

PROPOSED MUNICIPAL CODE (OMC) AMENDMENTS

The Oakland Municipal Code is proposed to be amended as follows. Additions are shown in underline and deletions are shown in ~~strike-through~~. Note that only the relevant code subsections being amended are included and unamended portions are omitted.

Title 5 - BUSINESS TAXES, PERMITS AND REGULATIONS

Chapter 5.12 ~~CABARETS~~ ENTERTAINMENT VENUES

5.12.010 Definitions.

As used in this Chapter:

- A. ~~"Cabaret"~~ "Entertainment Venue" shall be construed to include any place where the general public is admitted, for a fee, entertainment is provided, and alcohol is served. A place that does not charge for admission but where the general public is admitted, alcohol is served, dancing is permitted, and the venue operates past 11:00 p.m. shall also be construed as an Entertainment Venue. ~~a cabaret.~~
- B. "Central District" shall be the same, and as may be amended, as is defined in Oakland Municipal Code Title 17.09.
- C. "Central District Entertainment Venue" Any venue with on-sale and/or off-sale of alcoholic beverages in conjunction with an approved arts, entertainment, or cultural use in the zones listed in Section 17.101K.050, Table 17.101K.01 under Alcoholic Beverage Sales with limitation L29 that do not require a Conditional Use Permit (CUP), shall be defined as a Central District Entertainment Venue. Arts, entertainment, and cultural uses include, but are not limited to: bars, cabarets, night clubs, pool halls, bowling alleys, mini-golf, mechanical or electronic games, museums, art galleries, barbershop or salon, nail salon, performing arts centers, auditoriums, theaters, and other similar venues.
- D. "City Administrator" shall mean the City Administrator for the City of Oakland and his or her designee.
- E. "Disqualifying offense" means any offense which disqualifies an applicant from obtaining a permit pursuant to this Chapter or which mandates revocation of the permit if the offender already holds a permit. Disqualifying offenses are:
 1. Conviction, plea of nolo contendere, plea bargain, or forfeiture pertaining to any felony offense involving the sale of a controlled substance specified in Sections 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code of the State of California;
 2. Conviction, plea of nolo contendere, plea bargain, or forfeiture on a charge of committing a violent crime or a crime of dishonesty, fraud or deceit with an intent to substantially injure another.

5.12.020 Permit required.

- A. It is unlawful for any person to own, conduct, operate or maintain, or to participate therein, or to cause or to permit to be conducted, operated, or maintained, any ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue in the City unless the ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue has paid the annual permit fee, holds a valid permit with the Office of the City Administrator, and has met any other permit requirements developed by the City Administrator, including but not limited to those put forth in Section 5.12.030. A proposed ~~cabaret~~ Entertainment Venue and Central District Entertainment Venue may be excluded from obtaining a permit for failure to meet requirements of the City building code, City fire code, City planning code, this Code and/or any violation of State or local law relevant to the operation of ~~cabarets~~ an Entertainment Venue and Central District Entertainment Venue. ~~Cabaret~~ Entertainment Venue and Central District Entertainment Venue permits are not transferable. The application for such permit shall set forth the fact that the proposed location of such ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue is not within 300 feet of any church or synagogue or any building in use as a place of public worship or school or public library. This requirement may be waived only if the City Administrator makes written findings that the ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue will not have a negative impact on City resources, public safety and neighborhood quality of life.
- B. An ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue permit may not be issued and an existing permit may be suspended to any ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue where any owner(s), operator(s), or other party with an interest in the ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue has committed a disqualifying offense as defined in Section 5.12.010 and/or violated any provision of this Chapter that has resulted in a suspension or revocation of any permit issued under this Chapter, or violated a similar law in any other jurisdiction within the past five years that has resulted in a suspension or revocation of a permit under that law.
- C. Notwithstanding any other provisions of this Chapter, the ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue must comply with all applicable requirements, including but not limited to any Conditional Use Permit ("CUP") and State of California Department of Alcoholic Beverage Control ("ABC") requirements. Any ABC licensed business and/or CUP that currently does not offer entertainment (and would like to offer entertainment) shall revise its ABC license and/or CUP to include a condition that permits entertainment activities, if applicable.

5.12.030 ~~Cabaret~~ Entertainment Venue permit process.

- A. A business that conducts ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue activity shall be allowed to conduct such activity under the following conditions:
- (a) The business applies for and is approved by the City Administrator for the ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue permit;
 - (b) The business maintains the permit by paying the annual fee;
 - (c) The business successfully completes an annual inspection by the Fire Department;

- (d) The business does not create a public nuisance, adversely affect the health, safety, and general welfare of the public, or negatively impact City resources. A determination of such public nuisance, adverse affect, or negative impact shall be made only after a public hearing conducted according to the requirements of Chapter 5.02.

The ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue permit fee shall be specified in the master fee schedule.

- B. An ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue permit application may be denied or an existing ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue permit (or what was formerly known as cabaret permit) suspended or revoked on the basis of a disqualifying offense, as defined in this Chapter, or any basis for permit denial, suspension, or revocation specified in Chapter 5.02. Such denial, suspension, or revocation shall be in writing, specifying the reasons for the decision. A business whose permit is denied, suspended, or revoked may request a hearing to show cause why the permit should not be denied, suspended, or revoked. The hearing shall be conducted according to the requirements of Chapter 5.02.
- C. In addition to the procedures for suspension or revocation provided for in Section 5.02.080, the permit shall be subject to suspension or revocation according to the standards of Chapter 5.02, and the owner/operator shall be liable for excessive police costs related to enforcement. The Chief of Police or the City Administrator, in his or her discretion, may immediately suspend, and recommend for revocation, such permit for any reason for which the granting of such permit might be lawfully denied, to protect the person and property of patrons of the location, or to protect the safety and welfare of the general public. Such suspension shall last no longer than is practically necessary to schedule a due process hearing on the merits of the revocation and the recommendation by the Chief of police, City Administrator or his/her designee to revoke the permit. A hearing to show cause must be held within ten (10) business days from the date of suspension, except that such suspension cannot exceed ten (10) days. If such suspension was the result of violent crime, narcotic related crime, melee, or gang activity emanating from or occurring on the premises the suspension shall not be removed until a final decision from the hearing officer has been rendered. All other suspensions may be removed prior to the hearing if the hearing cannot be held within ten (10) days although the decision of the hearing officer may include additional suspension or revocation of the permit. In lieu of seeking revocation, the Chief or Police or City Administrator may seek an extended suspension period with requirements for correction or abatement of the reasons for the immediate suspension and/or additional conditions placed on the permittee.
- D. In addition to suspension, revocation or denial of a ~~cabaret~~ an Entertainment Venue or Central District Entertainment Venue permit pursuant to Subsection B., a ~~cabaret~~ an Entertainment Venue or Central District Entertainment Venue establishment creating a public nuisance may be subject to other penalties and enforcement actions, including but not limited to civil penalties and administrative citations pursuant to Title 1 of this Code.

5.12.040 Extended hours permit process.

- A. An extended hours permit shall be required for ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue operation between the hours of 2:00 a.m. and 5:00 a.m.
- B. A maximum of ten (10) extended hours permits shall be issued in the City's Central District (defined as within the boundaries of I-980 and Brush Street to the west; 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south).

- C. The permits shall be issued at the discretion of the City Administrator or his/her designee to an existing ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue in good standing following a public hearing conducted according to the requirements of Chapter 5.02, and based on an evaluative point system that takes into consideration the operating history and business practices of the applicant, and any other factors that is deemed necessary to the peace, order and welfare of the public. Such issuance shall factor into consideration and give great weight to the recommendation of the Chief of Police or his/her designee. A proposed extended hours permittee may be denied for failure to meet requirements of the City building code, City fire code, City planning code, this Code, any violation of State or local law relevant to the operation of ~~cabarets~~ an Entertainment Venue and Central District Entertainment Venue.
- D. The City Administrator shall establish conditions of approval, including but not limited to a security plan, parking plan, and set hours of operations. Set hours may be adjusted only pursuant to thirty (30) days notification to and approval by the City Administrator's Office.
- E. Permittees must submit a monthly calendar of events to the City Administrator's Office and to the special events unit of OPD. Calendars shall be submitted thirty (30) days in advance.
- F. The permit shall be subject to suspension or revocation according to the standards of Chapter 5.02, and the owner/operator shall be liable for excessive police costs related to enforcement. The Chief of Police, in his or her discretion, may immediately suspend, and recommend for revocation, such permit for any reason for which the granting of such permit might be lawfully denied, to protect the person and property of patrons of the location, or to protect the safety and welfare of the general public. Such suspension shall last no longer than is practically necessary to schedule a due process hearing on the merits of the revocation and the recommendation by the Chief of police or his/her designee to revoke the permit. A hearing to show cause must be held within ten (10) business days from the date of suspension, except that such suspension cannot exceed ten (10) days. If such suspension was the result of violent crime, narcotic related crime, melee, or gang activity emanating from or occurring on the premises the suspension shall not be removed until a final decision from the hearing officer has been rendered. All other suspensions may be removed prior to the hearing if the hearing cannot be held within ten (10) days although the decision of the hearing officer may include additional suspension or revocation of the permit.
- G. The application fee and annual fee for the extended hours permit shall be specified in the master fee schedule.
- H. A business whose extended hours permit is denied, suspended, or revoked may request a hearing to show cause why the permit should not be denied, suspended, or revoked. The hearing shall be conducted by an Administrative Hearing Officer, as defined in Chapter 5.02.

5.12.050 Application review process.

- A. **Application Filing.** All applications for ~~cabaret~~ Entertainment Venue and Central District Entertainment Venue permits and extended hours permits-issued pursuant to this Chapter, including renewals, shall be filed in the Office of the City Administrator. Applicants must acknowledge receipt of ~~cabaret~~ Entertainment Venue and Central District Entertainment Venue operating regulations and conditions, and submit proof of fire inspection, health inspection and permit, business tax license, ABC license and conditions, and zoning clearance prior to issuance of permit. The City Administrator shall receive any fee required for the application, ensure that the application is complete, and refer the application to the Chief of Police for investigation, review and recommendation.

- B. Investigation for Extended Hours Permits and New ~~cabaret~~ Entertainment Venue and or Central District Entertainment Venue ~~Permit~~ Applicants. The City Administrator shall refer the application to the Chief of Police who shall conduct background investigations on all applicants requesting extended hours permits. Where the applicant(s) is any type of association, partnership, corporation or other entity, background investigations of all publicly named or registered persons, officers, directors, managers and shareholders within those entities shall be conducted as appropriate. The applicant shall be fingerprinted and photographed and consideration shall be given to their criminal record, if any. After reviewing the information obtained, the Chief of Police shall transmit in writing any recommendation or findings from the investigation to the City Administrator and shall give particular consideration to the safety and general welfare of the public. The City Administrator shall also refer the application to other city and county agencies as appropriate and warranted to ensure compliance with existing state, county and local laws.

5.12.060 Regulations.

A. The City Administrator may establish operating and performance standards as well as administrative regulations for permittees under this Chapter. The intent of the operating and performance standards is to minimize any negative effects and enhance the benefits of entertainment venues on the surrounding community. In order to maintain a permit in good standing, entertainment venues under this Chapter must meet all the operating criteria outlined in the City Administrator's regulations.

B. It is unlawful for any person operating a ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue under the provisions of Section 5.12.020, or any ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue whatsoever, in the City, or any agent, employee or representative of such person to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or to permit such ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue to remain open, or patrons to remain upon the premises, after 2:00 a.m. unless the ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue has on file a current extended hours permit with the Office of the City Administrator.

5.12.070 Booths and entertainers.

It is unlawful for any person operating a ~~cabaret~~ an Entertainment Venue or Central District Entertainment Venue under the provisions of Section 5.12.020, or any ~~cabaret~~ Entertainment Venue whatsoever in the City, or any agent, employee or representative of such person, to erect, construct, maintain, or cause or permit to be erected, constructed or maintained, within such ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue any private rooms, booths or compartments, or any closed stalls, or any alcoves of any nature, so arranged that the entire inner portion of the same shall not at all times be visible; or to permit any conduct in such place prejudicial to public morals, or to permit any entertainment in such ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue, except that which is furnished by entertainers employed by the management of such ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue.

5.12.080 Permit fee.

Every person conducting, managing or maintaining the business of a ~~cabaret~~ an Entertainment Venue or Central District Entertainment Venue in the City shall pay a permit fee specified in the master fee schedule annually in advance, and shall keep a copy of the business tax certificate issued by the Business Tax Office, together with a copy of the ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue permit issued, and where applicable, the extended hours permit, pursuant to the provisions of Section 5.12.020, together with a copy of this Chapter, including the regulations set forth in Section 5.22.020 and incorporated in Section 5.12.060, posted in a conspicuous place in the premises maintained as such ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue at all times during which such ~~cabaret~~ Entertainment Venue or Central District Entertainment Venue is being operated.



City of Oakland
Master Fee Schedule
Effective July 1, 2023

ECONOMIC & WORKFORCE DEVELOPMENT

FEE DESCRIPTION

FEE

UNIT

SPECIAL ACTIVITIES

1 Central District Entertainment Venue Application	\$184	Application
2 Central District Entertainment Venue Annual Permit	\$1,379	Permit

Chapter 15.62 AFFORDABLE HOUSING TRUST FUND

15.62.030 - Funding sources.

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

- A. **Jobs/Housing Impact Fees.** The Affordable Housing Trust Fund shall receive all monies from jobs/housing impact fees contributed pursuant to Sections 15.68.050 and 15.68.060 of this Code.
- B. **Redevelopment Dissolution Funds.** An amount equal to twenty-five percent (25%) of all funds distributed to the City as a taxing entity under the Dissolution Laws, including both one time and ongoing distributions, net of the amount of distributed funds that is deposited with the KIDS First! Oakland Fund for Children and Youth under Section 1300 of the Charter, shall be deposited into the Affordable Housing Trust Fund. The funds subject to this setaside shall include, without limitation, distributions of property tax from the Redevelopment Property Tax Trust Fund ("RPTTF"), distributions of sales proceeds and other revenues from the use or disposition of assets of the Oakland Redevelopment Successor Agency ("ORSA"), compensation paid to taxing entities by ORSA, and distributions of available cash assets of ORSA to taxing entities. This policy shall apply to distributions from the RPTTF under California Health and Safety Code Section 34183 starting in Fiscal Year 2015-2016, and shall apply to all other distributions received starting in Fiscal Year 2013-2014. As to distributions from the RPTTF, from Fiscal Year 2015-16 through Fiscal Year 2024-2025, this policy shall apply only to distributions to the City as a taxing entity of RPTTF funds under Subsection (a)(4) of California Health and Safety Code Section 34183, which are residual amounts distributed to the City after all other RPTTF allocations are made, and shall not apply to distributions of RPTTF funds to the City under Subsection (a)(1) of California Health and Safety Code Section 34183, which are amounts distributed to the City that the City would have received as passthrough payments if the Redevelopment Agency had not been dissolved. Starting in Fiscal Year 2025-2026, this policy shall apply to all distributions from the RPTTF to the City as a taxing entity under California Health and Safety Code Section 34183.
- C. **Fines and penalties.** The Affordable Housing Trust Fund shall receive fines and penalties received under the Foreclosed and Defaulted Residential Property Registration Program pursuant to Section 8.54.620 of this Code.
- D. **Affordable Housing Impact Fees.** The Affordable Housing Trust Fund shall receive all monies from affordable housing impact fees contributed pursuant to Chapter 15.72 of this Code.
- E. **Zoning Incentive Program.** The Affordable Housing Trust Fund shall receive fees

provided by development projects as part of the Downtown District (D-DT) Zoning Incentive Program, pursuant to Chapter 17.101K.110.

15.62.040 - Use of funds.

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

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

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

- B. Notwithstanding the provisions of Subsection A. above, funds deposited into the Affordable Housing Trust Fund from fines and penalties received under the Foreclosed and Defaulted Residential Property Registration Program pursuant to Section 8.54.620 of this Code, or from fines, penalties, or other funds under other programs that designate the use of funds deposited

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

- C. Notwithstanding the provisions of Subsection A. above, until June 30, 2027, funds deposited into the Affordable Housing Trust Fund from the setaside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for services and interventions aimed at: preventing displacement of low-income renters from their homes; preventing the displacement of low-income, senior, or disabled homeowners from their homes; rehousing for homeless residents; or protecting low-income renters from poor housing conditions leading to displacement. These services and activities may include, but are not limited to, housing counseling and outreach, rapid-rehousing, legal services, and housing assistance funds for tenants and homeowners who are lower income households or very low income households and who are at risk of losing their home or becoming homeless. Notwithstanding the above, until June 30, 2018, funds deposited into the Affordable Housing Trust Fund from the setaside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for services for homeless residents.

- D. Notwithstanding the provisions of Subsection A above, funds deposited into the Affordable Housing Trust Fund from the Downtown Oakland Specific Plan Zoning Incentive Program may be used toward any project to increase, improve, and preserve the supply of affordable housing in the City, including in the Downtown District (D-DT) whenever possible to preserve, protect and produce affordable housing toward the explicit goal to maintain downtown as a mixed-income community.

Chapter 15.72 AFFORDABLE HOUSING IMPACT FEE

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 development project 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 development project 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 development project, 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 development project, be of the same size, and contain, on average, the same number of bedrooms as the market-rate units in the development 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 development project and phases of a development 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 development projects that include affordable housing units, the total number of required affordable housing units for such development project that will be needed to exempt the development project from the impact fee shall be one of the following:

Number of Moderate Income Units = Total Number of Housing Units x 10%; 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%.

"Total Number of Housing Units" means the total number of units proposed for the development 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.

1. An applicant for a development project 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 development project 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.

5. For development projects that utilize the Zoning Incentive Program in OMC Section 17.101K.110, the development project is still required to pay the Affordable Housing Impact fee on the housing units that are part of the base project as well as the bonus housing units that were received from the Zoning Incentive Program. The development project will not have to pay the Affordable housing Impact Fee on the affordable units that are built as well as any bonus market rate units received from the density bonus by providing the affordable units.