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OAKLAND

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13853 C.M.S.

AN ORDINANCE

- (1) AMENDING TITLE 15 OF THE OAKLAND MUNICIPAL CODE TO UPDATE AND REVISE THE REGULATIONS FOR THE JOBS/HOUSING IMPACT FEE (CHAPTER 15.68), AFFORDABLE HOUSING IMPACT FEE (CHAPTER 15.72), AND TRANSPORTATION AND CAPITAL IMPROVEMENT IMPACT FEES (CHAPTER 15.74);
- (2) AMENDING THE CITY OF OAKLAND MASTER FEE SCHEDULE (ADOPTED BY ORDINANCE NO. 13799 C.M.S., AS AMENDED) TO CALCULATE IMPACT FEES FOR RESIDENTIAL PROJECTS ON A SQUARE FOOTAGE BASIS; AND
- (3) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.

WHEREAS, the City of Oakland ("City") has a critical need to ensure impacts from new development to transportation, capital improvement, and affordable housing resources are addressed, and development impact fees are a commonly used mechanism to address this need; and

WHEREAS, Government Code Section 66000-66025 establish the legal requirements for a jurisdiction to implement a development impact fee program for fees that meet the terms of the Mitigation Fee Act, California Government Code Sections 66000 to 66025; and

WHEREAS, the City has determined that the Affordable Housing Impact Fee should be administered consistent with the requirements applicable to fees for public facilities in the California Government Code Section 66000 et seq., commonly referred to as the "Mitigation Fee Act," without determining that it is required to do so; and

WHEREAS, on July 30, 2002, the City Council approved Ordinance No. 12442 C.M.S. adopting the City of Oakland Jobs/Housing Impact Fee, supported by the report "Commercial

Development Linkage Fee Analysis” prepared by David Paul Rosen & Associates to examine the link between non-residential development and the need for affordable housing in the City, and subsequently amended the City of Oakland Jobs/Housing Impact Fee on May 3, 2016, through Ordinance No. 13365 C.M.S. into the Oakland Municipal Code Chapter 15.68; and

WHEREAS, on May 3, 2016 the City Council approved Ordinance No. 13365 C.M.S. adopting the City of Oakland Affordable Housing Impact Fee into the Oakland Municipal Code Chapter 15.72; and

WHEREAS, on May 3, 2016, the City Council approved Ordinance No. 13366 C.M.S. adopting the City of Oakland Transportation and Capital Improvement Impact Fees into the Oakland Municipal Code Chapter 15.74; and

WHEREAS, in support of the adoption of the 2016 ordinances, the City, assisted by Hausrath Economics Group, Vernazza Wolfe Associates, Inc., BKF Engineers, and Fehr & Peers, conducted Nexus Studies examining the link between (1) new market-rate residential development, the growth of employment associated with the consumer expenditure of new residents, and the demand for affordable housing to accommodate the new worker households in Oakland (“Oakland Affordable Housing Impact Fee Nexus Analysis”); and (2) new development and additional burdens on transportation and capital improvement infrastructure (“Oakland Transportation and Capital Improvements Impact Fee Nexus Analysis”); and

WHEREAS, the Affordable Housing Impact Fee is charged per unit and is based upon the Impact Fee Zone in which the Development Project is located; and

WHEREAS, there are three Impact Fee Zones in the City and the fee levels in these zones reflect differences in the cost of housing, the feasibility of market-rate development, and the demand for new housing; and

WHEREAS, an applicant for a development project that is otherwise subject to the Affordable Housing Impact Fee will be exempt from the fee if the applicant provides affordable housing units pursuant to Oakland Municipal Code Section 15.72.100 – On-Site Affordable Housing Option; and

WHEREAS, in addition to providing affordable units pursuant to Oakland Municipal Code Section 15.72.100, an applicant for a development project may also utilize the provisions of Chapter 17.107 Density Bonus and Incentive Procedure in the Oakland Planning Code as well as the State Density Program in Government Code Sections 65915—65918; and

WHEREAS, the Transportation Improvement Impact Fees and Capital Improvement Fees for residential projects is based upon the Impact Fee Zone in which the Development Project is located and;

WHEREAS, on January 31, 2023, the City approved Resolution No. 89565 C.M.S., adopting the 2023-2031 Housing Element as a General Plan Amendment to the Oakland General Plan, and the 2023-2031 Housing Element includes a program, referred to as the Housing Action

Plan, that includes proposed actions to increase production of affordable housing, to allow for “missing middle” housing in existing neighborhoods, to produce mixed-income housing throughout the city, to address geographic inequities, racial segregation, and associated disparities in housing opportunities and outcomes; and

WHEREAS, the State of California passed Assembly Bill 602 in 2021, which requires that a local jurisdiction calculate a fee levied or imposed on a housing development project proportionately to the square footage of the proposed units to lower the relative burden on multifamily and other small units, or make specified findings explaining why the local jurisdiction will not be the appropriate metric to calculate the fees; and

WHEREAS, the State of California passed Senate Bill 937 in 2024, which prohibits a local agency that imposes fees or charges on a residential development for the construction of public improvements or facilities from requiring the payment of those fees or charges until the date of the final inspection or the date the certificate of occupancy is issued, whichever occurs first, and exempts specified units in a residential development proposed by a nonprofit housing developer if the housing development meets certain conditions; and

WHEREAS, on July 1, 2024, Senate Bill 684 (SB 684), Land use: streamlined approval processes: development projects of 10 or fewer residential units on urban lots under 5 acres, took effect to incentivize and facilitate more types of ownership housing by simplifying the regulatory process and allowing for smaller lots; and

WHEREAS, California Government Code Section 66001(d) requires that for the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the City shall make a five-year impact fee report with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted; and

WHEREAS, said five-year impact fee reports for transportation, capital improvements, jobs/housing, and affordable housing impact fees were prepared by Hausrath Economic Group in December 2021, made available to the public, and presented to the Community and Economic Development Committee (“CED”) of the City Council on June 28, 2022; and

WHEREAS, each five-year impact fee report additionally includes a review of the nexus analysis from the previously prepared Nexus Studies, confirms that the fees have an essential nexus and reasonable relationship/roughly proportional to the impacts of development, as provided in greater detail in the five-year impact fee reports and which are hereby incorporated in full into these recitals, and identifies the maximum legal affordable housing, jobs/housing, transportation, and capital improvements impact fees on a per square footage basis based on the level of impacts on the need for affordable housing, transportation, and capital improvements from various types of development projects; and

WHEREAS, subsequent to preparation and presentation of the statutorily required five-year impact fee reports, the City in coordination with Hausrath Economic Group performed a development feasibility analysis and housing strategy study (“Feasibility Analysis”) of the impact

fees in alignment with Action 3.3.7 of the City of Oakland 2023-2031 Housing Element in July 2024; and

WHEREAS, the Feasibility Analysis analyzed development feasibility for office, housing, retail and dining, hotel, and warehouse development and has documented and confirmed that new construction is not feasible in most sectors, except for modern warehouse facilities due to economic factors and its impact on the real estate market and development costs; and

WHEREAS, the Feasibility Analysis also found that applicants of development projects utilize the provisions of Chapter 17.107 Density Bonus and Incentive Procedure in the Oakland Planning Code as well as the State Density Program in Government Code Sections 65915-65918 and provide higher percentages of on-site affordable units required by Oakland Municipal Code Section 15.72.100 – On-Site Affordable Housing Option; and

WHEREAS, City Staff analyzed six potential refinements to the City's Impact Fee Program using the findings from the Feasibility Analysis; and

WHEREAS, the findings from the Feasibility Analysis and potential refinements to the City's Impact Fee Program were discussed in Working Group meetings which consisted of City staff and a broad group of Oakland stakeholders and subject matter experts for input; and

WHEREAS, City Staff presented the conclusions from the development feasibility analysis and the potential refinements to the City's Impact Fee Program to the CED Committee on December 10, 2024 for input; and

WHEREAS, the CED Committee discussed the potential refinements to the City's Impact Fee Program and provided feedback to City Staff; and

WHEREAS, City Staff considered feedback from the CED Committee and have proposed amendments to the City's Impact Fee Program, that is legally compliant, and in alignment with the findings from Feasibility Analysis; and

WHEREAS, in conformance with Assembly Bill 602, City Staff have proposed updating the current Affordable Housing Impact Fee structure and the Transportation and Capital Improvements Impact Fee structures for residential development to be assessed per square foot of residential development, and make related amendments to the Master Fee Schedule; and

WHEREAS, City Staff have proposed maintaining current level of impact fees, adjusting the fees only for inflation as the development feasibility study findings indicate that both the zone boundaries and impact fee levels are consistent with and supported by the Feasibility Analysis; and

WHEREAS, City Staff have proposed maintaining the current Impact Fee Zone boundaries as the development feasibility study findings indicate that both the zone boundaries and impact fee levels are consistent with and supported by the Feasibility Analysis; and

WHEREAS, City Staff have proposed that the Affordable Housing Impact Fee, Transportation and Capital Improvement Impact Fee, and Jobs/Housing Impact Fee be due prior to the issuance of a Temporary Certificate of Occupancy for all or any portion of the Development Project associated with the building permit, and shall be in the amount of one hundred percent of the impact fee, in accordance with Senate Bill 937 and supported by the Feasibility Analysis; and

WHEREAS, City Staff have proposed modifying the percentage of affordable units required under Oakland Municipal Code Section 15.72.100 – On-Site Affordable Housing Option by zone, consistent with the different fee levels by impact fee zones, and supported by the Feasibility Analysis; and

WHEREAS, City Staff have proposed establishing project unit and size thresholds to encourage missing middle and multi-unit housing development, in alignment with Action 3.2.1 of the 2023-2031 Housing Element and State Law Senate Bill 684 as codified under California Government Code Sections 65852.28 and 66499.41; and

WHEREAS, the potential refinements to the City’s Impact Fee Program were scheduled to be considered at regular, duly noticed (including newspaper ads published on May 16, 2025 and May 30, 2025) public meeting of the CED Committee of the City Council on June 10, 2025; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals to be true and correct and an integral part of the City Council’s decision and hereby adopts such recitals as findings.

SECTION 2. Amendment of the Oakland Municipal Code. The Oakland Municipal Code Title 15, and regulations for the Jobs/Housing Impact Fee (Chapter 15.68), Affordable Housing Impact Fee (Chapter 15.72), and Transportation and Capital Improvement Impact Fees (Chapter 15.74) is hereby amended pursuant to **Exhibits A through C** attached hereto and incorporated by reference herein. Additions are shown as underline and deletions are shown as ~~strikethrough~~.

SECTION 3. Amendment of the Impact Fee Zone Maps. The Oakland Municipal Code Title 15, Section 15.72.140 (Affordable Housing Impact Fees – Impact Fee Zone Maps) and Section 15.74.150 (Transportation and Capital Improvement Impact Fees – Impact Fee Zone Maps) shall be amended such that the following portion of the City shall be re-designated from Impact Fee Zone 2 to Impact Fee Zone 3: all of that area within the City of Oakland bounded by the area starting at the intersection of International Boulevard and 2nd Avenue; continuing northerly on 2nd Avenue to the intersection with East 18th Street; continuing easterly on East 18th Street to the intersection with 3rd Avenue, continuing northeasterly on 3rd Avenue to the intersection with Park Boulevard, continuing northeasterly on Park Boulevard to the Interstate 580 right of way, continuing southeasterly along the Interstate 580 right of way to Ardley Avenue, continuing southerly on Ardley Avenue until Ardley Avenue becomes 23rd Avenue, continuing southerly on 23rd Avenue to the terminus of 23rd Avenue, continuing along a line extending from

the terminus of 23rd Avenue until the southwestern boundary of the railroad right of way located on assessor parcel number 019 005500200, continuing northwesterly along the southwestern boundary of said parcel to the northwestern corner boundary of said parcel, continuing southwest along a list extending from the northwest boundary of parcel number 019 005500200 to the Interstate 880 right of way, continuing northwesterly along the Interstate 880 right of way to 5th Avenue, continuing northeasterly on 5th Avenue until the intersection with East 10th Street, continuing northwesterly on East 10th Street to the intersection with 4th Avenue, continuing northeasterly on 4th Avenue to the intersection of International Boulevard, continuing northwesterly on International Boulevard to the starting point at the intersection between International Boulevard and 2nd Avenue. The graphical maps included in Section 15.72.0140 and Section 15.74.150 shall be revised consistent with this amendment.

SECTION 4. Amendment of the Master Fee Schedule. The City of Oakland Master Fee Schedule is hereby amended pursuant to **Exhibit D** attached hereto and incorporated by reference herein. Additions are shown as underline and deletions are shown as ~~striketrough~~. As shown in **Exhibit D**, the Affordable Housing Impact Fee rate for multi-family housing, townhome housing, and single-family housing in Zone 3 shall be charged at zero (0) percent of the listed square footage rate for remaining portion of Fiscal Year 2025-26 and during Fiscal Year 2026-27 and Fiscal Year 2027-28.

SECTION 5. California Environmental Quality Act. The City Council finds and 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 intended to apply to specific affordable housing projects and as such it is speculative to evaluate such future projects now and, moreover, they will be subject to appropriate environmental review at such time as approvals for those affordable housing projects are considered; (5) not intended to apply to specific capital improvement projects and as such it is speculative to evaluate such projects now and any specifically identified transportation projects were already evaluated under CEQA and imposed as mitigation measures in previously certified EIRs and/or adopted mitigated negative declarations; and/or (6) 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 6. Recording of Notice. The Environmental Review Officer, or designee, is directed to file a Notice of Exemption/Notice of Determination with the appropriate agencies.

SECTION 7. Effective Date. Except as noted herein, this Ordinance shall become effective 60 days from the date of final passage by the City Council.

(a) This Ordinance shall not apply to projects that have obtained certificates of occupancy or temporary certificates of occupancy. The City will not grant any refunds for completed projects that have paid impact fees.

(b) Adoption of this Ordinance shall not result in reassessments of fees for projects under construction that have already had fees assessed. Reassessment will only occur in accordance with the provisions of Sections 15.72.040 and 15.74.040, as amended. This provision of the ordinance shall become effective immediately on final adoption if the ordinance receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

(c) If a project previously subject to any impact fee now meets an exemption to an impact fee program, the project applicant shall not be granted a refund for payment of any previously paid installments but shall be exempt from payment of the subsequent installments of the fee. This provision of the Ordinance shall become effective immediately on final adoption if the ordinance receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

(d) The Affordable Housing Impact Fee rates applicable to Zone 3, as shown in Exhibit D, shall become effective immediately on final adoption if the Ordinance receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption. Any applicant who has submitted a complete building permit application prior to July 15, 2025 for a project located in Zone 3 shall not be granted a refund for payment of any previously paid installments but shall be exempt from payment of any subsequent installments of the fee.

(e) The provisions of newly added Section 15.72.050.C of the Oakland Municipal Code shall become effective immediately on final adoption if the Ordinance receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

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

1. 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;
2. 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 fees;
3. 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. Conflict with Laws. 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 10. 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 11. Authority. This Ordinance serves the public interest and is necessary to protect the health, safety and/or general welfare of the citizens of Oakland and is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, Government Code Section 65852.2, and Article XI, Sections 5 and 7 of the California Constitution.

SECTION 12. Conforming Changes. The City Council hereby authorizes the City Administrator or designee to make nonsubstantive 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.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 15 2025

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS - 8

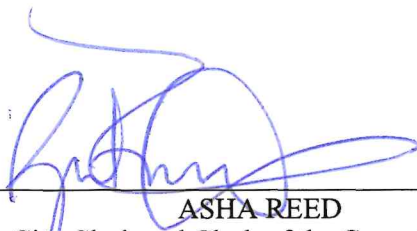
NOES - 0

ABSENT - 0

ABSTENTION - 0

Introduction Date JUL 1, 2025

ATTEST:



ASHA REED

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

NOTICE AND DIGEST

AN ORDINANCE

- (1) AMENDING TITLE 15 OF THE OAKLAND MUNICIPAL CODE TO UPDATE AND REVISE THE REGULATIONS FOR THE JOBS/HOUSING IMPACT FEE (CHAPTER 15.68), AFFORDABLE HOUSING IMPACT FEE (CHAPTER 15.72), AND TRANSPORTATION AND CAPITAL IMPROVEMENT IMPACT FEES (CHAPTER 15.74);**
- (2) AMENDING THE CITY OF OAKLAND MASTER FEE SCHEDULE (ADOPTED BY ORDINANCE NO. 13799 C.M.S., AS AMENDED) TO CALCULATE IMPACT FEES FOR RESIDENTIAL PROJECTS ON A SQUARE FOOTAGE BASIS; AND**
- (3) MAKING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS.**

This Ordinance amends the Oakland Municipal Code to update and revise regulations for the Jobs/Housing Impact Fee (Chapter 15.68), Affordable Housing Impact Fee (Chapter 15.72), and Transportation and Capital Improvement Impact Fees (Chapter 15.74). This Ordinance also amends the City's Master Fee Schedule to calculate impact fees for residential projects on a square footage basis. Finally, this Ordinance adopts various findings including findings related to exemptions under the California Environmental Quality Act.

NOTE: Proposed text additions are shown as underline and proposed deletions are shown as ~~strikethrough~~.

Chapter 15.68 JOBS/HOUSING IMPACT FEE

15.68.010 Purpose.

The purpose of this Chapter is to establish a Jobs/Housing Impact Fee in the City of Oakland to assure that certain commercial ~~d~~Development ~~p~~Projects compensate and mitigate for the increased demand for affordable housing generated by such development projects within the City of Oakland.

15.68.020 Findings.

The City Council finds and determines the following:

- A. New development of office and warehouse/distribution space creates new employment opportunities in Oakland.
- B. New employment opportunities will attract new workers into the City of Oakland.
- C. Many of those new workers will choose to move their residence to Oakland.
- D. Many of those new Oakland residents will qualify as low and very low income households.
- E. Low- and very low-income households have difficulty finding affordable housing in Oakland.
- F. New development of office and warehouse/distribution space therefore increases the demand for housing for low- and very low-income households and exacerbates the housing crisis, and thus there is a clear rational nexus between such development and the need for affordable housing.
- G. Through the payment of an impact fee into an affordable housing trust fund dedicated to affordable housing production, developers of employment generating office and warehouse/distribution projects will mitigate at least a portion of the impact of their developments on the housing market.
- H. The jobs/housing impact fee created by this Chapter serve the public interest and is necessary to protect the health, morals, safety, property, general welfare, well being and prosperity of the residents of Oakland, and is within the home rule powers and police powers of the city.
- I. The City of Oakland conducted a nexus study in March 2016 that recognizes that development within Oakland will result in further growth, and that such growth will place additional burdens on transportation and capital improvements infrastructure in the City. The nexus study further recognizes the locations and types of development that will generate those impacts, necessitating the construction of facilities and improvements, and/or the expansion of services and infrastructure needed to meet and accommodate development. The City of Oakland updated the nexus study in December 2021 in preparation for proposed refinements to the City's impact fee program.

15.68.030 Definitions.

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

"Affordable Housing Project" means residential Development Projects where one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low-, and moderate-income households.

"Affordable Housing" means each unit of housing that is restricted to occupancy at an affordable rent or an affordable housing cost to moderate-income households, low-income households or very low-income households. 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.

"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 office or warehouse/distribution ~~dDevelopment~~ ~~pProject~~.

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

"Development ~~pProject~~" means any activity for new construction, construction in an existing building that has been substantially vacant for a continuous period of at least one year, or any change and intensification of use of an existing building, involving or requiring the issuance of a building permit by the City.

"Housing production mitigation measures" or "in-lieu housing production mitigation measures" mean those requirements or measures imposed on or elected by applicants for certain ~~dDevelopment~~ ~~pProjects~~ in lieu of payment of impact fees, as such requirements and measures are set forth under Section 15.68.080 of this Chapter.

"Impact fee" means that jobs/housing impact fee imposed under this Chapter on applicants for certain ~~dDevelopment~~ ~~pProjects~~.

15.68.040 Requirements.

The regulations, requirements and provisions of this Chapter shall apply to any office ~~dDevelopment~~ ~~pProject~~ and any warehouse/distribution ~~dDevelopment~~ ~~pProject~~. The applicant for any such ~~dDevelopment~~ ~~pProject~~, as a condition of its building permit, must pay to the city those impact fees, or must provide to the city those housing production mitigation measures in lieu of such impact fees, necessary to eliminate, mitigate, or reduce to an acceptable level those impacts on and increased demand for affordable housing which are anticipated to be generated by or attributable to such ~~dDevelopment~~ ~~pProject~~, as such impact fees and in-lieu housing production mitigation measures are set forth in this Chapter.

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 fees and in-lieu housing production mitigation measures authorized by this Chapter are in addition to any other fees or mitigation measures otherwise authorized by law.

15.68.050 Amount of impact fee.

The impact fee shall be calculated for each ~~dDevelopment~~ ~~pProject~~ as follows:

(number of gross square feet in the ~~dDevelopment~~ ~~pProject~~ devoted to office or warehouse/distribution uses minus 25,000 square feet) × \$4.00 = the amount of the fee.

The applicable dollar multiplier shall be adjusted yearly on July 1st beginning on July 1, 2006, by the City Administrator in accordance with the percentage increase or decrease 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.

15.68.060 Payment of impact fee.

The impact fee will be assessed at the time a building permit is issued for the amount specified in Section 15.68.050.

Payment of the impact fees shall be due in one installment prior to the issuance of a temporary certificate of occupancy or certificate of occupancy, whichever occurs first for all, or any portion of the Development Project associated with the building permit, and shall be in the amount of one hundred percent (100%) of the impact fee.

The impact fee will be assessed at the time a building permit is issued for the amount specified in Section 15.68.050. Payment of the impact fee shall be due in three installments. The first installment shall be due prior to the issuance of a building permit for all or any portion of the development project, and shall be in the amount of twenty five (25) percent of the impact fee. The second installment shall be due prior to the issuance of a Temporary Certificate of Occupancy for all or any portion of the development project, and shall be in the amount of fifty (50) percent of the impact fee. The third installment shall be due eighteen (18) months from the date of the issuance of a Temporary Certificate of Occupancy for all or any portion of the development project, and shall be in the amount of the remainder of the impact fee.

Except as provided elsewhere in this Chapter, no building permit may be issued for any development project subject to this Chapter unless and until the first installment of the impact fee is paid to the Building Official. No temporary certificate of occupancy or Certificate of Occupancy may be issued for any dDevelopment pProject subject to this Chapter unless and until the second installment of the impact fee is paid to the City Building Official. The City Building Official shall deposit the impact fee in the Affordable Housing Trust Fund established under Chapter 15.62 of this Code.

The city may also enforce the requirement to pay the impact fee by recording a lien or liens against the real property which is the subject of the dDevelopment pProject for the amount of the impact fee, revoking or suspending the Certificate of Occupancy for the property, or by taking any other action necessary and appropriate to secure payment.

As an alternative to payment of the impact fee set forth in this Chapter, an applicant for a dDevelopment pProject subject to the impact fee may elect to comply with those requirements through the production of housing as provided in Section 15.68.080 of this Chapter.

15.68.070 Reductions and exceptions Appeals.

A. An appeal of the impact fee may be submitted by the applicant of the Development Project for purposes of seeking a Reductions and exceptions in the amount or waiver from to the impact fee and in-lieu housing production mitigation measures. Such appeals may be granted to a dDevelopment pProject by the City Administrator or his or her their designee(s) pursuant to Section 15.68.090 only if (1) the dDevelopment pProject is rendered infeasible by imposition of all or a portion of the impact fee or the housing production mitigation measures, there are demonstrated special circumstances unique to the financing or economics of the project not generally applicable to other projects, and no feasible alternative means of compliance are available which would be more effective in attaining the purposes of this Chapter than the relief requested, or (2) the dDevelopment pProject will not generate any need for additional affordable housing, or the increase in such need will be limited so as to justify a reduced impact fee or reduced housing production mitigation obligation. For purposes of this Section, "infeasible" means incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, and technological factors.

B. Applications for appeals to reduce or waive the impact fee and in-lieu housing production mitigation measures must be made no later than ninety (90) days from the date of application for the building permit for the Development Project on a form provided by the City and shall include payment of processing fees as established by the Master Fee Schedule.

C. 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

preclude such person from challenging the impact fees in court. The City Administrator may require, at the expense of the applicant, review of the submitted materials by a third party. For purposes of this Section, "infeasible" means incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, and technological factors.

D. The City Administrator shall deliver to the applicant a final, written determination on the appeal. The City Administrator's decision is final and not administratively appealable.

15.68.080 In-lieu housing production mitigation measures.

As an alternative to payment of all or part of the impact fee required under this Chapter, an applicant subject to the requirements of this Chapter may elect to produce affordable housing in lieu of the impact fee to mitigate the impacts of the dDevelopment pProject. Any applicant electing this in-lieu option must demonstrate that it will construct or cause to be constructed new affordable housing units (of any tenure type) as determined by the following formula:

(number of gross square feet in dDevelopment pProject devoted to office or warehouse/distribution uses minus 25,000 square feet) × .00004 = number of affordable housing units.

This unit production requirement shall be adjusted by the City Administrator as appropriate to account for any partial payment of impact fees to be made by the applicant.

In the event that an applicant chooses the in-lieu housing production option, the applicant must submit satisfactory evidence to the City Administrator of site control and issuance of a use permit for the project intended to produce the affordable housing units, prior to receipt of the building permit for the dDevelopment pProject. The applicant must obtain a building permit for the affordable housing project prior to the issuance of the Certificate of Occupancy for the dDevelopment pProject. The applicant must secure a Certificate of Occupancy for all affordable housing units no later than eighteen (18) months from the issuance of the Certificate of Occupancy for the dDevelopment pProject.

An applicant who elects to comply with the requirements of this Chapter through the production of housing must submit to the City Administrator an affordable housing production proposal with sufficient information to enable the City Administrator to determine that the applicant will construct or cause to be constructed the required number of affordable housing units. The application must demonstrate to the City Administrator's satisfaction that it possesses the financial means, technical expertise and experience to commence and complete the construction of the affordable housing within the required time period.

Where the applicant intends to construct housing units through participation in a joint venture, partnership or similar arrangement, the applicant must certify to the city to the City Administrator's satisfaction that the applicant has made a binding commitment, enforceable by the applicant's joint venturers or partners, to contribute an amount of funds to the joint venture or partnership equivalent to or greater than the amount of the impact fee that would otherwise be imposed under Section 15.68.060 of this Chapter, less the portion of the housing requirements of this Chapter actually met through the payment of impact fees, and that such joint venture or partnership is legally obligated to use such funds to develop the affordable housing required by this Section. Any joint venturer or partner must meet the qualifications for an affordable housing developer as provided by regulations to be adopted by the City Administrator. No building permit may be approved for a dDevelopment pProject subject to this paragraph until the applicant has paid in full or has posted an irrevocable letter of credit or other form of financial security acceptable to the City Administrator in the amount of the required monetary contribution. Additionally, the city may require a lien on the dDevelopment pProject property in the amount of any unpaid monetary contribution to assure compliance with this Chapter.

The City Administrator may issue guidelines for the administration of the in-lieu housing production mitigation measures provisions of this Section. If the City Administrator approves an affordable housing production proposal, he or she shall issue a certificate so indicating. This certificate shall be recorded on title of the dDevelopment pProject property as a covenant running with the land, and indicate that compliance with this Chapter is a binding obligation of the owner of the dDevelopment pProject property, and the owner's assignees and successors in interest enforceable by the city.

In the event the application of this Section to an applicable dDevelopment pProject creates an obligation to construct a fractional housing unit, that fraction shall be converted into an addition to the impact fee, or in the alternative, at the discretion of the City Administrator, an additional affordable housing unit.

In the event all affordable housing units required under the certification are not timely produced as required by this Section, the City Administrator may impose a charge on the applicant equal to one hundred fifty (150) percent of the impact fee which would have been otherwise due and owing under Section 15.68.060 of this Chapter, together with interest accrued from the date of the first building permit issuance for the dDevelopment pProject, and shall so notify the applicant. If this charge is not paid by the applicant within sixty (60) calendar days of the expiration of the applicable time period, the city may record a special assessment lien against the dDevelopment pProject property in the amount of any charge and interest owed, or in the alternative the city may revoke or suspend the Certificate of Occupancy for the dDevelopment pProject use.

15.68.120 Applicability.

Any dDevelopment pProject for which a building permit has been approved by the city prior to July 1, 2005, shall be exempt from this Chapter. In the event that the building permit for such an exempt dDevelopment pProject expires prior to start of construction but after July 1, 2005, the dDevelopment pProject shall be subject to this Chapter if and when a building permit is renewed or an application for a building permit is resubmitted.

NOTE: Proposed text additions are shown as underline and proposed deletions are shown as ~~strikethrough~~.

Chapter 15.72 AFFORDABLE HOUSING IMPACT FEES

Article I General Provisions

15.72.010 Purpose.

The purpose of this Chapter is to establish affordable housing impact fees in the City of Oakland to assure that market-rate residential ~~d~~Development ~~p~~Projects pay their fair share to compensate for the increased demand for affordable housing generated by such ~~d~~Development ~~p~~Projects within the City of Oakland.

15.72.020 Findings.

- A.** The lack of housing affordable to families of all incomes has been a statewide issue for nearly fifty years. In 1977, the California legislature declared that there exists a serious shortage of decent, safe, and sanitary housing throughout the state. By 1982, the legislature stated that the lack of housing is a critical problem that threatens the economic, environmental, and social quality of life in California. By 2018, the legislature declared that the consequence of failing to effectively and aggressively confront the crisis was hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.
- B.** The California Government Code mandates that cities like Oakland must assist in the development of adequate housing to meet the needs of extremely low-, very low-, low-, and moderate-income households to help address the housing crisis as part of the statutory obligation to adopt a general plan. This Chapter serves to help Oakland meet this obligation to combat this overall lack of affordable housing.
- C.** The City of Oakland has determined that the Affordable Housing Impact Fee should be administered consistent with the requirements applicable to fees for public facilities in the California Government Code Section 66000 et seq., commonly referred to as the "Mitigation Fee Act," without determining that it is required to do so.
- AD.** The City of Oakland conducted a nexus study in March 2016 that examined the link between new market-rate residential development, the growth of employment associated with the consumer expenditures of new residents, and the demand for affordable housing to accommodate the new worker households in Oakland.
- E.** According to the nexus study, new development of market-rate single-family housing, townhome housing, and multi-family housing supports growth of consumer expenditures by new homebuyer and renter households. B-Growth of household consumer expenditures supports job growth and new employment opportunities in Oakland. C-New employment opportunities will attract new workers to Oakland. D-Many of those new workers will seek housing and choose to live in Oakland. E-Many of those new worker households will qualify as moderate-, low-, and very low-income households and will increase the demand for affordable housing in Oakland, particularly since the increase in jobs is generally in the lower-wage-paying sectors such as retail trade and services.

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- F. Expansion of the supply of affordable housing will require funding to bridge the "gap" between the costs of developing new affordable housing and what new moderate- and lower-income households can afford to pay.
- G. The nexus study established maximum legal affordable housing impact fees per unit based on the level of impacts on the need for affordable housing from various types of market-rate housing ~~d~~Development ~~p~~Project based on the average affordability gap per new market-rate unit built. The impact fees imposed under this Chapter are lower than the maximum legal fees documented in the nexus study.
- H. The City of Oakland updated the nexus study in December 2021 in preparation for proposed refinements to the City's impact fee program and prepared an updated feasibility study in July 2024 in alignment with Action 3.3.7 of the City of Oakland 2023-2031 Housing Element. The impact fees imposed under this Chapter remain lower than the maximum legal fees documented in the updated nexus study.
- H.I. Through the payment of the impact fee, developers of market-rate housing will address at least a portion of the impact of their developments on the need for affordable housing, or alternatively may contribute to addressing the overall lack of affordable housing through the provision of on-site or off-site affordable housing, in accordance with the City's land use regulation authority to enhance the public welfare. Revenue from the impact fees will be used to preserve and expand the supply of affordable housing in Oakland.
- I.J. The affordable housing impact fee imposed under this Chapter serve the public interest and is necessary to protect the health, safety and welfare of the residents of Oakland. There is a legitimate public interest in the provision of affordable housing to address the crises of displacement, homelessness, and lack of housing affordability. There is a significant and increasing need for affordable housing to meet the City's regional share of housing needs under the California Housing Element Law. The public interest would best be served if either new affordable housing is integrated into new market-rate residential developments to facilitate economically diverse housing, or the payment of fees is made to supplement the City's Affordable Housing Trust Fund.

15.72.030 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:

"Additional Housing Units" means the net increase in the number of housing units on a parcel of real property. Additional housing units equal the number of new housing units proposed to be developed on the parcel of real property by issuance of a building permit, less the number of housing units (a) legally removed from the same parcel of real property by authorized remodeling, demolition or relocation to another parcel of real property, or by accidental destruction or natural disaster, during the five-year period preceding the owner's filing for the building permit or (b) authorized to be removed prior to or during the construction for which the building permit is requested.

"Additional Residential Square Footage" means the increase in Residential Square Footage as a result of the Development Project which creates Additional Housing Units. Additional Residential Square Footage equals the difference between the Residential Square Footage proposed to be developed on the parcel of real property by issuance of a building permit and the total Residential Square Footage (a) legally removed from the same parcel of real property by authorized remodeling, demolition, or relocation to another parcel of real property, or by accidental destruction or natural disaster, during the five-year period preceding the owner's filing for the building permit or (b) authorized to be removed prior to or during the construction for which the building permit is requested.

"Affordable Housing" means each unit of housing that is restricted to occupancy at an affordable rent or an affordable housing cost to moderate-income households, low- income households or very low-income households. 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.

"Affordable Housing Project" means a residential Development Project where one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low-, and moderate-income households.

"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 dDevelopment pProject.

"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 their designee(s).

"Fees Per Square Foot" means the impact fee per square feet of floor area for the Development Project imposed under this Chapter as contained in the City's Master Fee Schedule.

Fee Per Housing Unit" means the impact fee per housing unit applicable to the development project imposed under this Chapter as contained in the City's Master Fee Schedule.

"Residential Square Footage" means the floor area of usable and finished space within a residential unit enclosed by the inside surface of walls, windows, doors, and partitions, excluding balconies, garages, and, as defined in Section 17.09.040, the term "Unfinished understories, attics and basements."

"Single-Family Housing" means those uses that fall under any of the following use facility types as defined in Chapter 17.10 of the Oakland Planning Code:

One-Ffamily Dwelling Residential Facilities consisting of individual, detached attached housing units (as defined in Section 17.10.640).

"Townhome Housing" means those uses that fall under any of the following use facility types as defined in Chapter 17.10 of the Oakland Planning Code: ¶ One family dwelling residential facilities consisting of multiple attached housing units with abutting sidewalls in a horizontal row.

Two-family dwelling residential facilities; or

Multifamily dwelling residential facilities consisting of housing units arranged in a single horizontal row with abutting sidewalls.

15.72.040 Applicability.

The regulations, requirements and provisions of this Chapter shall apply to any dDevelopment pProject, unless exempt from this Chapter. The applicant for any dDevelopment pProject, unless exempt from this Chapter, as a condition of the building permit, must pay to the City the required impact fees, or the applicant may elect to comply with those requirements through the provision of on-site or off-site affordable housing units as permitted under Sections 15.72.100 and 15.72.110 of this Chapter.

- A. Effective Date. Any applicant for a dDevelopment pProject for which who submits a complete building permit application is submitted on or after September 1, 2016, must pay the impact fee that is in effect at the time of building permit submittal. If the development project fails to meet all of the criteria listed in Subsection B. below, the applicant must pay the impact fee that was in effect at the time that the development project does meet all the criteria. Whenever a new building permit application is required, the impact fees will be assessed based on the submittal date of the new building permit application. If more than five years pass between the issuance of the building permit and the first major inspection (foundation, underfloor, frame) then the impact fee will be reassessed, and the applicant must pay the impact fee that was in effect at the time of the first major inspection.

Notwithstanding the above, this Chapter shall also apply to development projects whose applications are determined and/or deemed complete on or after November 27, 2015, per the California Subdivision Map Act, Government Code Section 66474.2(b), provided a vested right, as

defined by California law, has not been obtained as of sixty (60) days after the adoption of this Chapter.

B. Exemptions Based on Submittal Date. Any ~~d~~Development ~~p~~Project for which a complete building permit application is submitted prior to September 1, 2016, shall be exempt from this Chapter if all of the following criteria are met:

1. The building permit is issued within one year of submittal of the complete building permit application;
2. The ~~d~~Development ~~p~~Project is diligently pursued toward completion, as reasonably determined by the Building Official or designee;
3. The building permit does not expire, although it may be extended for up to one year; and
4. A certificate of occupancy or temporary certificate of occupancy is issued within three (3) years of the building permit being issued.

In addition, ~~d~~Development ~~p~~Projects that obtain a vested right, as defined by California law, no later than sixty (60) days after the adoption of this Chapter are not subject to the impact fee.

C. Exemptions Based on Project Type. The following ~~types of development projects~~ shall be exempt from this Chapter ~~if any of the following are met~~:

1. ~~Accessory Dwelling Units or ADUs~~ ~~Secondary units~~, as defined in Section ~~17.04.090~~ 17.09.040 of the Oakland Planning Code;
2. Vehicular Residential Facilities, as defined in Section 17.10.700 of the Oakland Planning Code; ~~or~~
3. Affordable ~~Housing units and Affordable~~ ~~h~~Housing ~~p~~Projects;
4. ~~Missing Middle housing: Any combination of between two and no more than four units on a parcel that are part of a Development Project that is not subject to the Planned Unit Development (PUD) regulations in Chapter 17.142. of the Oakland Planning Code;~~
5. ~~One-Family Dwelling Residential Facilities that are 1,750 square feet or less of Residential Floor Area and that are part of a Development Project that is not subject to the Planned Unit Development (PUD) regulations in Chapter 17.142 of the Oakland Planning Code;~~
6. ~~A Development Project subject to State Law SB 684 as codified under California Government Code Sections 65852.28 and 66499.41.~~

D. 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

15.72.050 Amount of impact fees.

A. The impact fees shall be calculated for each ~~d~~Development ~~p~~Project as follows, pursuant to the impact fee amounts as stated in the Master Fee Schedule in effect at the time of ~~a complete building permit application~~ the Effective Date as specified in Section 15.72.040.A:

For construction of a single One-Family Dwelling Residential Facility (except those exempt under Section 15.72.040.C.5):

Impact Fee = Fees Per Square Foot x Additional Residential Square Footage

For projects proposing more than four (4) units on a parcel:

$\text{Impact Fee} = \text{Fees Per Square Foot} \times (\text{Additional Residential Square Footage} - \text{Residential Square Footage of the four (4) smallest units})$

$\text{Impact Fee} = \text{Fee Per Housing Unit} \times \text{Additional Housing Units}$

- B.** The impact fee amount shall automatically be adjusted upward annually for inflation on July 1st beginning on July 1, 2021, by the City Administrator in accordance with the percentage increase or decrease 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.
- C.** Prior to the effective date of the ordinance which added this paragraph to this Chapter, the impact fee was calculated using a formula based on Additional Housing Units rather than Additional Residential Square Footage. Where the affordable housing impact fees were calculated and assessed prior to this modification, the prior calculation shall remain in effect unless reassessment is required pursuant to Section 15.72.040.A and where no vested rights have been obtained. The City shall not grant any refund requests based on changes incorporated by the ordinance which added this paragraph to this Chapter. An applicant who previously paid the first installment of the fee for a project that meets the exemptions described in Section 15.72.040(C)(4)-(6) shall not be granted a refund but shall be exempt from payment of the second installment of the fee. An in-progress project of more than four units on a parcel for which payment of the first installment of the fee has already been made shall complete payment of the second installment payment as originally assessed but with a reduction equivalent to fifty percent of the second installment assessment for four units based on the rate used at the time of assessment.

15.72.060 Impact fees zones.

The impact fee amount and On-Site and Off-Site Affordable Housing Options shall be based upon the impact fee zone in which the dDevelopment pProject is located as contained within the Master Fee Schedule and as set forth in the maps included in Section 15.72.140 of this Chapter.

15.72.070 Payment of impact fees.

Payment of the impact fees shall be due in one installment prior to the issuance of a temporary certificate of occupancy or certificate of occupancy, whichever occurs first, for all or any portion of the Development Project associated with the building permit and shall be in the amount of one hundred percent (100%) of the impact fee.

Payment of the impact fees shall be due in two (2) installments. The first installment shall be due prior to the issuance of a building permit for all or any portion of the development project associated with the building permit, and shall be in the amount of fifty percent (50%) of the impact fees. The second installment shall be due prior to the issuance of a temporary certificate of occupancy or certificate of occupancy, whichever occurs first, for all or any portion of the development project associated with the building permit, and shall be in the amount of the remaining fifty percent (50%) of the Impact Fee.

Except as provided elsewhere in this Chapter, no building permit may be issued for any development project subject to this Chapter unless and until the first installment of the impact fee is paid to the Building Official. No temporary certificate of occupancy or certificate of occupancy, whichever occurs first, may be issued for any dDevelopment pProject subject to this Chapter unless the final installment of the impact fee is paid to the City Building Official. The City Building Official shall deposit the impact fee in 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 ~~d~~Development ~~p~~Project subject to the impact fee may elect to comply with those requirements through the provision of on-site or off-site affordable housing units as permitted under Sections 15.72.100 and 15.72.110 of this Chapter.

15.72.080 Reductions, waivers, and a Appeals.

- A. ~~Reductions, Waivers, and Appeals to Seek a Reduction in or Waiver from the Impact Fees. An appeal of the impact fee may be submitted by the applicant of a Development Project for purposes of seeking a reduction in the amount of, or waiver from, the impact fee. Such appeals Reduction, waiver, and/or appeals of the impact fees may be granted by the City Administrator to a development project~~ under any one of the following scenarios:
1. The ~~d~~Development ~~p~~Project is rendered infeasible by imposition of all or a portion of the impact fee because there are demonstrated special circumstances unique to the financing or economics of the ~~d~~Development ~~p~~Project and not generally applicable to other projects of similar type and size, and no feasible alternative means of compliance are available which would be more effective in attaining the purposes of this Chapter than the relief requested. For purposes of this paragraph, "infeasible" means incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors;
 2. The ~~d~~Development ~~p~~Project will not generate any need for affordable housing, or the increase in such need will be limited so as to justify a reduced impact fee;
 3. The ~~d~~Development ~~p~~Project is subject to a higher impact fee than what would otherwise apply under normal circumstances solely and exclusively due to unusual delays, beyond the reasonable control of the applicant, related to an appeal, litigation and/or other similar circumstances;
 4. The requirements of this Chapter have been incorrectly applied to a ~~d~~Development ~~p~~Project; and/or
 5. That application of the requirements of this Chapter to a ~~d~~Development ~~p~~Project is unlawful under and/or conflict with federal, State, or local law and/or regulation, including constituting an unlawful taking of property without just compensation.
- B. Applications for ~~Reductions, Waivers, and/or Appeals. Application for appeals to reduction, waivers and/or appeals of reduce or waive~~ the impact fee must be made no later than ~~ninety (90) days from~~ the date of application for the building permit for the ~~d~~Development ~~p~~Project on a form provided by the City, and shall include payment of ~~processing~~ 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 preclude such person from challenging the impact fees in court. 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-deliver to~~ 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.

15.72.090 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 shall 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 the building-related permits;
 2. Record a special assessment or other lien or liens against the real property which is the subject of the **dDevelopment pProject** for the amount of the impact fee;
 3. Revoke or suspend the temporary certificate of occupancy and/or certificate of occupancy for the **dDevelopment pProject**;
 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 Subsection 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.

In the event all affordable housing units required under the certification described in Sections 15.72.100 and 15.72.110 are not timely produced as required by this Chapter, the City Administrator may impose a charge on the applicant equal to one hundred fifty percent (150%) of the impact fee which would have been otherwise due and owing, together with interest accrued from the date of the first building permit issuance for the **dDevelopment pProject**, and shall so notify the applicant. If this charge is not paid by the applicant within sixty (60) calendar days of the expiration of the applicable time period, the City may record a special assessment lien against the **dDevelopment pProject** property in the amount of any charge and interest owed, and the City may revoke or suspend the certificate of occupancy for the **dDevelopment pProject** use.

Article III On-Site and Off-Site Affordable Housing Options

15.72.100 On-site affordable housing option.

- A. On-Site Affordable Housing Mitigation Measure. An applicant for a **dDevelopment pProject** that is otherwise subject to the impact fee will not be subject to the impact fee if the applicant will be providing affordable housing units within the **dDevelopment pProject** as set forth below.
1. In all such cases the applicant shall execute a written agreement with the City setting forth the number, type, location, approximate size and construction schedule of all such affordable housing units, restricting the occupancy and rent or sale price of such units, and setting forth other terms and conditions as required for ensuring compliance with this Section. Rental units shall remain affordable for fifty-five (55) years or for the life of the **dDevelopment pProject**, whichever is greater. Said agreement shall be recorded against the affordable housing units as covenants running with land, senior in priority to any private liens or encumbrances except as provided below, and shall be enforceable by the City against the applicant or the applicant's successors-in-interest to the property for the full affordability term. Additional restrictions, deeds of trust, rights of first refusal, or other instruments may be required by the City Administrator as reasonably needed to enforce these restrictions. The City Administrator shall have the authority to subordinate such restrictions to other liens and encumbrances if he or

she determines that the financing of the affordable housing units would be infeasible without said subordination.

2. Proposals for the provision of on-site affordable housing units as homeownership housing must comply with the City of Oakland Affordable Homeownership Development Program Guidelines. The applicant shall agree to, and the City shall ensure that, the initial occupant of all for-sale units are very low-, low-, or moderate-income households, as required, and that the units are offered at an affordable housing cost.
 3. All affordable housing units must be reasonably dispersed throughout the ~~d~~Development ~~p~~Project, be of the same size, and contain, on average, the same number of bedrooms as the market-rate units in the ~~d~~Development ~~p~~Project. All affordable housing units must be comparable with the design or use of market-rate units in terms of appearance, amenities, materials and finish quality.
 4. All affordable housing units may be occupied only by very low-, low-, or moderate-income households as applicable. For rental units, the owner of any units produced under this option must report to the City annually on the occupancy and rents charged for the affordable housing units.
 5. All affordable housing units in a ~~d~~Development ~~p~~Project and phases of a ~~d~~Development ~~p~~Project must be constructed concurrently with or prior to the construction of the market-rate units, unless the City Administrator determines that extenuating circumstances exist.
- B. Number of Affordable Housing Units Required for On-Site Mitigation. For applications for ~~d~~Development ~~p~~Projects that include affordable housing units, the total number of required affordable housing units for such ~~d~~Development ~~p~~Project that will be needed to exempt the ~~d~~Development ~~p~~Project from the impact fee shall be based upon the impact fee zone in which the project is located, one of the following:

Zone 1 and Zone 2:

Number of Moderate Income Units = Total Number of Housing Units x ~~40~~ 15%; or

Number of Low Income Units = Total Number of Housing Units x ~~40~~ 12%; or

Number of Very Low Income Units = Total Number of Housing Units x ~~5~~ 10%; or

Combination of Moderate, Low, and Very Low Income Units = Total Number of Housing Units x 15%; or

Combination of Low and Very Low Income Units = Total Number of Housing Units x 12%.

Zone 3:

Number of Moderate Income Units = Total Number of Housing Units x 15%; or

Number of Low Income Units = Total Number of Housing Units x 10%; or

Number of Very Low Income Units = Total Number of Housing Units x 5%; or

Combination of Moderate, Low, and Very Low Income Units = Total Number of Housing Units x 15%; or

Combination of Low and Very Low Income Units = Total Number of Housing Units x 10%.

"Total Number of Housing Units" means the total number of units proposed for the ~~d~~Development ~~p~~Project, including the affordable housing units, but not including units added by a density bonus awarded pursuant to this Section or any section within Chapter 17.107 of the Oakland Planning Code or Government Code Sections 65915—65918.

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1. An applicant for a **dDevelopment pProject** subject to this Section may provide less than the percentage of market rate units indicated above as affordable housing units and pay a proportionately reduced impact fee.
 2. In the event the application of this Section to an applicable **dDevelopment pProject** creates an obligation to construct a fractional affordable housing unit, that fraction shall be either converted into a fractional impact fee, or shall require an additional affordable housing unit, to be determined at the discretion of the City Administrator.
 3. Along with production of the affordable housing units, the applicant may take advantage of the Chapter 17.107 Density Bonus and Incentive Procedure in the Oakland Planning Code as well as the State Density Program in Government Code Sections 65915—65918.
 4. For those projects providing moderate-income rental units the applicant may take advantage of the following provisions in Chapter 17.107 of the Oakland Planning Code that otherwise apply to moderate-income for sale units: Section 17.107.040, Table 17.107.03, Section 17.107.080, Section 17.107.090 and Table 17.107.05; all other requirements in Chapter 17.107 still apply.

15.72.110 Off-site affordable housing option.

An applicant for a **dDevelopment pProject** that is otherwise subject to the impact fee will not be subject the impact fee if the applicant is providing affordable housing units in the numbers set forth in Subsection 15.72.100.B. at a site other than the location of the **dDevelopment pProject**; provided that such off-site option is subject to the conditions and restrictions set forth below.

1. City Council Approval. Any proposal by an applicant to provide off-site development of affordable housing units requires approval of the City Council. The off-site affordable housing must be located within one-half (½) mile of the **dDevelopment pProject**, unless an exception is approved by the City Council.
2. Timing of Affordable Housing. In the event that an applicant chooses the off-site option, the applicant must submit satisfactory evidence to the City Administrator of site control and issuance of all necessary planning and zoning permits and approvals under Title 17 of the Oakland Planning Code for the project intended to produce the affordable housing units, prior to issuance of the building permit for the **dDevelopment pProject**. The applicant must obtain a building permit for the affordable housing project prior to the issuance of the temporary certificate of occupancy or the certificate of occupancy, whichever occurs first, for the **dDevelopment pProject**. The applicant must secure a certificate of occupancy for all affordable housing units no later than eighteen (18) months from the issuance of the temporary certificate of occupancy or the certificate of occupancy, whichever occurs first, for the **dDevelopment pProject**.

Article IV Miscellaneous

15.72.112 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 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 they** may consider necessary to achieve the purposes of this Chapter.

NOTE: Proposed text additions are shown as underline and proposed deletions are shown as ~~strikethrough~~.

Chapter 15.74 TRANSPORTATION AND CAPITAL IMPROVEMENTS IMPACT FEES

Article I General Provisions

15.74.010 Purpose.

The purpose of this Chapter is to establish Citywide transportation and capital improvements impact fees in the City of Oakland to assure that ~~d~~Development ~~p~~Projects pay their fair share to compensate for the increased demand for transportation and capital improvements infrastructure generated by such ~~d~~Development ~~p~~Projects within the City of Oakland.

15.74.020 Findings.

- A. New development generally increases the demand for transportation and capital improvements infrastructure and affects the quality of the community's infrastructure.
- B. The City of Oakland conducted a nexus study in March 2016 that recognizes that development within Oakland will result in further growth, and that such growth will place additional burdens on transportation and capital improvements infrastructure in the City. The nexus study further recognizes the locations and types of development that will generate those impacts, necessitating the construction of facilities and improvements, and/or the expansion of services and infrastructure needed to meet and accommodate development. The City of Oakland updated the nexus study in December 2021 in preparation for proposed refinements to the City's impact fee program.
- C. The nexus study established factors that reasonably estimate the level of impacts on transportation and capital improvements infrastructure from new development based on the type of development project, and thus determined that there is a reasonable relationship between the type of development project paying the fees and the need for transportation and capital improvements infrastructure.
- D. The nexus study established eligible uses of revenues from the transportation and capital improvements fees as further detailed in Subsections 15.74.100(A) and 15.74.110(A) of this Chapter, based on the types of impacts from development projects, and thus determined that there is a reasonable relationship between the type of development project paying the fees and the use of fee revenues.
- E. The nexus study applied factors that reasonably estimate the level of impacts on transportation and capital improvements infrastructure per unit of development and that vary by the type of development project, to calculate the fee on a development project, and thus determined that there is a reasonable relationship between the amount of the fee and the cost of the transportation and capital improvements infrastructure attributable to the development project on which the fee is imposed.
- F. Through the payment of the fee, developers of benefitting land uses will address at least a portion of the impact of their developments on transportation and capital improvements infrastructure and mitigate all of their cumulative transportation impacts as required by the California Environmental Quality Act.

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- G. The Transportation and Capital Improvements Impact Fees as well as the Transportation and Capital Improvements Funds created by this ordinance serve the public interest and are necessary to protect the health, safety, and/or welfare of the citizens of Oakland, and are enacted pursuant to Article XI, Section 7, of the California Constitution, Government Code Sections 66000—66025 (Mitigation Fee Act; AB 1600), Section 106 of the Charter of the City of Oakland and the City's General Plan, specific plans and other land use plans.

15.74.030 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:

"Additional Housing Units" means the net increase in the number of housing units on a parcel of real property. Additional housing units equal the number of new housing units proposed to be developed on the parcel of real property by issuance of a building permit, less the number of housing units (a) legally removed from the same parcel of real property by authorized remodeling, demolition or relocation to another parcel of real property, or by accidental destruction or natural disaster, during the five-year period preceding the owner's filing for the building permit or (b) authorized to be removed prior to or during the construction for which the building permit is requested.

"Additional Residential Square Footage" means the increase in Residential Square Footage as a result of the Development Project which creates Additional Housing Units. Additional Residential Square Footage equals the difference between the Residential Square Footage proposed to be developed on the parcel of real property by issuance of a building permit and the total Residential Square Footage (a) legally removed from the same parcel of real property by authorized remodeling, demolition, or relocation to another parcel of real property, or by accidental destruction or natural disaster, during the five-year period preceding the owner's filing for the building permit or (b) authorized to be removed prior to or during the construction for which the building permit is requested.

"Affordable Housing" means each unit of housing that is restricted to occupancy at an affordable rent or an affordable housing cost to moderate-income households, low-income households or very low-income households. 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.

"Affordable Housing Project" means a residential Development Project where one hundred percent (100%) of the housing units, other than manager's units, are restricted to very low-, low-, and moderate-income households.

"Additional Square Feet" means the net increase in square feet of building floor area, as defined in the California Building Standards Code, on a parcel of real property. Additional square feet equals the number of new building square feet proposed to be established on the parcel of real property by issuance of a building permit, less the number of building square feet (a) legally removed from the same parcel of real property by authorized remodeling, demolition or relocation to another parcel of real property, or by accidental destruction or natural disaster, during the year preceding the owner's filing for the building permit or (b) authorized to be removed prior to or during the construction for which the building permit is requested.

"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 dDevelopment pProject.

"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 their designee(s).

"Fee Per Housing Unit" means the impact fee per housing unit applicable to the development project imposed under this Chapter as contained in the City's Master Fee Schedule.

"Fee Per Square Foot" means the impact fee per square foot of floor area applicable to the dDevelopment pProject imposed under this Chapter as contained in the City's Master Fee Schedule.

"Nonresidential Project" means a dDevelopment pProject involving the following use fee categories: Hotel/motel, industrial, institutional, office, retail freestanding, retail ground floor or warehouse/distribution.

"Residential Project" means a dDevelopment pProject involving the following use fee categories: Multi-family housing, single-family housing, or townhome housing.

"Residential Square Footage" means the floor area of usable and finished space within a residential unit enclosed by the inside surface of walls, windows, doors, and partitions, excluding balconies, garages, and, as defined in Section 17.09.040, the term "Unfinished understories, attics and basements."

"Single-Family Housing" means those uses that fall under any of the following use facility types as defined in Chapter 17.10 of the Oakland Planning Code:

One-Family Dwelling residential facilities consisting of individual, detached attached housing units (as defined in Section 17.10.640).

"Townhome Housing" means those uses that fall under any of the following use facility types as defined in Chapter 17.10 of the Oakland Planning Code:

One-family dwelling r Residential facilities consisting of multiple attached housing units with abutting sidewalls in a horizontal row.

Two-family dwelling residential facilities; or

Multifamily dwelling residential facilities consisting of housing units arranged in a single horizontal row with abutting sidewalls.

15.74.040 Applicability.

The regulations, requirements and provisions of this Chapter shall apply to any dDevelopment pProject, unless exempt from this Chapter. The Applicant for any dDevelopment pProject, unless exempt from this Chapter, as a condition of the building permit, must pay to the City the required impact fees, or comply with the requirements for developer constructed facilities as set forth in Section 15.74.120.

- A. Effective Date. Any applicant for a dDevelopment pProject for which who submits a complete building permit application is submitted on or after September 1, 2016, must pay the impact fee that is in effect at the time of building permit submittal. If the development project fails to meet all of the criteria listed in Subsection B. below, Whenever a new building permit application is required, the impact fees will be assessed based on the submittal date of the new building permit application. If more than five years pass between the issuance of the building permit and the first major inspection (foundation, underfloor, frame) then the impact fee will be reassessed, and the applicant must pay the impact fee that was in effect at the time of the first major inspection.

Notwithstanding the above, this Chapter shall also apply to development projects whose applications are determined and/or deemed complete on or after November 27, 2015, per the California Subdivision Map Act, Government Code Section 66474.2(b), provided a vested right, as defined by California law, has not been obtained as of sixty (60) days after the adoption of this Chapter.

- B. Exemptions Based on Submittal Date. Any dDevelopment pProject for which a complete building permit application is submitted prior to September 1, 2016, shall be exempt from this Chapter if all of the following criteria are met:
1. The building permit is issued within one year of submittal of the complete building permit application;

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2. The ~~d~~Development ~~p~~Project is diligently pursued toward completion, as reasonably determined by the Building Official or designee;
 3. The building permit does not expire, although it may be extended for up to one year; and
 4. A certificate of occupancy or temporary certificate of occupancy is issued within three (3) years of the building permit being issued.

In addition, Development Projects that obtain a vested right, as defined by California law, no later than sixty (60) days after the adoption of this Chapter are not subject to the impact fee.

- C. Exemptions Based on Project Type. The following ~~types of development projects~~ shall be exempt from this Chapter if any of the following are met:
 1. Development ~~p~~Projects involving less than five thousand (5,000) square feet of building floor area occupied by institutional uses;
 2. Nonresidential projects involving less than five thousand (5,000) square feet of changed and intensified square feet;
 3. ~~Accessory Dwelling Units or ADU Secondary units~~, as defined in Section ~~17.04.090~~~~17.09.040~~ of the Oakland Planning Code;
 4. Vehicular residential facilities, as defined in Section 17.10.700 of the Oakland Planning Code; or
 5. Affordable ~~h~~Housing ~~units and Affordable Housing Projects~~, as defined in Chapter 15.72 and 15.74 of the Oakland Municipal Code. ~~Affordable housing projects~~ are exempt from the capital improvements impact fee but not exempt from the transportation impact fee.
- D. 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

15.74.050 Amount of impact fees.

The impact fees shall be calculated for each ~~d~~Development ~~p~~Project as follows, pursuant to the impact fee amounts as stated in the Master Fee Schedule in effect at the time of the submittal of a ~~complete building permit application~~ ~~the Effective Date as specified in Section 15.74.040.A:~~

- A. Nonresidential Projects Involving New Construction:
Impact Fee = Fee Per Square Foot x Additional Square Feet
- B. Nonresidential Projects Involving Existing Buildings:
Impact Fee = (Fee Per Square Foot of New Use Fee Category - Fee Per Square Foot of Previous Use Fee Category) x Changed and Intensified Square Feet
- C. Residential Projects:
Impact Fee = ~~Fees Per Square Foot x Additional Residential Square Footage~~ ~~Fee Per Housing Unit x Additional Housing Units~~

For Subsections A., B., and C., the impact fee amount shall automatically be adjusted ~~upward~~ annually for inflation on July 1st beginning on July 1, 2021, by the City Administrator in accordance with the percentage increase ~~or decrease~~ from January to January in the 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.

Prior to the effective date of the ordinance which added this paragraph to this Chapter, the impact fee was calculated using a formula based on additional housing units rather than additional residential square footage. Where impact fees were calculated and assessed prior to this modification, the prior calculation shall remain in effect unless reassessment is required pursuant to Section 15.74.040.A and where no vested rights have been obtained. The City shall not grant any refund requests based on changes incorporated by the ordinance which added this paragraph to this Chapter.

15.74.060 Impact fees zones.

For residential projects, the impact fee amount shall be based upon the impact fee zone in which the ~~dDevelopment~~ ~~pP~~Project is located as contained within the Master Fee Schedule and as set forth in the maps included in Section 15.74.150 of this Chapter.

15.74.070 Payment of impact fees.

Payment of the impact fees shall be due in one installment prior to the ~~issuance of a temporary certificate of occupancy or certificate of occupancy, whichever occurs first~~ issuance of a building permit for all or any portion of the ~~dDevelopment~~ ~~pP~~Project 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 ~~dDevelopment~~ ~~pP~~Project subject to this Chapter unless the impact fee is paid to the ~~City Building Official~~. The ~~City Building Official~~ shall deposit the impact fee in the transportation impact fee fund or the capital improvements impact fund, whichever is applicable.

As an alternative to payment of the impact fee set forth in this Chapter, an applicant for a ~~dDevelopment~~ ~~pP~~Project subject to the impact fee may comply with the requirements for the developer constructed facilities as set forth in Section 15.74.120 of this Chapter.

15.74.080 Reductions, waivers, and a Appeals.

A. ~~Reductions, Waivers and Appeals to Seek a Reduction in or Waiver from~~ of the Impact Fees. Reduction, waiver and/or appeals of the impact fees ~~An appeal of the impact fees may be submitted by the applicant of the Development Project for purposes of seeking a reduction in the amount or waiver from the impact fees. Such appeals~~ may be granted by the City Administrator to a ~~dDevelopment~~ ~~pP~~Project under any one of the following scenarios:

1. The ~~dDevelopment~~ ~~pP~~Project is rendered infeasible by imposition of all or a portion of the impact fee because there are demonstrated special circumstances unique to the financing or economics of the ~~dDevelopment~~ ~~pP~~Project and not generally applicable to other projects of similar type and size, and no feasible alternative means of compliance are available which would be more effective in attaining the purposes of this Chapter than the relief requested. For purposes of this paragraph, "infeasible" means incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors;
2. The ~~dDevelopment~~ ~~pP~~Project will not generate any need for transportation or capital improvements infrastructure, or the increase in such need will be limited so as to justify a reduced impact fee;
3. The ~~dDevelopment~~ ~~pP~~Project is subject to a higher impact fee than what would otherwise apply under normal circumstances solely and exclusively due to unusual delays, beyond the reasonable control of the applicant, related to an appeal, litigation and/or other similar circumstances;

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4. The requirements of this Chapter have been incorrectly applied to a dDevelopment pProject; and/or
 5. That application of the requirements of this Chapter to a dDevelopment pProject is unlawful under and/or conflict with federal, State, or local law and/or regulation, including constituting an unlawful taking of property without just compensation.
- B. Applications for Reductions, Waivers and/or Appeals. Application for appeals to reduction, waivers and/or appeals of reduce or waive the impact fee must be made no later than ninety (90) days from the date of application for the building permit for the dDevelopment pProject on a form provided by the City, and shall include payment of processing 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 preclude such person from challenging the impact fees in court. 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 deliver to 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.

15.74.090 Enforcement.

- 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 the building-related permits;
 2. Record a special assessment or other lien or liens against the real property which is the subject of the dDevelopment pProject for the amount of the impact fee;
 3. Revoke or suspend the temporary certificate of occupancy and/or certificate of occupancy for the dDevelopment pProject;

Article IV Developer Constructed Facilities

15.74.120 Credits and reimbursement for developer constructed facilities.

The City and the developer of a dDevelopment pProject subject to the requirements of this Chapter may enter into a credit and reimbursement agreement (agreement) to allow the developer to construct transportation or capital facilities (facilities) that would otherwise be funded in whole or in part by the impact fee. Whether to enter into such an agreement is within the sole and absolute discretion of the City. Subject to the agreement, the developer would receive a credit against the amount of the impact fee due by the dDevelopment pProject, and possibly reimbursement from impact fees paid by other dDevelopment pProjects, as determined by this Chapter. If the City decides to enter into such an agreement, it shall be based on the City's standard agreement template and comply with any requirements contained within the rules and regulations adopted by the City Administrator to implement this Chapter pursuant to Section 15.74.130. The agreement shall contain, at a minimum, provisions for the timing of the construction of the facilities, security to ensure construction of the facilities, amount of the credit, reimbursement procedures (if applicable), ownership of the facilities, requirements for acceptance of the facilities, maintenance responsibilities, guarantees of workmanship, insurance

requirements and defense and indemnity. The developer shall obtain all necessary permits and approvals for construction of the facilities.



City of Oakland
Master Fee Schedule
Effective DD/MM/YY

PLANNING & BUILDING
DEPARTMENT

SUPPLEMENTAL EXHIBIT D

FEE DESCRIPTION	FEE UNIT	Fee	Unit	% Change	Justification for Fee Change	Fund	Org	Acct	Project	Program	Coding Block where Revenue is Received Only for Significant Revenue Sources

PLANNING & ZONING

O. IMPACT FEES (The Records Management Fee and Technology Enhancement Fee do not apply to the below Impact Fees.)

A. AFFORDABLE HOUSING IMPACT FEE (FY 2025-2026)

- Multi-Family Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Townhome Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Single-Family Housing
 - Zone 1
 - Zone 2
 - Zone 3

See OMC Section 15.74.140 for the map of the above zones.

The Affordable Housing Impact Fee rate for multi-family housing, townhome housing, and single-family housing in Zone 3 shall be charged at zero (0) percent of the listed square footage rate for remaining portion of Fiscal Year 2025-26 and during Fiscal Year 2026-27 and Fiscal Year 2027-28. See Ordinance Y C.M.S for Zone 3 Affordable Housing Impact Fee rate effective date

B. CAPITAL IMPROVEMENTS IMPACT FEE (FY 2025-2026)

- Multi-Family Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Townhome Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Single-Family Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Office
- Freestanding Retail
- Ground Floor Retail
- Industrial
- Warehouse/Distribution
- Hotel/Motel
- Institutional
- Mini-Storage

See OMC Section 15.74.140 for the map of the above zones.

C. TRANSPORTATION IMPACT FEE (FY 2025-2026)

- Multi-Family Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Townhome Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Single-Family Housing
 - Zone 1
 - Zone 2
 - Zone 3
- Office
- Freestanding Retail
- Ground Floor Retail
- Industrial
- Warehouse/Distribution
- Hotel/Motel
- Institutional
- Mini-Storage

See OMC Section 15.74.140 for the map of the above zones.

D. APPEAL OF AFFORDABLE HOUSING IMPACT FEE, TRANSPORTATION IMPACT FEE, and/or CAPITAL IMPROVEMENTS IMPACT FEE

- Filing Fee

Appeal, or not to exceed
4,339.00 20% of the Total Impact
Fees appealing

2424 89929 45419 1007076 IP49

Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602

36.17 Square Feet
29.18 Square Feet
0% of 19.73 Square Feet
14.98 Square Feet
10.97 Square Feet
0% of 5.99 Square Feet
12.66 Square Feet
9.08 Square Feet
0% of 4.4 Square Feet

2421 84211 45419 1001612 IP49

Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602

1.84 Square Feet
1.10 Square Feet
0.37 Square Feet
2.21 Square Feet
1.47 Square Feet
0.74 Square Feet
2.94 Square Feet
2.21 Square Feet
0.74 Square Feet
2.70 Square Feet
0.68 Square Feet
0.00 Square Feet
1.35 Square Feet
1.35 Square Feet
0.81 Square Feet
4.05 Square Feet
0.28 Square Feet

2420 84211 45419 1001628 IP49

Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602
Pursuant to Assembly Bill (AB) 602

1.10 Square Feet
1.10 Square Feet
1.10 Square Feet
0.74 Square Feet
0.74 Square Feet
0.74 Square Feet
0.74 Square Feet
0.74 Square Feet
2.70 Square Feet
1.01 Square Feet
1.01 Square Feet
0.75 Square Feet
0.48 Square Feet
0.88 Square Feet
4.05 Square Feet
0.48 Square Feet



City of Oakland
Master Fee Schedule
Effective DD/MM/YY

PLANNING & BUILDING
DEPARTMENT

FEE DESCRIPTION		Proposed 2025-26 Fee		Proposed 2025-26 Unit		Justification for Fee Change		Coding Block where Revenue is Received Only for Significant Revenue Sources		
FEE UNIT		Fee	Unit	% Change	Fund	Org	Acct	Project	Program	
E. RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE (Effective Jan 25, 2019)										
1. Filing Fee		4,339.00			2415	84432	42211	1000018	PS30	
Appeal, or not to exceed 20% of the Total Impact Fees appealing										