalf of the City, including without limitation supporting technical studies and all related/supporting final materials, and all final notices relating to the impact fee program and attendant meetings;
3. All oral and written evidence received by the CED Committee and City Council during the public meetings and hearings on the impact fee program and this Ordinance; and all written evidence received by the relevant City staff before and during the public meetings and hearings on the impact fee;
4. All matters of common knowledge and all official enactments and acts of the City, such as (a) the City's General Plan; (b) the Oakland Municipal Code and Planning Code; (c) other applicable City policies and regulations; and (d) all applicable state and federal laws, rules and regulations.

The custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Planning and Building Department—Bureau of Planning, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California; and (b) Office of the City Clerk, One Frank H. Ogawa Plaza, 1st Floor, Oakland California.

Section 9. This Ordinance is enacted to serve the public interest and is necessary to protect the health, safety, and/or welfare of the citizens of Oakland, and is enacted pursuant to Article XI, Sections 5 and 7 of the California Constitution, the Mitigation Fee Act, Section 106 of the Oakland City Charter and the City's home rule powers, and the City's General Plan, specific plans and other land use plans.

Section 10. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), including omnibus cross-referencing conforming changes throughout the Oakland Municipal and Planning Codes, prior to formal publication of these amendments in the Oakland Municipal Code.

Section 11. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 12. The Environmental Review Officer, or designee, is directed to cause to be filed a

Notice of Exemption with the appropriate agencies.

Section 13. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

Section 14. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN,
AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

AN ORDINANCE (1) AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH A CITYWIDE RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE AND MAKE RELATED AND CONFORMING AMENDMENTS, (2) AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13497, C.M.S., AS AMENDED) TO INCLUDE THE RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE, AND (3) DETERMINING THAT THE ADOPTION OF THE RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE IS EXEMPT FROM CEQA AND THAT ANY PROJECTS FUNDED BY THE FEE REVENUE WILL BE THE SUBJECT OF FUTURE CEQA ANALYSIS

NOTICE AND DIGEST

This Ordinance amends the Oakland Municipal Code to establish a Citywide residential hotel demolition and conversion impact fee on demolition and conversion of residential hotel units. This Ordinance also makes other changes to the Oakland Municipal Code, including Chapter 1.08 (Civil Penalties) and Chapter 15.62 (Affordable Housing Trust Fund), to update those sections, and conform those sections to this Ordinance. This Ordinance amends the City's Master Fee Schedule to add the Residential Hotel Demolition and Conversion impact fee. Finally, this Ordinance adopts various findings including findings related to exemptions under the California Environmental Quality Act.