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OFFICE OF THE CITY CLERK
OAKLAND

2016 MAR 11 AM 10:30 **AGENDA REPORT**

TO: Sabrina B. Landreth
City Administrator

FROM: Darin Ranelletti
Deputy Director, PBD

SUBJECT: City-Wide Impact Fees Adoption

DATE: March 10, 2016

City Administrator Approval

Date:

3/11/16

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt:

An Ordinance (1) Amending The Oakland Municipal Code To Establish City-Wide Affordable Housing Impact Fees And Make Related And Conforming Amendments, Including Minor Amendments For Consistency Purposes To The Jobs-Housing Impact Fee Codified in OMC Chapter 15.68, (2) Amending The Master Fee Schedule (Ordinance No. 13320, C.M.S., As Amended) To Include The Affordable Housing Impact Fees, And (3) Adopting CEQA Exemption Findings

An Ordinance (1) Amending The Oakland Municipal Code To Establish City-Wide Transportation And Capital Improvements Impact Fees And Make Related And Conforming Amendments, (2) Amending The Master Fee Schedule (Ordinance No. 13320, C.M.S., As Amended) To Include The Transportation And Capital Improvements Impact Fees, And (3) Adopting CEQA Exemption Findings

EXECUTIVE SUMMARY

Oakland is facing a housing affordability crisis and is confronted with inadequate infrastructure. As Oakland experiences economic growth, it is important that the City plan for and provide funds for affordable housing, transportation improvements, and capital facilities to meet the current and evolving needs of residents. Multiple City policies and initiatives, such as the General Plan, Housing Equity Roadmap, and Mayor's Housing Cabinet "Oakland At Home" report call for adopting development impact fees so that new development in the city pays its fair share towards funding affordable housing, transportation improvements, and capital facilities. While impact fees alone will not solve Oakland's pressing affordable housing and infrastructure improvement needs, they are an important step towards addressing these problems.

This report recommends adoption of impact fees for Affordable Housing, Transportation and Capital Improvements generally consistent with the recommendations from the February 9, 2016, Community and Economic Development (CED) Committee meeting. The impact fee program seeks to balance the need for development projects to contribute their fair share for

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affordable housing and transportation and capital improvements infrastructure, while not impeding new development. The generation of additional housing units addresses the scarcity of available units in the current market, scarcity which ultimately contributes to displacement. The same balance is sought for nonresidential development projects to pay their fair share of transportation and capital improvements infrastructure, while allowing continued development of retail revenue and job generating development.

The CED Committee requested at the February 9th meeting that staff prepare an impact fee program proposal with the following key elements:

1. **Geographic Zones:** Residential development projects would pay impact fees based on the following three different geographic zones that represent different market characteristics and different development feasibility levels which contribute to different abilities to pay the impact fee. The three proposed zones are:
 - a. Zone 1: Downtown; parts of North Oakland; and the Oakland Hills
 - b. Zone 2: West Oakland; parts of North Oakland; neighborhoods located directly east of Lake Merritt; and the Coliseum site
 - c. Zone 3: The East Oakland neighborhoods not included in Zones 1 or 2
2. **Fee Amounts:** Multi-family housing per-unit fees would be phased in as follows:
 - a. Zone 1: \$7,000 (2016); \$13,000 (2017); \$24,000 (2018)
 - b. Zone 2: \$5,550 (2016); \$10,500 (2017); \$19,250 (2018)
 - c. Zone 3: \$750 (2016); \$750 (2017); \$3,750 (2018); \$6,750 (2019); \$13,000 (2020)
3. **Implementation Date and Phasing:** Generally, development projects submitting building permit applications on or after September 1, 2016, would be subject to the fees. Fees would generally increase July 1, 2017, and again on July 1st of subsequent years.
4. **Affordable Housing On-Site and Off-Site Build Option:** An applicant would not be subject to the Affordable Housing Impact Fee if they provide a certain level of affordable housing within the development project. Building affordable housing at an off-site location would only be allowed on a case-by-case basis subject to City Council approval. The minimum percentage of affordable units required for the on-site or off-site options would be the following:
 - a. Moderate Income: 10 percent
 - b. Low Income: 10 percent
 - c. Very-Low Income: 5 percent
5. **Transportation and Capital Improvements Construction Option:** The City would have the discretion to allow a developer to construct transportation or capital facilities that would otherwise be funded in whole or in part by the impact fee.

In addition to the aforementioned impact fee proposal elements, this report also summarizes changes to the Affordable Housing Trust Fund, and in particular, the definition of "affordable housing" in relation to impact fees.

Note: There are other possible tools to address housing and infrastructure concerns in Oakland, such as Enhanced Infrastructure Financing Districts (EIFDs), which were also recommended in

the Oakland At Home report. EIFDs, which are defined and described in the February 9th Supplemental Report, are a tool which staff will continue to evaluate and explore along with other policy recommendations. This current agenda report only focuses on impact fees.

BACKGROUND / LEGISLATIVE HISTORY

For the background and legislative history of the Impact Fees Study, please see the Agenda Report from the City Council Community and Economic Development (CED) Committee (CED) on January 26, 2016, included with this report as **Attachment A**.

Staff also presented a Supplemental Report to the CED Committee on February 9, 2016, included with this report as **Attachment B**.

On February 9, 2016, the CED Committee requested for staff to return to the Committee at a future date with proposed ordinances consistent with a proposal contained in a memorandum from four councilmembers (memo included with this report as **Attachment C**). This memorandum and the discussion at the CED Committee forms the basis of the impact fees proposal discussed in the Analysis section of this report.

ANALYSIS

The following three (3) major topics are discussed in this section: the nexus analyses for the affordable housing, transportation and capital improvements impact fees, the economic feasibility study, and the impact fee program.

Nexus Analysis of Maximum Legal Impact Fees

Since the February 9, 2016, CED Committee meeting, reports were published on March 10, 2016, for the "Oakland Affordable Housing Impact Fee Nexus Analysis" prepared by Vernazza Wolfe Associates, Inc., and Hausrath Economics Group (HEG) (see **Attachment D**) and the "Oakland Transportation and Capital Improvements Impact Fee Nexus Analysis" prepared by Urban Economics with Hausrath Economics Group, BKF Engineers, and Fehr & Peers (see **Attachment E**). While included with this report as attachments, staff also posted copies of the Nexus Analyses on the City's website at www.oaklandnet.com/impactfee and has them available to view at the Oakland Planning and Building Department located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

Attachment F includes a table that shows the proposed target impact fees (the ultimate fee amounts, which will then only be adjusted for increases due to inflation) for the various land uses and housing types along with the maximum legal fee determined by the Nexus Analyses.

Economic Feasibility Study

The Agenda Report for the January 26, 2016, CED Committee meeting included an economic feasibility analysis summary (see Attachments G and H contained within **Attachment A** to this report).

The complete Economic Feasibility Study is still being finalized and will be included as an attachment in the Agenda Report for the City Council public hearing anticipated to be held on April 19, 2016.

Impact Fee Program

The following six (6) topics are discussed in this section: projects subject to the impact fee, transportation impact fees to cover CEQA cumulative impacts, impact fee zones for residential projects, impact fee amounts and phasing, on-site and off-site affordable housing options, and other related changes to the current Jobs/Housing Impact Fee.

Projects Subject to the Impact Fee

In accordance with the Mitigation Fee Act, the proposed ordinances would take effect 60 days after City Council adoption, but would not apply to development projects which obtain a vested right, as defined by California law, within 60 days after the adoption date of the ordinances. Projects acquire a vested right with (a) a development agreement, (b) a vesting tentative map, and/or by (c) obtaining a building permit and beginning substantial construction. The City may apply the ordinances to projects with vesting tentative maps that were deemed complete after November 27, 2015, unless the vesting tentative map is approved prior to the effective date of the ordinances (60 days after adoption).¹

For projects subject to the fee ordinances, the City would apply the fees as follows:

1. The fee amount would be based on the fee in effect at the time of building permit application.
2. Any project for which a complete building permit application is submitted prior to September 1, 2016, would not pay the fees.
3. The impact fees would be paid during the building permit process:
 - a. For the Affordable Housing Impact Fee, 50 percent of the impact fee would be collected prior to building permit issuance and 50 percent would be collected prior to the temporary certificate of occupancy or certificate of occupancy, whichever comes first. Allowing for impact fee payment in a phased approach will benefit economic feasibility by reducing the carrying cost time frame.
 - b. 100 percent of the Transportation and Capital Improvements Impact Fees would be required to be paid prior to building permit issuance.

¹ The Subdivision Map Act provides that projects with an approved vesting tentative map obtain a vested right when the application is deemed complete. Under this scenario, the fee ordinances would not apply to a project with a vesting tentative map that was deemed complete prior to the effective date of the fee ordinances (60 days after adoption of the ordinances). However, pursuant to Government Code Section 66474.2(b), if the City initiates proceedings to prepare and adopt impact fees and provides public notice (which the City did in December 2013 and on November 27, 2015, respectively), the City may apply the fee ordinances to projects with a vesting tentative map deemed complete after these dates unless the vesting tentative map is approved prior to the effective date of the ordinances (60 days after adoption). Impact fees were scheduled to be considered at regular, duly noticed (including newspaper ads published on November 27, 2015; December 26, 2015; and January 9, 2016) meetings of the CED Committee but were rescheduled to the regular, duly noticed, meetings on January 22, 2016, and February 9, 2016.

4. Performance requirements would apply so that applicants would pursue projects to completion. If the following performance requirements are not met, the applicant would pay the (potentially) higher impact fees in effect at the time the performance requirements are not met:
 - a. The building permit is issued within one year of submittal of the building permit application.
 - b. The project is diligently pursued toward completion, as reasonably determined by the Building Official or designee.
 - c. The building permit does not expire, although it may be extended for up to one year.
 - d. A certificate of occupancy or temporary certificate of occupancy is issued within three years of the building permit being issued.

The following projects would be exempt from the impact fees:

1. Secondary units.
2. Affordable housing projects (exempt from the Affordable Housing Impact Fee and the Capital Improvements Impact Fee, but subject to the Transportation Impact Fee).
3. Nonresidential projects converting less than 5,000 square feet of floor area to another use.
4. Projects involving less than 5,000 square feet of building floor area occupied by institutional uses.

In addition, concern has been expressed about high-rise project impact fees considering the already complex submittal requirements for such projects. Thus, the phase-in timing should be discussed in determining the high-rise fees.

Reductions, waivers, and appeals to the impact fees may be granted by the City Administrator under any of the following scenarios:

1. The project is rendered infeasible because of special circumstances unique to project financing or economics and no feasible alternative means of compliance are available.
2. The project will not generate any need for affordable housing or transportation or capital improvements infrastructure, or the increase in such need will be limited so as to justify a reduced impact fee.
3. The fees have been incorrectly applied to the project.
4. Application of the requirements to the project is unlawful under and/or conflict with federal, state, or local and/or regulation, including constituting an unlawful taking of property without payment of just compensation.

Transportation Impact Fees to Cover CEQA Cumulative Impacts

For all of the land use types within the proposed impact fee program, the Transportation Impact Fee is sufficient to cover the California Environmental Quality Act (CEQA) transportation cumulative impact mitigations that are within the Environmental Impact Reports (EIR) for all of the Specific Plans, Redevelopment Plans, General Plan, and other major projects. Therefore, paying the impact fee would satisfy a development's obligation to contribute its fair share towards mitigating the cumulative impact without having to fully fund the mitigation. If a project is not covered by a current cumulative transportation analysis, the project may still need to

conduct a detailed CEQA analysis to determine the impact. However, the project could still pay the Transportation Impact Fees to mitigate their fair share of cumulative impacts.

All development projects are still responsible for fully mitigating direct project impacts as a result of their specific project in addition to the Transportation Impact Fee, which is only to pay for cumulative impacts. Moreover, payment of the Transportation Impact Fee does not mean that a project would not have to comply with CEQA; rather, the development's fair share of cumulative transportation impacts can be satisfied with payment of the Transportation Impact Fee.

Impact Fee Zones for Residential Projects

Three (3) different impact fee zones for residential projects are proposed that correspond to three geographic zones of the city that have different market characteristics (i.e., support different prices and rents) and different levels of economic feasibility, and thus different abilities to pay impact fees. A general description of the zones is listed below; maps of the zones are included in both the Affordable Housing Impact Fees and Transportation and Capital Improvements Impact Fees Ordinances as well as in **Attachment G**.

1. Impact Fee Zone 1 includes Downtown, the east side of Lake Merritt, much of North Oakland, and the Hills above I-580.
2. Impact Fee Zone 2 includes West Oakland, a small part of North Oakland, the area east of Lake Merritt to 23rd Avenue, and the Coliseum City area.
3. Impact Fee Zone 3 includes areas east of 23rd Avenue and below I-580, but excluding the Coliseum City area.

Impact Fee Amount and Phasing

Changes to Impact Fees for Residential Projects Since the January 26, 2016, Agenda Report

Staff revised the proposed fees based on the tables for impact fees for multi-family housing in the February 9, 2016, memorandum from the four City Councilmembers as shown in **Attachment C**. The fees for the Affordable Housing and Capital Improvements Impact Fees increased per the memorandum, and the fees now start in September 1, 2016, instead of the previous December 1, 2016, start date in the original staff proposal (see Table 1). The impact fees increase on July 1, 2017, and again on July 1st of each year. Although the memorandum includes the July 1st date for each fee increase, Council may want to consider having the first fee increase occur on September 1, 2017, and then on September 1st of each year, in order to allow a full year for the market to have adequate time to adjust to the higher fees. Staff, as requested by the CED Committee, made subsequent changes to the Affordable Housing Impact Fees for townhome and single-family housing by proportionally increasing those fees to be similar to the changes for the multifamily housing fee. Also, similar changes to the percentages for the Capital Improvements Impact Fees were made (see Tables 2 and 3).

One change from the Councilmembers' memorandum noted in **Attachment C** is that staff has proposed delaying the start of the affordable housing and capital improvements fees in Zone 3 until July 1, 2018, based on comments heard from Council President Pro Tem Larry Reid during the CED meeting on February 9, 2016. Another change that staff included is to apply the minimum Transportation Impact Fee to cover cumulative impacts for CEQA for Zone 3 starting on September 1, 2016, so these projects can pay their fair share towards mitigating cumulative

transportation impacts under CEQA and not have to negotiate on an ad-hoc basis per project, and therefore provide certainty to those projects.

Residential Impact Fees

Table 1: Residential Impact Fees for Zone 1

Residential Impact Fees (Fee is Per Housing Unit)				
The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	9/1/16 – 6/30/17	7/1/17 – 6/30/18	7/1/18 – (target fee)
Multi-family	Affordable Hsg.	\$5,500	\$11,500	\$22,000
	Capital Imp.	\$750	\$750	\$1,250
	Transportation	\$750	\$750	\$750
	Total	\$7,000	\$13,000	\$24,000
Townhome	Affordable Hsg.	\$6,500	\$12,000	\$20,000
	Capital Imp.	\$1,000	\$1,000	\$3,000
	Transportation	\$1,000	\$1,000	\$1,000
	Total	\$8,500	\$14,000	\$24,000
Single-family	Affordable Hsg.	\$6,000	\$12,500	\$23,000
	Capital Imp.	\$1,500	\$2,000	\$4,000
	Transportation	\$1,000	\$1,000	\$1,000
	Total	\$8,500	\$15,500	\$28,000

Table 2: Residential Impact Fees for Zone 2

Residential Impact Fees (Fee is Per Housing Unit)				
The Date is Based on When the Applicant Applies for Building Permit				
Housing Use Type	Fee Category	9/1/16 – 6/30/17	7/1/17 – 6/30/18	7/1/18 – (target fee)
Multi-family	Affordable Hsg.	\$4,550	\$9,250	\$17,750
	Capital Imp.	\$250	\$500	\$750
	Transportation	\$750	\$750	\$750
	Total	\$5,550	\$10,500	\$19,250
Townhome	Affordable Hsg.	\$2,600	\$7,200	\$14,250
	Capital Imp.	\$1,000	\$1,000	\$2,000
	Transportation	\$1,000	\$1,000	\$1,000
	Total	\$4,600	\$9,200	\$17,250
Single-family	Affordable Hsg.	\$3,750	\$9,000	\$16,500
	Capital Imp.	\$1,000	\$1,500	\$3,000
	Transportation	\$1,000	\$1,000	\$1,000
	Total	\$5,750	\$11,500	\$20,500

Table 3: Residential Impact Fees for Zone 3

Residential Impact Fees (Fee is Per Housing Unit)						
The Date is Based on When the Applicant Applies for Building Permit						
Housing Use Type	Fee Category	9/1/16 – 6/30/17	7/1/17 – 6/30/18	7/1/18 – 6/30/19	7/1/19 – 6/30/20	7/1/20 – (target fee)
Multi-family	Affordable Hsg.	\$0	\$0	\$3,000	\$6,000	\$12,000
	Capital Imp.	\$0	\$0	\$0	\$0	\$250
	Transportation	\$710*	\$710*	\$750	\$750	\$750
	Total	\$710	\$710	\$3,750	\$6,750	\$13,000
Townhome	Affordable Hsg.	\$0	\$0	\$1,000	\$4,000	\$8,000
	Capital Imp.	\$0	\$0	\$1,000	\$1,000	\$1,000
	Transportation	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
	Total	\$1,000	\$1,000	\$3,000	\$6,000	\$10,000
Single-family	Affordable Hsg.	\$0	\$0	\$1,000	\$4,000	\$8,000
	Capital Imp.	\$0	\$0	\$1,000	\$1,000	\$1,000
	Transportation	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
	Total	\$1,000	\$1,000	\$3,000	\$6,000	\$10,000

* Staff proposed delaying the start of all fees in Zone 3 until July 1, 2018, with the exception of the minimum amount to cover CEQA in the first 2 years as shown here in this table.

Nonresidential Impact Fees

There is an existing Jobs/Housing Impact Fee of \$5.44 per square foot as of Fiscal Year (FY) July 1, 2015 – June 30, 2016, on office and warehouse development to provide funding for affordable housing. Therefore, new impact fees for nonresidential uses are for capital improvements and transportation only.

Changes to Impact Fees for Nonresidential Since the January 26, 2016, Agenda Report

Staff followed the tables presented for the nonresidential impact fees in the January 26, 2016, Agenda Report with a few changes (see Table 4). The Transportation Impact Fees were reduced to the minimum amount required to cover the CEQA cumulative impacts for industrial and warehouse land uses in order to further City economic development objectives for business and job growth of industrial business activities as well as the support that these business activities provide for other businesses in Oakland for Port operations and activities, and for artisan and maker business activities. Also, the fee was reduced because of the need for Oakland to be competitive with nearby cities (the Oakland fees for warehouse are already the highest for such uses in all other East Bay cities surveyed). The Transportation Impact Fees were also reduced to the minimum amount required for CEQA in the first two years for institutional to allow for a slightly slower phased in approach.

Table 4: Nonresidential Impact Fees

Nonresidential Impact Fees (Fee is Per Square Foot)						
The Date is Based on When the Applicant Applies for Building Permit						
Use Type	Fee Category	9/1/16 – 6/30/17	7/1/17 – 6/30/18	7/1/18 – 6/30/19	7/1/19 – 6/30/20	7/1/20 – (target fee)
Office*	Capital Imp.	\$0.00	\$0.00	\$1.00	\$1.00	\$2.00
	Transportation	\$0.85	\$0.85	\$1.00	\$1.00	\$2.00
	Total	\$0.85	\$0.85	\$2.00	\$2.00	\$4.00
Retail, Freestanding	Capital Imp.	\$0.00	\$0.15	\$0.25	\$0.25	\$0.50
	Transportation	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75
	Total	\$0.75	\$0.90	\$1.00	\$1.00	\$1.25
Retail, Ground Floor	Capital Imp.	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Transportation	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75
	Total	\$0.75	\$0.75	\$0.75	\$0.75	\$0.75
Industrial	Capital Imp.	\$0.40	\$0.40	\$0.75	\$0.75	\$1.00
	Transportation	\$0.55	\$0.55	\$0.55	\$0.55	\$0.55
	Total	\$0.95	\$0.95	\$1.30	\$1.30	\$1.55
Warehouse*	Capital Imp.	\$0.65	\$0.90	\$1.00	\$1.00	\$1.00
	Transportation	\$0.35	\$0.35	\$0.35	\$0.35	\$0.35
	Total	\$1.00	\$1.25	\$1.35	\$1.35	\$1.35
Hotel/Motel	Capital Imp.	\$0.10	\$0.20	\$0.35	\$0.35	\$0.60
	Transportation	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65
	Total	\$0.75	\$0.90	\$1.00	\$1.00	\$1.25
Institutional	Capital Imp.	\$2.50	\$2.50	\$2.50	\$2.50	\$3.00
	Transportation	\$1.20	\$1.20	\$2.00	\$2.00	\$3.00
	Total	\$3.70	\$3.70	\$4.50	\$4.50	\$6.00

*Existing Jobs/Housing Impact Fee for affordable housing = \$5.44 per square foot for July 1, 2015 – June 30, 2016.

On-Site and Off-Site Affordable Housing Options

As an alternative to payment of the Affordable Housing Impact Fee, a developer has the option in some cases to mitigate their project’s impacts by building affordable units on-site or off-site.

At the February 9, 2016 CED Committee meeting, Councilmembers spoke about the need to have not only stand-alone affordable housing buildings, but also buildings with a mixture of income levels. The February 9, 2016, memorandum (**Attachment C**) stated the need to “...incentivize the creation of on-site affordable housing units in market rate developments.” There are benefits to having projects build affordable units on-site, because such units might be built sooner and would be mixed in with market-rate units. Additionally, the units could be built in neighborhoods with more amenities and better public services that otherwise lack affordable housing opportunities.

In the January 26, 2016, Agenda Report (**Attachment A**) staff recommended calibrating the unit production option so that it had the same cost impact on the project as the impact fee, and allowing the provision of moderate-income and/or lower-income units in the project. The cost of on-site compliance was represented by the difference between the market-rate rent/sales price and the affordable rent/sales price for the affordable units required in a residential development. From the perspective of the market-rate project subject to the requirements, the "cost" is the reduction in revenues from renting or selling a unit at the affordable rent/price instead of the market-rate rent/price. It was assumed that the development costs for the affordable units would be essentially the same as the costs of developing the market-rate units in the project. This analysis was done with the target Affordable Housing Impact Fees for Zones 1 – 3 in order to determine what would be the percentage of on-site affordable units required in the different zones. The percentages under this cost-neutral approach turned out to be low: two percent for very low-income, three percent for low-income, and five percent for moderate-income. Because of the analysis outcome under a cost-neutral approach, staff now recommends a different approach as discussed below.

On-Site and Off-Site Affordable Housing Percentages

Staff proposes to use the same affordable unit percentages required under the existing State Density Bonuses and Other Incentives provisions in Government Code Sections 65915-65918 and the Density Bonus and Incentive Procedure in Chapter 17.107 of the Oakland Planning Code:

1. Moderate Income: 10 percent
2. Low Income: 10 percent
3. Very-Low Income: 5 percent

These percentages are higher than percentages based upon a cost-neutral approach -- two to three times higher in some cases. Staff believes the extra costs associated with providing a higher percentage of affordable units can be offset because the developer can take advantage of the State and local Density Bonus and Incentive Programs in order to bridge the gap between the cost of the impact fees and the cost of building on-site. The State and local Density Bonus and Incentives Programs award additional allowable density and certain development incentives to projects with affordable units. The more affordable units provided; the larger the density bonus and the more incentives that are available. Incentives include, but are not limited to, reduction in development standards: required off-street parking, required setbacks, maximum building height, required open space, maximum floor-area ratio, minimum lot area, and minimum courtyards. Other cities use similar measures for on-site development to take advantage of the density bonus program.

The proposal requires 10 percent affordable units for both low-income and moderate-income units, however, under the Density Bonus and Incentives Program there are higher density bonuses for providing low-income units as opposed to moderate-income units. So although moderate-income units are less expensive for the developer to provide compared to low-income units, providing low-income units allows for larger density bonuses. Also, these percentages are the minimums for the Density Bonus and Incentive Program. Projects may opt to provide higher percentages in order to take advantage of larger bonuses and more incentives.

The proposal includes an adjustment to Density Bonus and Incentives Program for projects subject to the Impact Fees in order to provide an option for moderate-income rental housing. Projects providing moderate-income rental units may take advantage of the bonuses and incentives that otherwise only apply to moderate-income for-sale units under the Density Bonus and Incentive Program. This approach is consistent with the goal of providing a framework to fund and develop housing at all income levels. Without a provision for on-site moderate-income rental units, staff expects very few moderate-income units would be developed under this program and there are limited other options for encouraging moderate-income housing production. Furthermore, the Affordable Housing Impact Fee Nexus Analysis found that a share of the additional households requiring affordable housing will be of moderate income so it is important to provide a mechanism to generate moderate-income units.

Staff further believes that requiring a higher percentage of affordable units would create a disincentive for on-site development which is inconsistent with City goals for mixed-income buildings and neighborhoods. Staff recommends that the City revisit these percentages as the Affordable Housing Impact Fee Program is implemented to see what type of housing is being constructed and whether the percentages should be adjusted to encourage the desired type of housing production.

Under the draft ordinance, off-site development of affordable housing units requires approval of the City Council and the off-site affordable housing must be located within one-half mile of the development project, unless an exception is approved by the City Council.

Staff received a proposal from East Bay Housing Organizations (EBHO) for a target on-site percentage of 22 percent (11% very low-income and 11% low-income). This is included with this report as **Attachment H**. Staff believes that if percentage rates are set this high, developers will not likely choose to build on-site because it will be significantly cheaper to pay the impact fee. Therefore, the goal of having mixed income buildings will likely not be achieved.

Other Related Changes to Jobs/Housing Impact Fee

See Sections 7 and 8 of the Affordable Housing Impact Fees Ordinance for minor changes to the existing Jobs/Housing Impact Fee chapter, which include the following:

- Changing the definition for “affordable housing” in the new Affordable Housing Trust Fund chapter to allow funds deposited from the Affordable Housing Impact Fees to be used for moderate-income housing and not just low income and very low-income households. The new definition does not affect the Jobs/Housing Impact Fees and “boomerang funds” which are still restricted to use only for low- and very low-income households.
- Updating the office and warehouse/distribution definitions to conform to the updated definitions in the Planning Code
- Codifying the Municipal Code provisions related to the Affordable Housing Trust Fund into a new chapter

FISCAL IMPACT

The fiscal benefit of the revenues generated by the impact fees is dependent on the set fee amounts of the fee phase in, and the level of development activity that takes place and is subject to the fee. Based on the current proposal described above (Tables 1 – 4), the total revenue generated over 10 years of the program is estimated to be \$85.6 million. Of this total, \$65 million (76%) would be generated by the Affordable Housing Impact Fee, \$8.6 million (10%) by the Capital Improvements Impact Fee, and \$12 million (14%) by the Transportation Impact Fee. This 10-year estimate is based on a development projection of 10,000 total housing units of which approximately 6,000 would not pay the fee because of either vested rights or development agreements. Of the 6,000 units, about 4,000 units are in projects with agreements (e.g., development agreement, disposition and development agreement) that require some type of community benefits. The development projection also includes 3.6 million square feet of commercial and industrial space of which 200,000 square feet is estimated to not pay the fee due to either vested rights or development agreements.

The Mitigation Fee Act requires annual monitoring and reporting and a five-year update of the Impact Fees. Staff analyzed the potential costs of administering and implementing the program, including these monitoring and reporting requirements, and estimates that the costs would equal approximately two percent (2%) of the fee revenue (see **Attachment I**), which is consistent with the administrative costs of impact fee programs of other jurisdictions. Pursuant to the Mitigation Fee Act, the City can use fee revenues to reasonably cover the administration costs of the program.

Staff is proposing that a new appeal fee be added to the Master Fee Schedule (as calculated in **Attachment I**) that would be paid by applicants appealing the application of the impact fees. This fee would cover staff costs associated with processing the appeal.

PUBLIC OUTREACH / INTEREST

City Staff and the consultants made various focus group presentations about the Impact Fee Nexus Study and Economic Feasibility Analysis process, as well as convened six (6) Stakeholder Working Group meetings. The intent of these meetings was to engage and inform stakeholders and to seek input on policy issues prior to staff presenting its proposal to the City Council. For further information on the public outreach/interest see this same section of the January 26, 2016, Agenda Report (**Attachment A**).

COORDINATION

Project management, policy guidance, and implementation was coordinated with the City Administrator's Office, Office of the City Attorney, and the Planning and Building Department as well as the Public Works, Housing and Community Development, Police, Fire, and Parks and Recreation Departments along with other departments, as appropriate, based on the topic(s) addressed.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed impact fees will require private development to fund its fair share of affordable housing, transportation and capital improvements infrastructure in a manner that does not hamper new development. The application of the development impact fee process will help provide certainty about development costs.

Environmental: Establishing impact fees could pay for the impacts that a potential project creates and serve to mitigate the cumulative transportation impacts.

Social Equity: Establishing impact fees on new development could provide funding for affordable housing units and transportation and capital improvements infrastructure. These funds will be used to mitigate impacts of new development citywide.

CEQA

Adoption of an impact fee program is (1) not a Project under CEQA and is therefore exempt pursuant to CEQA Guidelines section 15378 (b)(4); (2) statutorily exempt pursuant to CEQA Guidelines section 15273(4) (Rates, Tolls, Fares and Charges for obtaining funds for capital projects necessary to maintain service within existing service area); (3) at least for the housing component, statutorily exempt pursuant to CEQA Guidelines section 15267 (Financial Assistance to Low or Moderate Income Housing); (4) not intended to apply to specific capital improvement projects and as such it would be 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 (5) not intended to, nor does it, provide CEQA clearance for future development-related projects by mere payment of the fees. Each of the foregoing provides a separate and independent basis for CEQA compliance and when viewed collectively provides an overall basis for CEQA compliance.

See **Attachment J** for the "Oakland Impact Fee Program CEQA Compliance" prepared by Lamphier-Gregory dated March 10, 2016.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And, Upon Conclusion, Adopt:

- (a) An Ordinance (1) Amending The Oakland Municipal Code To Establish City-Wide Affordable Housing Impact Fees And Make Related And Conforming Amendments, Including Minor Amendments For Consistency Purposes To The Jobs-Housing Impact Fee Codified In OMC Chapter 15.68, (2) Amending The Master Fee Schedule (Ordinance No. 13320, C.M.S., As Amended) To Include The Affordable Housing Impact Fees, And (3) Adopting CEQA Exemption Findings; And
- (b) An Ordinance (1) Amending The Oakland Municipal Code To Establish City-Wide Transportation And Capital Improvements Impact Fees And Make Related And Conforming Amendments, (2) Amending The Master Fee Schedule (Ordinance No. 13320, C.M.S., As Amended) To Include The Transportation And Capital Improvements Impact Fees, And (3) Adopting CEQA Exemption Findings

For questions regarding this report, please contact Laura Kaminski, Planner III, at (510) 238-6809.

Respectfully submitted,



DARIN RANELLETTI
Deputy Director, Planning and Building
Department

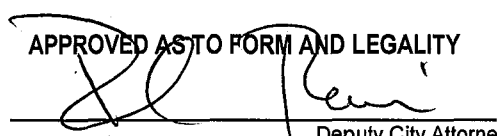
Prepared by:
Laura Kaminski, Planner III
Strategic Planning Division

Attachments (10):

- A. January 26, 2016, Agenda Report, City-Wide Affordable Housing, Transportation, and Capital Improvements Impact Fee Proposal
- B. February 9, 2016, Agenda Report, Supplemental Report, City-Wide Affordable Housing, Transportation, and Capital Improvements Impact Fee Proposal

Item: _____
CED Committee
March 22, 2016

- C. February 9, 2016, Memo, Motion to Adopt a Citywide Housing, Transportation, and Capital Improvements Impact Fee, from Honorable Lynette Gibson McElhaney, Annie Campbell Washington, Abel Guillen, and Dan Kalb
- D. "Oakland Affordable Housing Impact Fee Nexus Analysis" prepared by Vernazza Wolfe Associates, Inc., and Hausrath Economics Group (HEG) dated March 10, 2016
- E. "Oakland Transportation and Capital Improvement Impact Fee Nexus Analysis" prepared by Urban Economics with Hausrath Economics Group, BKF Engineers, and Fehr & Peers dated March 10, 2016
- F. Target Impact Fees With Maximum Legal Impact Fees Tables
- G. Maps of Impact Fee Zones for Residential Projects
- H. East Bay Housing Organizations (EBHO) On-Site Proposal
- I. Development Impact Fees: Program Administrative Cost Analysis
- J. "Oakland Impact Fee Program CEQA Compliance" prepared by Lamphier-Gregory dated March 10, 2016



Deputy City Attorney

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OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

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ORDINANCE No. _____ C.M.S.

AN ORDINANCE (1) AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH CITY-WIDE AFFORDABLE HOUSING IMPACT FEES AND MAKE RELATED AND CONFORMING AMENDMENTS, INCLUDING MINOR AMENDMENTS FOR CONSISTENCY PURPOSES TO THE JOBS-HOUSING IMPACT FEE CODIFIED IN OMC CHAPTER 15.68, (2) AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13320, C.M.S., AS AMENDED) TO INCLUDE THE AFFORDABLE HOUSING IMPACT FEES, AND (3) ADOPTING CEQA EXEMPTION FINDINGS

WHEREAS, existing local, state and federal resources are insufficient to meet the City of Oakland's needs for affordable housing; and

WHEREAS, 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; and

WHEREAS, that growth of household consumer expenditures supports job growth and new employment opportunities in Oakland; and

WHEREAS, these new employment opportunities will attract new workers to Oakland; and

WHEREAS, many of those new workers will seek housing and choose to live in Oakland; and

WHEREAS, many of those new worker households are moderate-, low-, or very low-income households, and this job growth will increase the demand for affordable housing for these income groups in Oakland, particularly since the increase in jobs is generally in the lower wage-paying sectors such as retail trade and services; and

WHEREAS, 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; and

WHEREAS, the City of Oakland has a critical need to ensure that impacts from new development on the need for affordable housing are addressed, and development impact fees are a commonly-used mechanism to address this need; and

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

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

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

WHEREAS, many cities and counties have adopted and imposed affordable housing impact fees on new development to address new developments' impacts on the need for affordable housing; and

WHEREAS, in 2013, the City Council "initiated proceedings" to adopt impact fees by directing staff to prepare a nexus study for development impact fees for transportation, capital improvements, and affordable housing, and identified and appropriated funding for this purpose; and

WHEREAS, policies supporting development impact fees for affordable housing, transportation, and capital improvements are included in the recently adopted specific plans, and related General Plan amendments, for the Broadway Valdez District, West Oakland, Lake Merritt Station Area, and Coliseum Area, as well as the 2015-2023 Housing Element, Open Space, Conservation and Recreation Element, and 1998 Land Use and Transportation Element ("LUTE") of the City's General Plan; and

WHEREAS, on December 9, 2014, the City Council, via Resolution No. 85307 C.M.S., further initiated proceedings by authorizing the City Administrator to enter into a professional services contract with Hausrath Economics Group ("HEG") to conduct a Citywide impact fee nexus study and implementation strategy; and

WHEREAS, HEG and Vernazza Wolfe Associates, Inc., have conducted a nexus study in accordance with the Mitigation Fee Act (the "Nexus Study"), and prepared a report on the Nexus Study entitled "Oakland Affordable Housing Impact Fee Nexus Analysis," for the City of Oakland, dated March 10, 2016, a copy of which was previously provided to the City Council and made available to the public; and

WHEREAS, the Nexus Study 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; and

WHEREAS, the Nexus Study has documented and confirmed that market-rate housing development in Oakland will result in further induced growth in consumer expenditures and job growth, and that such growth will increase the need for affordable housing in the City; and

WHEREAS, the Nexus Study further identified the location and types of market-rate housing development that will generate those impacts, , and established the reasonable relationship between the location and type of market-rate development projects paying the fees and the need for affordable housing generated by such development; and

WHEREAS, the Nexus Study has 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 development project based on the average affordability gap per new market-rate unit built; and

WHEREAS, through the payment of the fee, developers of market rate housing will address at least a portion of the impact of their developments on the need for affordable housing; and

WHEREAS, impacts fees are necessary to produce an adequate level of affordable housing to address these impacts; and

WHEREAS, the proposed impact fees adopted under this Ordinance are lower than the maximum legal fees documented in the Nexus Study; and

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

WHEREAS, HEG also studied the economic feasibility of new market-rate residential development in Oakland to provide a basis for creating an impact fee program that can be implemented without adversely affecting Oakland's ability to attract new development; and

WHEREAS, the affordable housing impact fees adopted under this Ordinance, along with impact fees for transportation and capital improvements, support development of housing for all income levels, and balances the need for more affordable housing with the goal of not impeding the construction of new market-rate housing; and

WHEREAS, affordable housing impact fee proposals were discussed in six Stakeholder Working Group meetings which consisted of City staff and an ad-hoc panel of technical experts representing a cross section of stakeholders with interests associated with the impact fee program, and such materials were also made available to the public; and

WHEREAS, impact fees were scheduled to be considered at regular, duly noticed (including newspaper ads published on November 27, 2015; December 26, 2015; and January 9, 2016) meetings of the Community and Economic Development Committee of the City Council ("Committee"), but were rescheduled to the regular, duly noticed, meetings on January 22, 2016 and February 9, 2016; and

WHEREAS, the Committee recommended city staff return with revised impact fees and accompanying legislation; and

WHEREAS, affordable housing impact fees were considered at a regular, duly noticed, meeting of the Committee on March 22, 2016, and the Committee recommended adoption of this Ordinance; and

WHEREAS, this Ordinance was considered, after a duly noticed public hearing, at a regular meeting of the City Council on April 19, 2016; now, therefore

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

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

Section 2. The City Council 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; and/or (5) not intended to, nor does it, provide CEQA clearance for future development-related projects by mere payment of the fees. Each of the foregoing provides a separate and independent basis for CEQA compliance and when viewed collectively provides an overall basis for CEQA compliance.

Section 3. This Ordinance shall be known as the “Affordable Housing Impact Fee Ordinance.”

Section 4. Chapter 15.72 is hereby added to the Oakland Municipal Code to read as follows:

Chapter 15.72

AFFORDABLE HOUSING IMPACT FEES

Article I – General Provisions

15.72.010 – Purpose.

15.72.020 – Findings.

15.72.030 – Definitions.

15.72.040 – Applicability.

Article II – Fee Requirements and Procedures

15.72.050 – Amount of Impact Fees.

15.72.060 – Impact Fee Zones.

15.72.070 – Payment of Impact Fees.

15.72.080 – Reductions, Waivers, and Appeals.

15.72.090 – Enforcement.

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

15.72.100 – On-Site Affordable Housing Option.

15.72.110 – Off-Site Affordable Housing Option.

Article IV – Miscellaneous

15.72.120 – Administrative Regulations.

15.72.130 – Conflicting Provisions.

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 development projects pay their fair share to compensate for the increased demand for affordable housing generated by such development projects within the City of Oakland.

15.72.020 – Findings.

- A. The City of Oakland conducted a nexus study 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. 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.
- 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 development 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. Through the payment of the fee, developers of market-rate housing will address at least a portion of the impact of their developments on the need for affordable housing. Revenue

from the fees will be used to preserve and expand the supply of affordable housing in Oakland.

- I. 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.

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 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.

"Affordable Housing" means 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 Development Project.

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

“City” means the City of Oakland.

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

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

"Development Project" means any activity resulting in Additional Housing Units in a new or existing building requiring the issuance of a building permit by the City.

“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.

“Impact Fee” means the Affordable Housing Impact Fee imposed under this chapter as set forth in the City’s Master Fee Schedule, as the Affordable Housing Impact Fee may be adjusted for inflation pursuant to Section 15.72.050.

"Low-Income Household" shall be as defined in California Health and Safety Code Section 50079.5 and its implementing regulations.

“Moderate-Income Household” means persons and families of low or moderate income as defined in California Health and Safety Code Section 50093 and its implementing regulations.

“Multi-Family Housing” means those uses that fall under any of the following use facility types as defined in Chapters 17.10, 17.65, 17.101C, 17.101E and 17.102 of the Oakland Planning Code:

- Multifamily Dwelling Residential Facilities, except facilities that meet the definition of Townhome Housing;
- Live/Work Residential Facilities (as defined in Chapters 17.65 and 17.101E);
- Work/Live Nonresidential Facilities (as defined in Chapters 17.65 and 17.101E in a D-CE-3 or D-CE-4 Zone);
- Micro Living Quarters Facilities (as defined in Chapter 17.101C);
- Joint Living and Work Quarters (as defined in Section 17.102.190);
- Residentially-Oriented Joint Living and Working Quarters (in Section 17.102.195); or
- Rooming House Residential Facilities that are not part of an institutional dormitory and are not associated with any the following Activities:
 - Residential Care Residential Activities;
 - Supportive Housing Residential Activities;
 - Transitional Housing Residential Activities;
 - Emergency Shelter Residential Activities; or
 - Semi-Transient Residential Activities.

“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 housing units;
- One-Family Dwelling with Secondary Unit Residential Facilities; or
- Mobile Home Residential Facilities.

“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;
- Two-Family Dwelling Residential Facilities; or
- Multifamily Dwelling Residential Facilities consisting of housing units arranged in a single horizontal row with abutting sidewalls.

“Use Fee Category” means Multi-Family Housing, Single-Family Housing or Townhome Housing.

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

15.72.040 – Applicability.

The regulations, requirements and provisions of this chapter shall apply to any Development Project, unless exempt from this chapter. The Applicant for any Development Project, 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 Development Project for which a Complete Building Permit Application is submitted on or after September 1, 2016, must pay the Impact Fee 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 in effect at the time that the Development Project does meet all the criteria.

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 60 days after the adoption of this chapter.

B. Exemptions based on submittal date. Any Development 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 Development 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 years of the building permit being issued.

In addition, Development Projects that obtain a vested right, as defined by California law, no later than 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. Secondary Units, as defined in Section 17.04.090 of the Oakland Planning Code; or
2. Affordable Housing projects.

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.

The Impact Fees shall be calculated for each Development 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:

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

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 from January to January in the residential building cost index published by Marshall and Swift, or if such index ceases to be published, by an equivalent index chosen by the City Administrator, with appropriate adjustments for regional and local construction costs as necessary. The adjustment shall be automatically effective whether or not the Master Fee Schedule has been amended to reflect the adjustment.

15.72.060 – Impact Fees Zones.

The Impact Fee amount shall be based upon the Impact Fee Zone in which the Development Project 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 two 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 Development Project subject to this chapter unless the final installment of the Impact Fee is paid to the Building Official. The 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 Development 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 Appeals.

A. Reductions, Waivers, and Appeals to the Impact Fees. 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 Development 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 Development 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 Development 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 Development 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 Development Project; and/or
5. That application of the requirements of this chapter to a Development 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 reduction, waivers and/or appeals of the Impact Fee must be made no later than the date of application for the building permit for the Development Project on a form provided by the City, and shall include payment of fees as established in the Master Fee Schedule. The burden of establishing by satisfactory factual proof the applicability and elements of this Section shall be on the Applicant. The Applicant must submit full information in support of their submittal as requested by the City Administrator. Failure to raise each and every issue that is contested in the application and provide appropriate supporting evidence will be grounds to deny the application and will also preclude the Applicant from raising such issues in court. Failure to submit such an application shall 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 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 Development Project for the amount of the Impact Fee;
3. Revoke or suspend the temporary certificate of occupancy and/or certificate of occupancy for the Development Project;
4. Take any other action necessary and appropriate to secure payment, with interest accruing from the date of nonpayment; and/or
5. Assess civil penalties against an Applicant and/or associated parcel owner who fails to comply with this chapter, including failure to pay the impact fees, pursuant to Chapter 1.08 of this Code.

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

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 Development Project, 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 Development Project property in the amount of any charge and interest owed, and the City may revoke or suspend the certificate of occupancy for the Development Project 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 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 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.

15.72.110 – Off-Site Affordable Housing Option.

An Applicant for a Development Project 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 Section 15.72.100.B at a site other than the location of the Development Project; 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 Development Project, 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 Development Project. 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 Development Project. 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 Development Project.

Article IV – Miscellaneous.

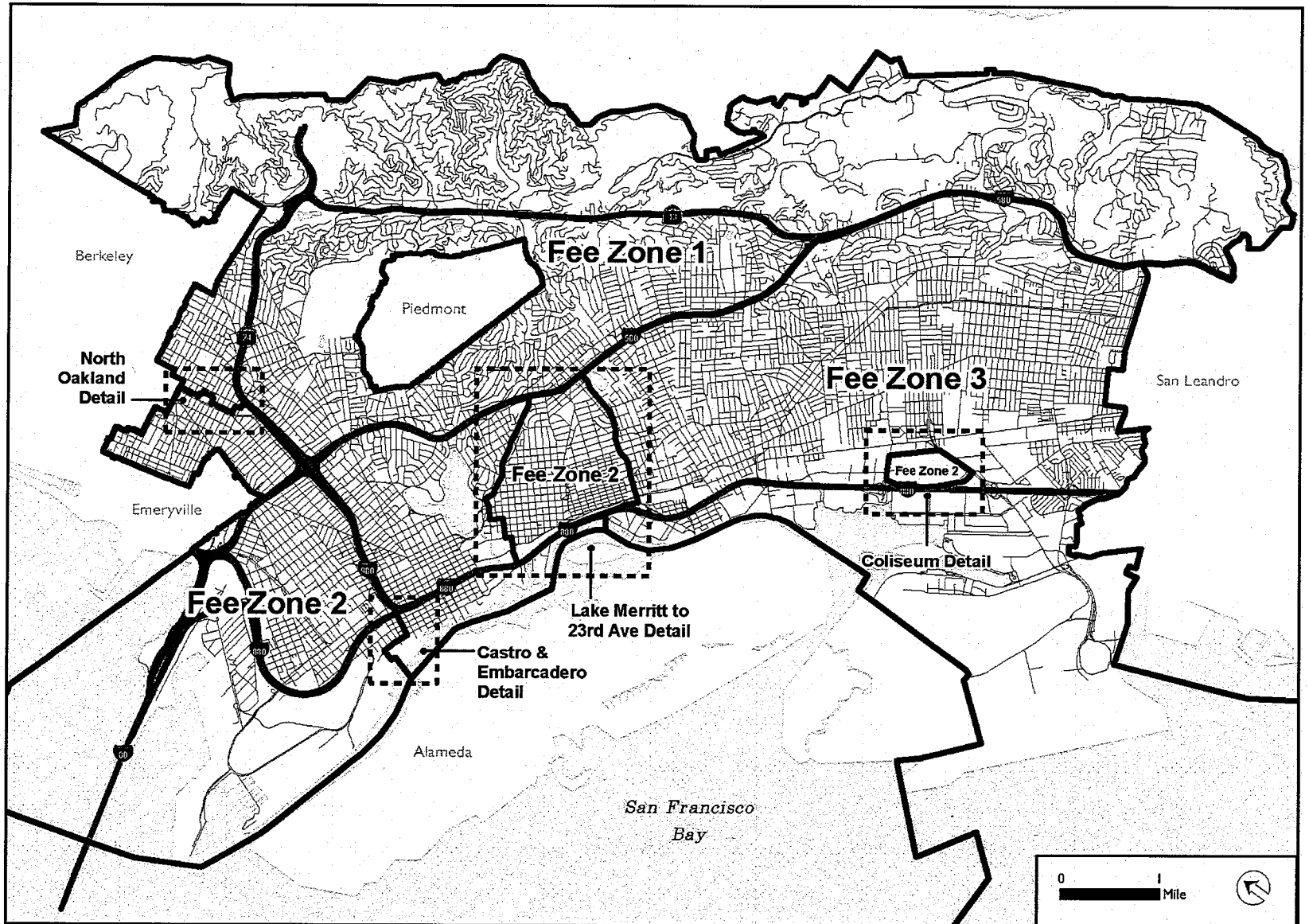
15.72.112 – Administrative Regulations.

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 may consider necessary to achieve the purposes of this chapter.

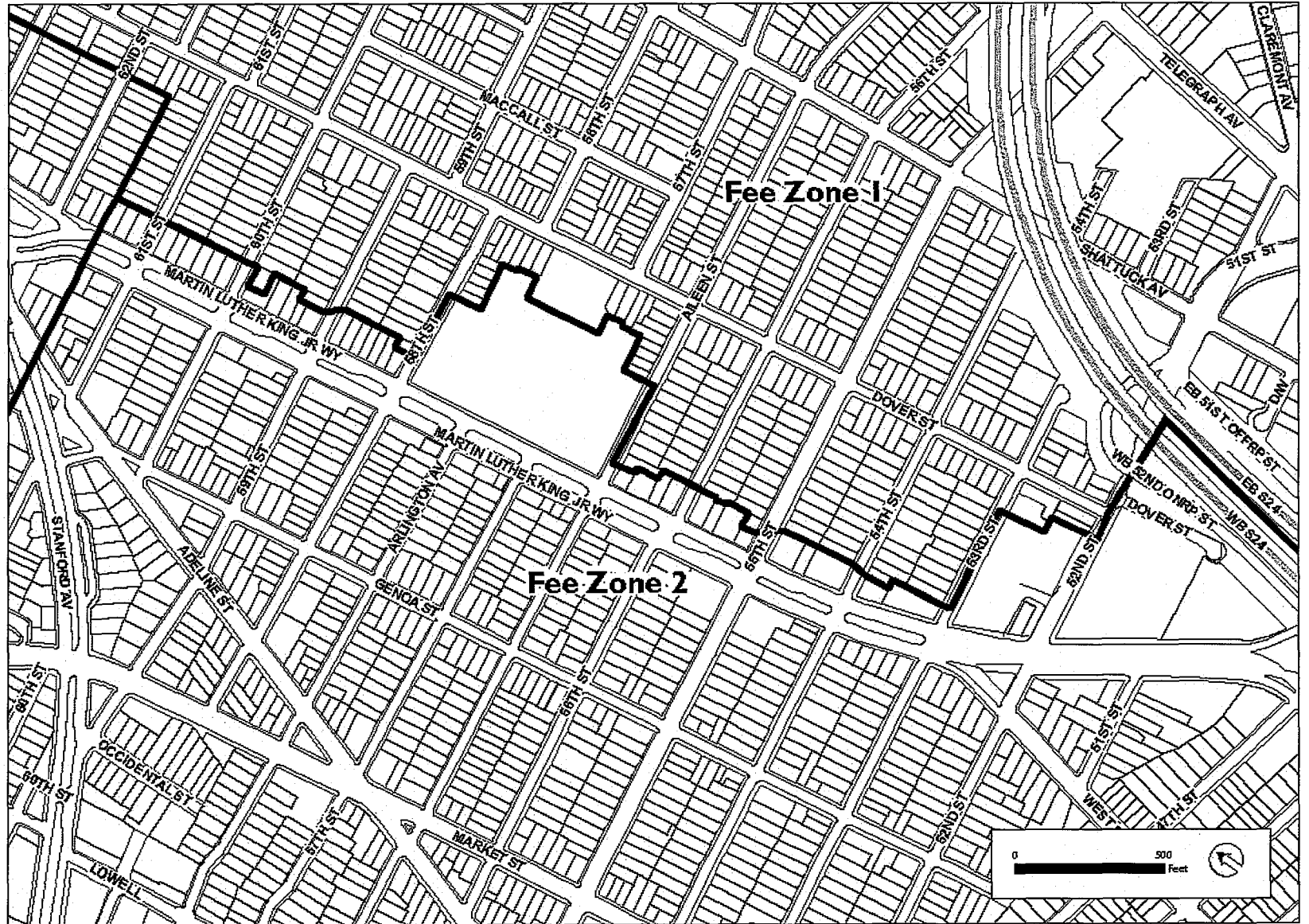
15.72.130 – Conflicting Provisions.

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

15.72.140 – Impact Fees Zone Maps.

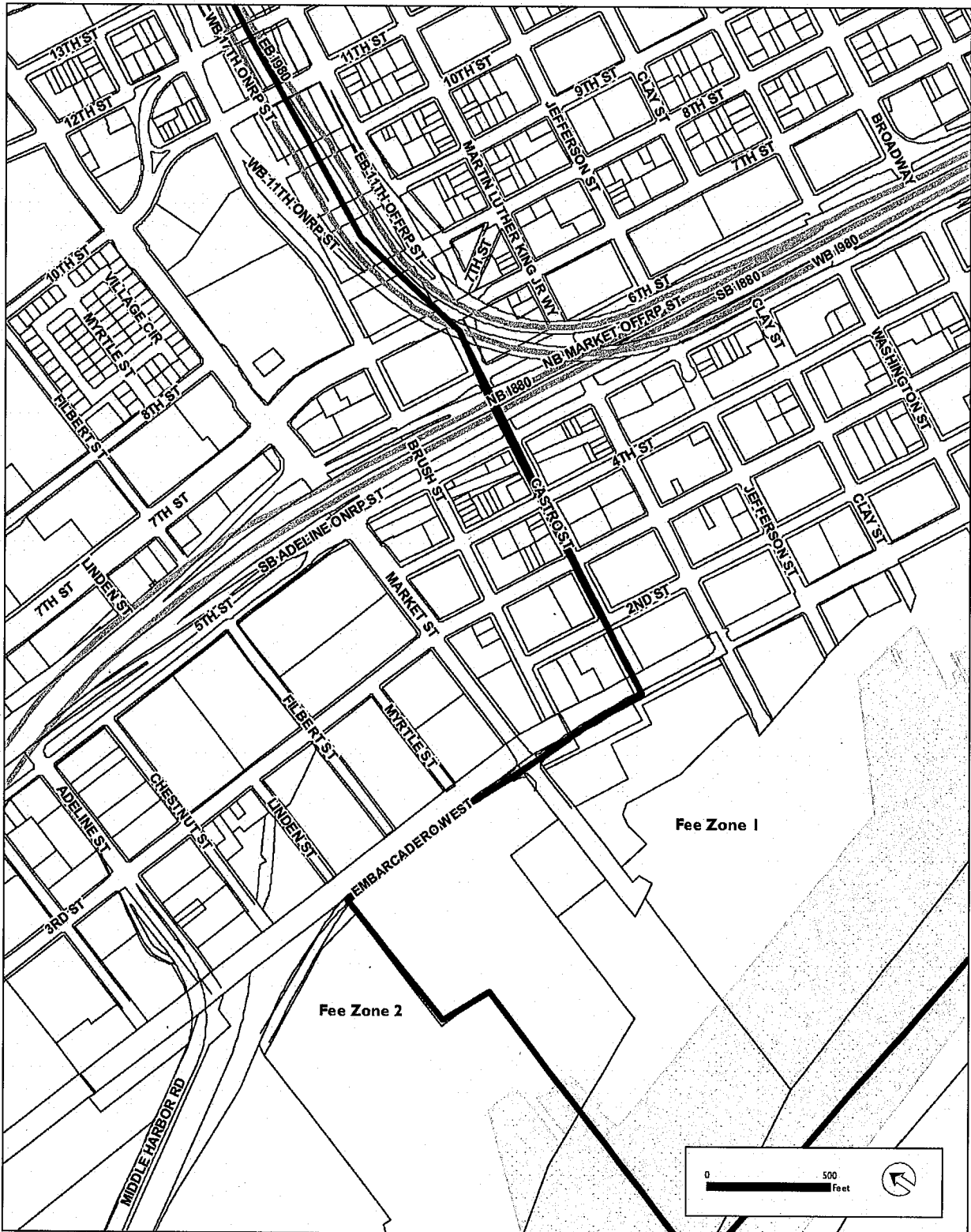


Impact Fee Zones for Residential Projects



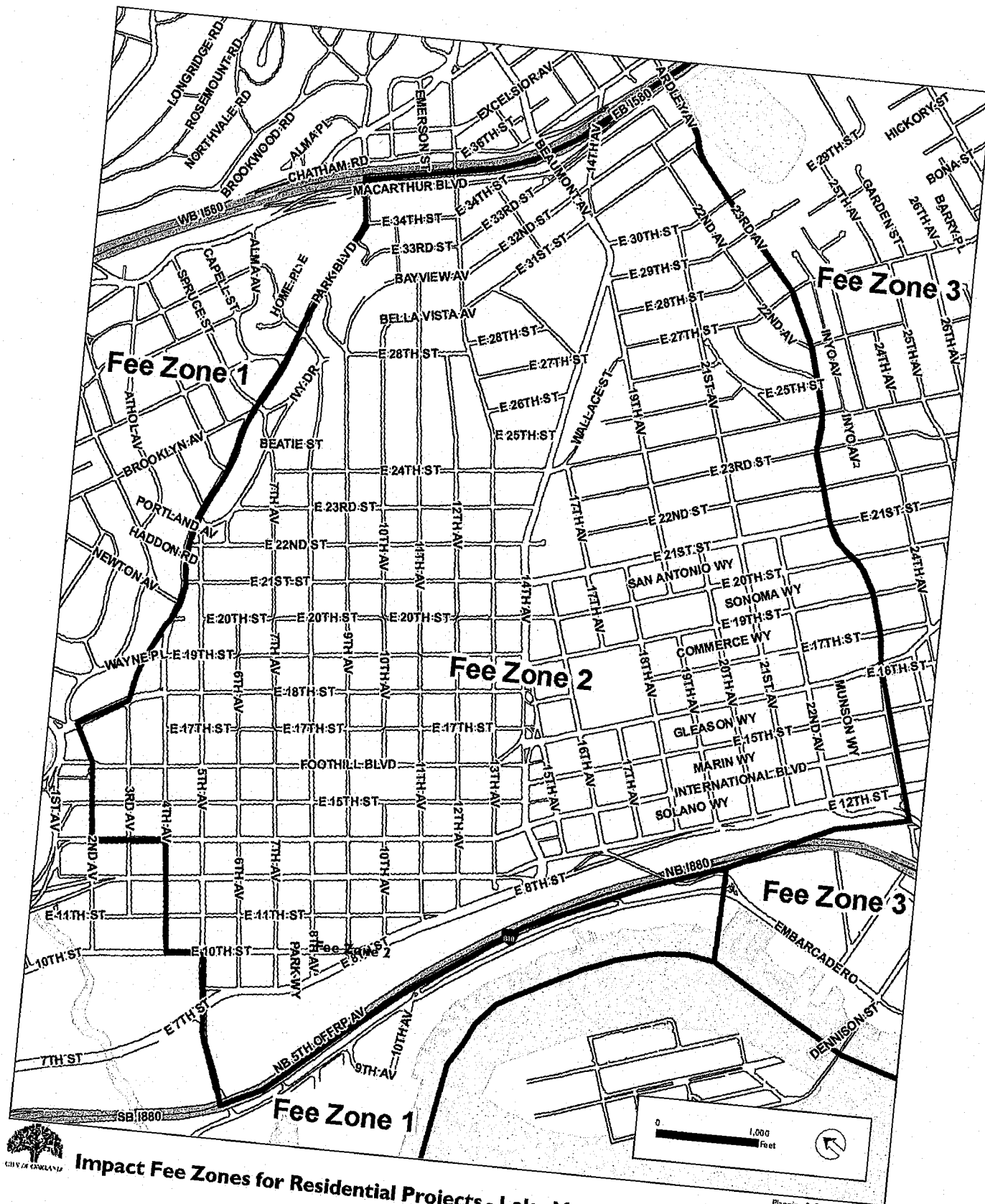
Impact Fee Zones for Residential Projects - North Oakland Detail

Planning & Building Department
March 10, 2016



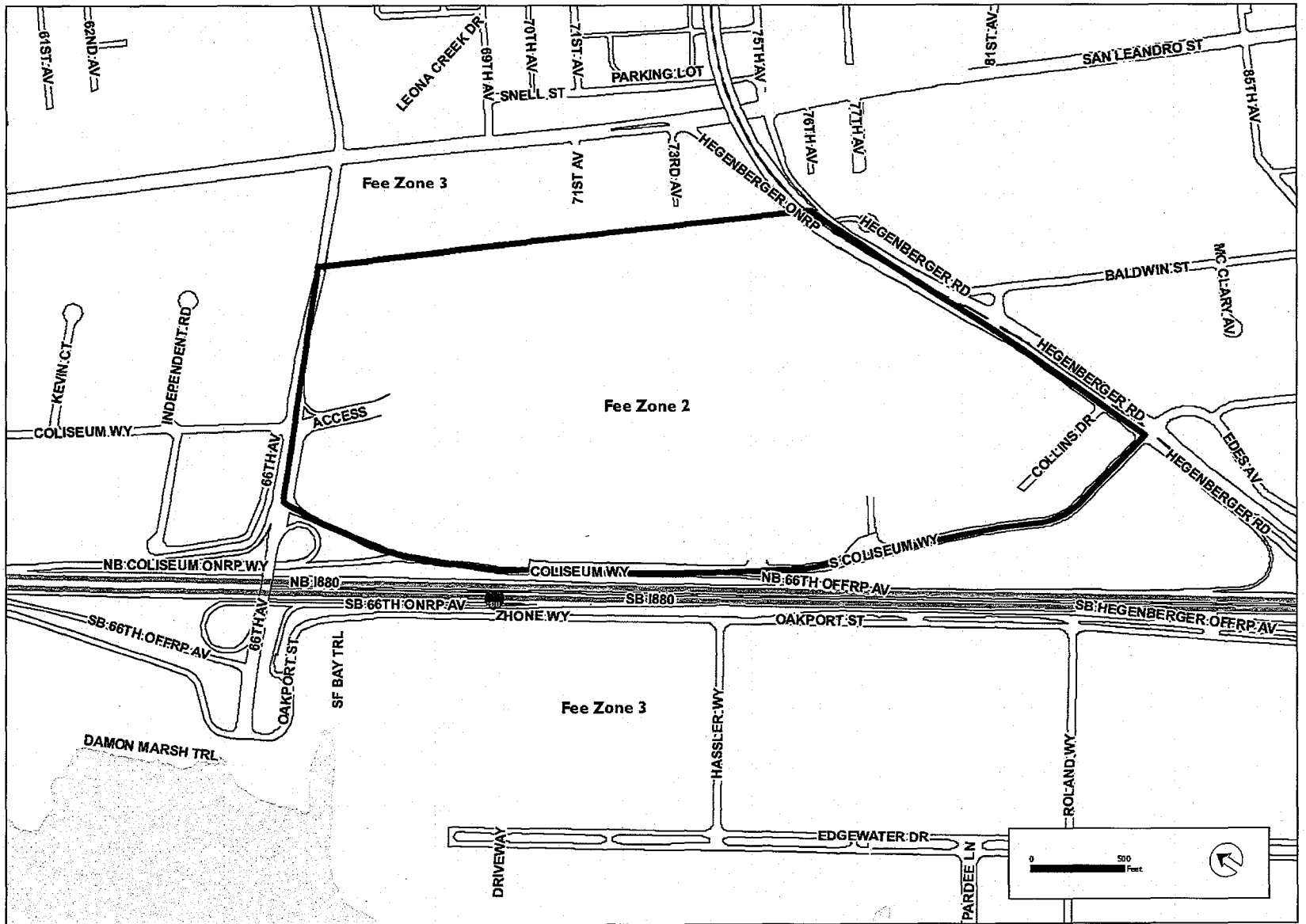
Impact Fee Zones for Residential Projects- Castro St & Embarcadero Detail

Planning & Building Department
March 10, 2016



Impact Fee Zones for Residential Projects - Lake Merritt to 23rd Ave Detail

Planning & Building Department
March 10, 2016



Impact Fee Zones for Residential Projects - Coliseum Detail

Section 5. The following is hereby added to the Master Fee Schedule (Ordinance No. 13320 C.M.S., as amended):

FEE DESCRIPTION	FEE UNIT
PLANNING & ZONING	
V. AFFORDABLE HOUSING IMPACT FEE (Effective Sept. 1, 2016 to Jun. 30, 2017)	
1 Multi-Family Housing	
a. Zone 1	5,500.00 Unit
b. Zone 2	4,550.00 Unit
c. Zone 3	0.00 Unit
2 Townhome Housing	
a. Zone 1	6,500.00 Unit
b. Zone 2	2,600.00 Unit
c. Zone 3	0.00 Unit
3 Single-Family Housing	
a. Zone 1	6,000.00 Unit
b. Zone 2	3,750.00 Unit
c. Zone 3	0.00 Unit
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 15.72.140 for the map of the above zones.	
4 Appeals	
a. Filing Fee	4,010.43 Appeal
W. AFFORDABLE HOUSING IMPACT FEE (Effective Jul. 1, 2017 to Jun. 30, 2018)	
1 Multi-Family Housing	
a. Zone 1	11,500.00 Unit
b. Zone 2	9,250.00 Unit
c. Zone 3	0.00 Unit
2 Townhome Housing	
a. Zone 1	12,000.00 Unit
b. Zone 2	7,200.00 Unit
c. Zone 3	0.00 Unit
3 Single-Family Housing	
a. Zone 1	12,500.00 Unit
b. Zone 2	9,000.00 Unit
c. Zone 3	0.00 Unit
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 15.72.140 for the map of the above zones.	
4 Appeals	
a. Filing Fee	4,010.43 Appeal

FEE DESCRIPTION	FEE UNIT
X. AFFORDABLE HOUSING IMPACT FEE (Effective Jul. 1, 2018 to Jun. 30, 2019)	
1 Multi-Family Housing	
a. Zone 1	22,000.00 Unit
b. Zone 2	17,750.00 Unit
c. Zone 3	3,000.00 Unit
2 Townhome Housing	
a. Zone 1	20,000.00 Unit
b. Zone 2	14,250.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	23,000.00 Unit
b. Zone 2	16,500.00 Unit
c. Zone 3	1,000.00 Unit
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 15.72.140 for the map of the above zones.	
4 Appeals	
a. Filing Fee	4,010.43 Appeal
Y. AFFORDABLE HOUSING IMPACT FEE (Effective Jul. 1, 2019 to Jun. 30, 2020)	
1 Multi-Family Housing	
a. Zone 1	22,000.00 Unit
b. Zone 2	17,750.00 Unit
c. Zone 3	6,000.00 Unit
2 Townhome Housing	
a. Zone 1	20,000.00 Unit
b. Zone 2	14,250.00 Unit
c. Zone 3	4,000.00 Unit
3 Single-Family Housing	
a. Zone 1	23,000.00 Unit
b. Zone 2	16,500.00 Unit
c. Zone 3	4,000.00 Unit
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 15.72.140 for the map of the above zones.	
4 Appeals	
a. Filing Fee	4,010.43 Appeal
Z. AFFORDABLE HOUSING IMPACT FEE (Beginning Jul. 1, 2020)	
1 Multi-Family Housing	
a. Zone 1	22,000.00 Unit
b. Zone 2	17,750.00 Unit
c. Zone 3	12,000.00 Unit
2 Townhome Housing	
a. Zone 1	20,000.00 Unit
b. Zone 2	14,250.00 Unit
c. Zone 3	8,000.00 Unit
3 Single-Family Housing	
a. Zone 1	23,000.00 Unit
b. Zone 2	16,500.00 Unit
c. Zone 3	8,000.00 Unit
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 15.72.140 for the map of the above zones.	
4 Appeals	
a. Filing Fee	4,010.43 Appeal

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

1.08.20 - Scope.

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

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

Section 7. Chapter 15.68 of the Oakland Municipal Code is hereby retitled “JOBS/HOUSING IMPACT FEE.” Portions of Chapter 15.68 are hereby amended as follows (language added is indicated with double-underlined text, and deleted language is indicated with ~~strikeout text~~):

- Section 15.68.010 is amended to read as follows: “The purpose of this chapter is to establish a Jobs/Housing Impact Fee ~~and an Affordable Housing Trust Fund~~ in the City of Oakland to assure that certain commercial development projects compensate and mitigate for the increased demand for affordable housing generated by such development projects within the City of Oakland.”
- Section 15.68.020.H is amended to read as follows: “The jobs/housing impact fee ~~and Affordable Housing Trust Fund~~ created by this chapter serves 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.”
- The definition of “City Manager” in Section 15.68.030 is amended to read as follows: ““City Manager Administrator” means the City Manager Administrator of the City of Oakland or his or her designee(s).” All references in Chapter 15.68 to the “City Manager” shall instead refer to the “City Administrator.”
- The definition of “Office” in Section 15.68.030 is amended to read as follows: ““Office” means those uses that fall under any of the following use activity types as defined in the City of Oakland Planning Code:
Medical Service Commercial Activities (Section 17.10.330);
~~General Personal~~Consumer Service Commercial Activities (Section 17.10.350);
Consultative and Financial Service Commercial Activities (Section 17.10.360);
Administrative Commercial Activities (Section 17.10.390);
Business, ~~and Communication, and Media~~ Service Commercial Activities (Section 17.10.400); or

Research Service Commercial Activities (Section 17.10.420).”

- The definition of “Warehouse/distribution” in Section 15.68.030 is amended to read as follows: “Warehouse/distribution” means those uses that fall under any of the following use activity types as Transport and Warehousing Commercial Activities defined in the City of Oakland Planning Code Section 17.10.50083: Warehousing, Storage, and Distribution Industrial Activities.”
- Section 15.68.100 (Affordable Housing Trust Fund) is hereby deleted, and the language therein moved to a new Chapter 15.62 as set forth below. The definitions of “affordable housing”, “lower income household”, “substantial rehabilitation”, and “very low income household” are hereby deleted from Section 15.68.030.

Section 8. Chapter 15.62 is hereby added to the Oakland Municipal Code to read as follows (language added to the language in the former Section 15.68.100 is indicated with double-underlined text, and language deleted from the language in the former Section 15.68.100 is indicated with ~~strikeout text~~):

Chapter 15.62

AFFORDABLE HOUSING TRUST FUND

15.62.010 Establishment and purpose.

The City Administrator shall establish an Affordable Housing Trust Fund to provide assistance in developing and maintaining affordable housing in the City.

15.62.020 Definitions.

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

"Affordable housing" means housing that is provided at an affordable rent or an affordable housing cost to lower income households or very low income households, except as provided for below. The terms "affordable rent" and "affordable housing cost" shall be as defined in California Health and Safety Code Sections 50053 and 50052.5 and their implementing regulations. Such housing shall have terms of affordability equivalent to those prescribed in California Health and Safety Code Sections 33334.3(f)(1)(A) for rental housing and 33334.3(f)(1)(B) for owner occupied housing. Notwithstanding the above, for funds deposited into the Affordable Housing Trust Fund from the Affordable Housing Impact Fees, “affordable housing” means housing that is provided at an affordable rent or an affordable housing cost to moderate income households, lower income households or very low income households.

“City Administrator” means the City Administrator of the City of Oakland or his or her designees.

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

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

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

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

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

15.62.030 Funding sources.

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

A. Jobs/Housing Impact Fees. The Affordable Housing Trust Fund shall receive all monies from Jobs/Housing Impact Fees contributed pursuant to Sections 15.68.050 and 15.68.060 of this Code chapter, ~~as well as those funds indicated below.~~

B. Redevelopment Dissolution Funds. An amount equal to twenty-five percent 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. ~~For purposes of this section, the "Dissolution Laws" include Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code, commencing with Section 34170, and other statutes governing the dissolution of redevelopment agencies and the wind-down of redevelopment activities.~~ 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.

15.62.040 Use of funds.

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 due to termination of use restrictions, non-renewal of subsidy contract, mortgage default or foreclosure, 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.

Notwithstanding the 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 \$100,000.

15.62.050 Administration of funds.

The Affordable Housing Trust Fund shall be administered by the City Administrator, who shall have the authority to govern the Affordable Housing Trust Fund consistent with this ~~chapter section~~ and to prescribe regulations for the administration and use of the Affordable Housing Trust Fund. Funds deposited to the Affordable Housing Trust Fund shall be appropriated on a continuous basis to projects to be established consistent with this ~~chapter section~~. Notwithstanding the foregoing, all allocations of funds from the Affordable Housing Trust Fund, except as provided for above with respect to grants or service contracts from funds received under the Foreclosed and Defaulted Residential Property Registration Program or other programs, shall be approved by the City Council. An annual report showing impact fees imposed, revenues collected, funds committed, expenditures made, and any decisions made as to requests for reductions or exceptions shall be forwarded by the City Administrator to the City Council.

Section 9. The record before this Council relating to this Ordinance and supporting the findings made herein includes, without limitation, the following:

1. "Oakland Affordable Housing Impact Fee Nexus Analysis" prepared by Vernazza Wolfe Associates, Inc., and HEG dated March 10, 2016;
2. "Economic Feasibility Study for Oakland Impact Fee Program" prepared by HEG dated April 1, 2016;
3. "Oakland Impact Fee Program CEQA Compliance" prepared by Lamphier-Gregory dated March 10, 2016;
4. Materials provided to the Stakeholder Working Group;
5. All final staff reports, and other final documentation and information produced by or on behalf of the City, including without limitation supporting technical studies and all related/supporting final materials, and all final notices relating to the impact fee program and attendant meetings;
6. 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;
7. 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 10. The provisions of this Ordinance are severable. If a court of competent jurisdiction determines that any word, phrase, clause, sentence, paragraph, subsection, section, chapter or other provision (collectively called "Part") is invalid, or that the application of any Part of this Ordinance to any person or circumstance is invalid, such decision shall not affect the validity of the remaining Parts of this Ordinance. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any Part of this Ordinance or its application to such persons or circumstances have expressly excluded from its coverage.

Section 11. This Ordinance shall take effect sixty (60) days after its adoption, but shall not apply to Development Projects which obtain a vested right, as defined by California law, no later than 60 days after the adoption date of this Ordinance. Moreover, this Ordinance shall 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 no later than 60 days after the adoption date of this Ordinance.

Section 12. This Ordinance is enacted to serve the public interest and is necessary to protect the health, safety, and/or welfare of the citizens of Oakland, and is enacted pursuant to Article XI, Sections 5 and 7 of the California Constitution, the Mitigation Fee Act, Section 106 of the Oakland City Charter and the City's home rule powers, and the City's General Plan, specific plans and other land use plans.

Section 13. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), including omnibus cross-referencing conforming changes throughout the Oakland Municipal and Planning Codes, prior to formal publication of these amendments in the Oakland Municipal Code.

Section 14. 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 15. The Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES-


ABSENT-

ABSTENTION-

ATTEST: _____

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

DATE OF ATTESTATION: _____



AN ORDINANCE (1) AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH CITY-WIDE AFFORDABLE HOUSING IMPACT FEES AND MAKE RELATED AND CONFORMING AMENDMENTS, INCLUDING MINOR AMENDMENTS FOR CONSISTENCY PURPOSES TO THE JOBS-HOUSING IMPACT FEE CODIFIED IN OMC CHAPTER 15.68, (2) AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13320, C.M.S., AS AMENDED) TO INCLUDE THE AFFORDABLE HOUSING IMPACT FEES, AND (3) ADOPTING CEQA EXEMPTION FINDINGS

NOTICE AND DIGEST

This Ordinance amends the Oakland Municipal Code to establish City-wide affordable housing impact fees on market-rate residential development. This Ordinance also makes other changes to the Oakland Municipal Code, including Chapter 15.68 (which established a jobs-housing impact fee) and Chapter 1.08 (Civil Penalties), to update those sections, and conform those sections to this Ordinance. This Ordinance amends the City's Master Fee Schedule to add the affordable housing impact fees. Finally, this Ordinance adopts various findings including findings related to exemptions under the California Environmental Quality Act.



Deputy City Attorney

FILED
OFFICE OF THE CITY CLERK
OAKLAND**OAKLAND CITY COUNCIL**

2016 MAR 11 AM 10:30

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE (1) AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH CITY-WIDE TRANSPORTATION AND CAPITAL IMPROVEMENTS IMPACT FEES AND MAKE RELATED AND CONFORMING AMENDMENTS, (2) AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13320 C.M.S., AS AMENDED) TO INCLUDE THE TRANSPORTATION AND CAPITAL IMPROVEMENTS IMPACT FEES, AND (3) ADOPTING CEQA EXEMPTION FINDINGS

WHEREAS, existing local, state and federal resources are insufficient to meet the City of Oakland's transportation and capital improvements infrastructure needs; and

WHEREAS, new development generally increase the demand for transportation and capital improvements infrastructure and affect the quality of the community's infrastructure; and

WHEREAS, the public interest, convenience, health, safety and/or welfare require that fire, library, parks and recreation, police, storm drain, and transportation infrastructure be provided for the maintenance and enhancement of the quality of life of the City's residents; and

WHEREAS, the City of Oakland has a critical need to ensure that impacts from new development to transportation as well as fire, library, parks and recreation, police, and storm drain (hereinafter defined as "capital improvements") are addressed, and development impact fees are a commonly-used mechanism to address this need; and

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

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

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

WHEREAS, many cities and counties have adopted and imposed transportation and capital improvement impact fees on new development to ensure that impacts from new development are addressed; and

WHEREAS, in 2013, the City Council “initiated proceedings” to adopt impact fees by directing staff to prepare a nexus study for development impact fees for transportation, capital improvements, and affordable housing and identified and appropriated funding for this purpose; and

WHEREAS, policies supporting development impact fees for transportation and capital improvements are included in the recently adopted specific plans, and related General Plan amendments, for the Broadway Valdez District, West Oakland, Lake Merritt Station Area, and Coliseum Area, as well as the 2015-2023 Housing Element, Open Space, Conservation and Recreation Element, and 1998 Land Use and Transportation Element (LUTE) of the City’s General Plan; and

WHEREAS, on December 9, 2014, the City Council, via Resolution No. 85307 C.M.S., further initiated proceedings by authorizing the City Administrator to enter into a professional services contract with Hausrath Economics Group (HEG) to conduct a Citywide impact fee nexus study and implementation strategy; and

WHEREAS, Urban Economics with HEG, BKF Engineers, and Fehr & Peers; have prepared a report on the Nexus Study entitled “Oakland Transportation and Capital Improvements Impact Fee Nexus Analysis,” for the City of Oakland, dated March 10, 2016, a copy of which was previously provided to the City Council and made available to the public; and

WHEREAS, the Nexus Study has documented and confirmed that development in Oakland will result in further growth, and that such growth will place additional burdens on transportation and capital improvements infrastructure in the City; and

WHEREAS, the Nexus Study further identified the locations and types of development that will generate those impacts, and thus established the reasonable relationship between the location and type of development projects paying the fees and the need for transportation and capital improvements infrastructure generated by such development; and

WHEREAS, the Nexus Study provided data outlining the various transportation and capital improvement infrastructure that are required to meet the need generated by new development projects in the City; and

WHEREAS, it is the City’s policy that new development should contribute its fair share to transportation and capital improvements infrastructure through the imposition of impact fees which will be used to finance, defray, or reimburse the City for the appropriate portion of the cost of transportation and capital improvements infrastructure which serve such development; and

WHEREAS, 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.

WHEREAS, the nexus study established eligible uses of revenues from the transportation and capital improvements fees, 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; and

WHEREAS, 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; and

WHEREAS, through the payment of the fee, developers of residential and nonresidential projects will address at least a portion of the impact of their developments on transportation and capital improvements infrastructure; and

WHEREAS, impacts fees are necessary to maintain an adequate level of transportation and capital improvements infrastructure; and

WHEREAS, the proposed impact fees adopted under this Ordinance are lower than the maximum legal fees documented in the Nexus Study; and

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

WHEREAS, HEG also studied the economic feasibility of new development in Oakland to provide a basis for creating an impact fee program that can be implemented without adversely affecting Oakland's ability to attract new development; and

WHEREAS, the proposed impact fees for transportation and capital improvements balances the need for such improvements with the goal of not impeding the construction of new development; and

WHEREAS, the transportation and capital improvements impact fee proposals were discussed in six Stakeholder Working Group meetings which consisted of City staff and an ad-hoc panel of technical experts representing a cross section of stakeholders with interests associated with the impact fee program and such materials were also made available to the public; and

WHEREAS, impact fees were scheduled to be considered at regular, duly noticed (including newspaper ads published on November 27, 2015; December 26, 2015; and January 9, 2016) meetings of the Community and Economic Development Committee of the City Council ("Committee"), but were rescheduled to the regular, duly noticed, meetings on January 22, 2016 and February 9, 2016; and

WHEREAS, the Committee recommended city staff return with revised impact fees and accompanying legislation; and

WHEREAS, transportation and capital improvements impact fees were considered at a regular, duly noticed, meeting of the Committee on March 22, 2016, and the Committee recommended adoption of this Ordinance; and

WHEREAS, this Ordinance was considered, after a duly noticed public hearing, at a regular meeting of the City Council on April 19, 2016; now, therefore

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

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

Section 2. The City Council 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) 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 (4) not intended to, nor does it, provide CEQA clearance for future development-related projects by mere payment of the fees. Each of the foregoing provides a separate and independent basis for CEQA compliance and when viewed collectively provides an overall basis for CEQA compliance.

Section 3. This Ordinance shall be known as the "Transportation and Capital Improvements Impact Fees Ordinances."

Section 4. Chapter 15.74 is hereby added to the Oakland Municipal Code to read as follows:

Chapter 15.74

TRANSPORTATION AND CAPITAL IMPROVEMENTS IMPACT FEES

Article I – General Provisions

15.74.010 – Purpose.

15.74.020 – Findings.

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Article IV – Developer Constructed Facilities

15.74.120 – Credits and Reimbursement for Developer Constructed Facilities.

Article V – Miscellaneous

15.74.130 – Administrative Regulations.

15.74.140 – Conflicting Provisions.

15.74.150 – Impact Fees Zone Maps.

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 development projects pay their fair share to compensate for the increased demand for transportation and capital improvements infrastructure generated by such development 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 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.
- 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 Sections 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.
- 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 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.

“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 Development Project.

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

“City” means the City of Oakland.

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

“Change and Intensification of Use” means a Nonresidential Project that will change the use of building floor area, as defined in the California Building Standards Code, from one Use Fee Category to a higher Use Fee Category.

“Changed and Intensified Square Feet” means the square feet of building floor area, as defined in the California Building Standards Code, of an existing building involved in a Change and Intensification of Use project.

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

"Development Project" means any activity for new construction, any Change and Intensification of Use of an existing building, or any Additional Housing Units in a new or existing building requiring the issuance of a building permit by the City.

“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 applicable to the Development Project imposed under this chapter as contained in the City’s Master Fee Schedule.

“Hotel/Motel” means those uses that fall under any of the following use activity types as defined in Chapter 17.10 of the Oakland Planning Code:
Transient Habitation Commercial Activities.

“Impact Fee” means the Transportation Impact Fee or Capital Improvements Impact Fee imposed under this chapter as set forth in the City’s Master Fee Schedule, as the Transportation or Capital Improvements Impact Fee may be adjusted for inflation pursuant to Section 15.72.050.

"Industrial" means those uses that fall under any of the following use activity or facility types as defined in Chapters 17.10, 17.73 and 17.101E of the Oakland Planning Code:

- Custom Manufacturing Industrial Activities;
- Light Manufacturing Industrial Activities;
- General Manufacturing Industrial Activities;
- Heavy/High Impact Manufacturing Industrial Activities;
- Research and Development Industrial Activities;
- Construction Operations Industrial Activities;
- Regional Freight Transportation Industrial Activities;
- Trucking and Truck-Related Industrial Activities;
- Recycling and Waste-Related Industrial Activities;
- Hazardous Materials Production, Storage, and Waste Management Industrial Activities;
- General Description of Agricultural and Extractive Activities;

Plant Nursery Agricultural Activities;
Limited Agricultural Activities;
Extensive Agricultural Activities;
Mining and Quarrying Extractive Activities;
Work/Live Unit (as defined in Section 17.73.040, B); or
Work/Live Nonresidential Facilities (as defined in Chapter 17.101E in a D-CE-5 Zone).

“Institutional” means those uses that fall under any of the following use activity or facility types as defined in Chapter 17.10 of the Oakland Planning Code:

Essential Service Civic Activities;
Limited Child Care Civic Activities;
Community Assembly Civic Activities;
Recreational Assembly Civic Activities;
Community Education Civic Activities;
Nonassembly Cultural Civic Activities;
Administrative Civic Activities;
Health Care Civic Activities;
Special Health Care Civic Activities;
Utility and Vehicular Civic Activities;
Extensive Impact Civic Activities;
Rooming House Residential Facilities that are part of an institutional dormitory or are one of the following Activities;
Residential Care Residential Activities;
Supportive Housing Residential Activities;
Transitional Housing Residential Activities;
Emergency Shelter Residential Activities; or
Semi-Transient Residential Activities.

“Multi-Family Housing” means those uses that fall under any of the following use facility types as defined in Chapters 17.10, 17.65, 17.101C, 17.101E and 17.102 of the Oakland Planning Code:

Multifamily Dwelling Residential Facilities, except facilities that meet the definition of Townhome Housing;
Rooming House Residential Facilities, except facilities that meet the definition of Institutional;
Live/Work Residential Facilities (as defined in Chapters 17.65 and 17.101E);
Work/Live Nonresidential Facilities (as defined in Chapters 17.65 and 17.101E in a D-CE-3 or D-CE-4 Zone);
Micro Living Quarters Facilities (as defined in Chapter 17.101C);
Joint Living and Work Quarters (as defined in Section 17.102.190); or
Residentially-Oriented Joint Living and Working Quarters (as defined in Section 17.102.195).

“Nonresidential Project” means a Development Project involving the following Use Fee Categories: Hotel/Motel, Industrial, Institutional, Office, Retail Freestanding, Retail Ground Floor or Warehouse/Distribution.

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

Medical Service Commercial Activities;

Consumer Service Commercial Activities;
Consultative and Financial Service Commercial Activities;
Administrative Commercial Activities;
Business, Communication, and Media Service Commercial Activities; or
Research Service Commercial Activities.

“Residential Project” means a Development Project involving the following Use Fee Categories: Multi-Family Housing, Single-Family Housing or Townhome Housing.

“Retail, Freestanding” means those uses that are not part of a mixed use building that fall under any of the following use activity types as defined in Chapter 17.10 of the Oakland Planning Code:

General Food Sales Commercial Activities;
Full Service Restaurant Commercial Activities;
Limited Service Restaurant Commercial Activities;
Fast-Food Restaurant Commercial Activities;
Convenience Market Commercial Activities;
Alcoholic Beverage Sales Commercial Activities;
General Retail Sales Commercial Activities;
Large-Scale Combined Retail and Grocery Sales Commercial Activities;
Check Cashier and Check Cashing Activity;
Consumer Cleaning and Repair Service Commercial Activities;
Consumer Dry Cleaning Plant Commercial Activities;
Group Assembly Commercial Activities;
Personal Instruction and Improvement Services Commercial Activities;
Broadcasting and Recording Service Commercial Activities;
General Wholesale Sales Commercial Activities;
Building Material Sales Commercial Activities;
Automotive and other Light Vehicle Sales and Rental Commercial Activities;
Automotive and other Light Vehicle Gas Station and Servicing Commercial Activities;
Automotive and other Light Vehicle Repair and Cleaning Commercial Activities;
Taxi and Light Fleet-Based Service Commercial Activities;
Automotive Fee Parking Commercial Activities;
Animal Boarding Commercial Activities;
Animal Care Commercial Activities; or
Undertaking Service Commercial Activities.

“Retail, Ground Floor” means those uses that are located on the ground floor or second floor or in the basement of a multi-story mixed use building that are not designated at the time of building permit application or that fall under any of the following use activity types as defined in Chapter 17.10 of the Oakland Planning Code:

General Food Sales Commercial Activities;
Full Service Restaurant Commercial Activities;
Limited Service Restaurant Commercial Activities;
Fast-Food Restaurant Commercial Activities;
Convenience Market Commercial Activities;
Alcoholic Beverage Sales Commercial Activities;
General Retail Sales Commercial Activities;
Large-Scale Combined Retail and Grocery Sales Commercial Activities;
Check Cashier and Check Cashing Activity;

Consumer Cleaning and Repair Service Commercial Activities;
Consumer Dry Cleaning Plant Commercial Activities;
Group Assembly Commercial Activities;
Personal Instruction and Improvement Services Commercial Activities;
Broadcasting and Recording Service Commercial Activities;
General Wholesale Sales Commercial Activities;
Building Material Sales Commercial Activities;
Automotive and other Light Vehicle Sales and Rental Commercial Activities;
Automotive and other Light Vehicle Gas Station and Servicing Commercial Activities;
Automotive and other Light Vehicle Repair and Cleaning Commercial Activities;
Taxi and Light Fleet-Based Service Commercial Activities;
Automotive Fee Parking Commercial Activities;
Animal Boarding Commercial Activities;
Animal Care Commercial Activities; or
Undertaking Service Commercial Activities.

“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 housing units;
One-Family Dwelling with Secondary Unit Residential Facilities; or
Mobile Home Residential Facilities.

“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;
Two-Family Dwelling Residential Facilities; or
Multifamily Dwelling Residential Facilities consisting of housing units arranged in a single horizontal row with abutting sidewalls.

“Use Fee Category” means Hotel/Motel, Industrial, Institutional, Multi-Family Housing, Office, Retail Freestanding, Retail Ground Floor, Single-Family Housing, Townhome Housing or Warehouse/Distribution.

“Warehouse/Distribution” means those uses that fall under any of the following use activity types as defined in Chapter 17.10 of the Oakland Planning Code:

Warehousing, Storage, and Distribution Industrial Activities.

15.74.040 – Applicability.

The regulations, requirements and provisions of this chapter shall apply to any Development Project, unless exempt from this chapter. The Applicant for any Development Project, 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 Development Project for which a Complete Building Permit Application is submitted on or after September 1, 2016, must pay the Impact Fee 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 in effect at the time that the Development Project does meet all the criteria.

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 60 days after the adoption of this chapter.

- B. Exemptions based on submittal date. Any Development 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 Development 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 years of the building permit being issued.

In addition, Development Projects that obtain a vested right, as defined by California law, no later than 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 Projects involving less than 5,000 square feet of building floor area occupied by Institutional uses;
 2. Nonresidential Projects involving less than 5,000 square feet of Changed and Intensified Square Feet;
 3. Secondary Units, as defined in Section 17.04.090 of the Oakland Planning Code; or
 4. Affordable Housing, as defined in Chapter 15.72 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 Development 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:

- 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 = Fee Per Housing Unit x Additional Housing Units

For 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 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.

15.74.060 – Impact Fees Zones.

For Residential Projects, the Impact Fee amount shall be based upon the Impact Fee Zone in which the Development 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 building permit 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.

Except as provided elsewhere in this chapter, no building permit may be issued for any Development Project subject to this chapter unless the Impact Fee is paid to the Building Official. The 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 Development 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 Appeals.

A. Reductions, Waivers and Appeals of the Impact Fees. 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 Development 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 Development 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 Development 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 Development 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 Development Project; and/or
 5. That application of the requirements of this chapter to a Development 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 reduction, waivers and/or appeals of the Impact Fee must be made no later than the date of application for the building permit for the Development Project on a form provided by the City, and shall include payment of fees as established in the Master Fee Schedule. The burden of establishing by satisfactory factual proof the applicability and elements of this Section shall be on the Applicant. The Applicant must submit full information in support of their submittal as requested by the City Administrator. Failure to raise each and every issue that is contested in the application and provide appropriate supporting evidence will be grounds to deny the application and will also preclude the Applicant from raising such issues in court. Failure to submit such an application shall 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 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.

- 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 Development Project for the amount of the Impact Fee;
 3. Revoke or suspend the temporary certificate of occupancy and/or certificate of occupancy for the Development Project;

4. Take any other action necessary and appropriate to secure payment, with interest accruing from the date of nonpayment; and/or
5. Assess civil penalties against an Applicant and/or associated parcel owner who fails to comply with this chapter, including failure to pay the impact fees, pursuant to Chapter 1.08 of this Code.

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

Article III – Impact Fee Funds

15.74.100 – Transportation Impact Fee Fund.

The City Administrator shall establish a Transportation Impact Fee Fund to receive all Transportation Impact Fees collected pursuant to this chapter.

- A. Use of Funds. Funds deposited into the Transportation Impact Fee Fund, and all interest and investment earnings thereon, shall be used to pay for improvements within the public right-of-way for pedestrians, bicyclists and/or motor vehicles. Fee revenues may be used to fund a capital project or portion of a capital project that meets all of the following criteria:
1. The project is a capital project contained within the City’s Capital Improvement Program;
 2. The project is part of the City’s citywide transportation infrastructure or provides connectivity between neighborhoods and activity centers within the City, or to neighboring communities or regional transportation facilities, and is not primarily for access to one specific neighborhood or development site; and
 3. The project improves or expands the City’s citywide transportation infrastructure to address and manage travel demand from new development.

Projects may include not only managing vehicle impacts, but also shifting demand to transit, biking, and walking. Funds may not be used for rehabilitation, maintenance or operating costs.

Funds may also be used to cover reasonable administrative or related expenses of the City not reimbursed through processing fees. Funds may also be used for costs reasonably related to preparation and revision of plans, policies and studies including nexus studies required to make any necessary findings and determinations required by the Mitigation Fee Act.

- B. Administration and Reporting Requirements. The Transportation Impact Fee Fund shall be administered by the City Administrator, who shall have the authority to govern the Transportation Impact Fee Fund consistent with this section and to prescribe regulations for the administration and use of the Transportation Impact Fee Fund.

The City shall comply with the annual reporting requirements under Government Code Section 66006(b) related to beginning and ending account balances, revenues received

and capital projects funded.

Following the fifth fiscal year after the first deposit of fee revenue and every five years thereafter, the City shall comply with the reporting requirements under Government Code Section 66001(d). To comply with this section, the City must demonstrate that there continues to be a reasonable relationship between the fee and the purpose for which it is charged.

15.74.110 – Capital Improvements Impact Fee Fund.

The City Administrator shall establish a Capital Improvements Impact Fee Fund to receive all Capital Improvements Impact Fees collected pursuant to this chapter.

- A. Use of Funds. Funds deposited into the Capital Improvements Impact Fee Fund, and all interest and investment earnings thereon, shall be used to pay for projects that are required for fire, police, library, parks and recreation, or storm drain services. Fee revenues may be used to fund a public facility or portion of a public facility that meets all of the following criteria:
1. The project is a capital project contained within the City's Capital Improvement Program;
 2. If the project supports fire, police, library, or parks and recreation services, the project must improve or expand the City's public facilities to accommodate service demand from new development; funds may not be used for rehabilitation, maintenance or operating costs; and
 3. If the project supports storm drain services the project must improve, expand, or rehabilitate the City's storm drain facilities to accommodate service demand from new development.

Funds may also be used to cover reasonable administrative or related expenses of the City not reimbursed through processing fees. Funds may also be used for costs reasonably related to preparation and revision of plans, policies, and studies including nexus studies required to make any necessary findings and determinations required by the Mitigation Fee Act.

- B. Administration and Reporting Requirements. The Capital Improvements Impact Fee Fund shall be administered by the City Administrator, who shall have the authority to govern the Capital Improvements Impact Fee Fund consistent with this section and to prescribe regulations for the administration and use of the Capital Improvements Impact Fee Fund.

The City shall comply with the annual reporting requirements under Government Code Section 66006(b) related to beginning and ending account balances, revenues received and capital projects funded.

Following the fifth fiscal year after the first deposit of fee revenue and every five years thereafter, the City shall comply with the reporting requirements under Government Code Section 66001(d). To comply with this section, the City must demonstrate that there continues to be a reasonable relationship between the fee and the purpose for which it is charged.

Article IV – Developer Constructed Facilities

15.74.120 – Credits and Reimbursement for Developer Constructed Facilities.

The City and the Developer of a Development Project 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 Development Project, and possibly reimbursement from Impact Fees paid by other Development Projects, 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.

Article V – Miscellaneous

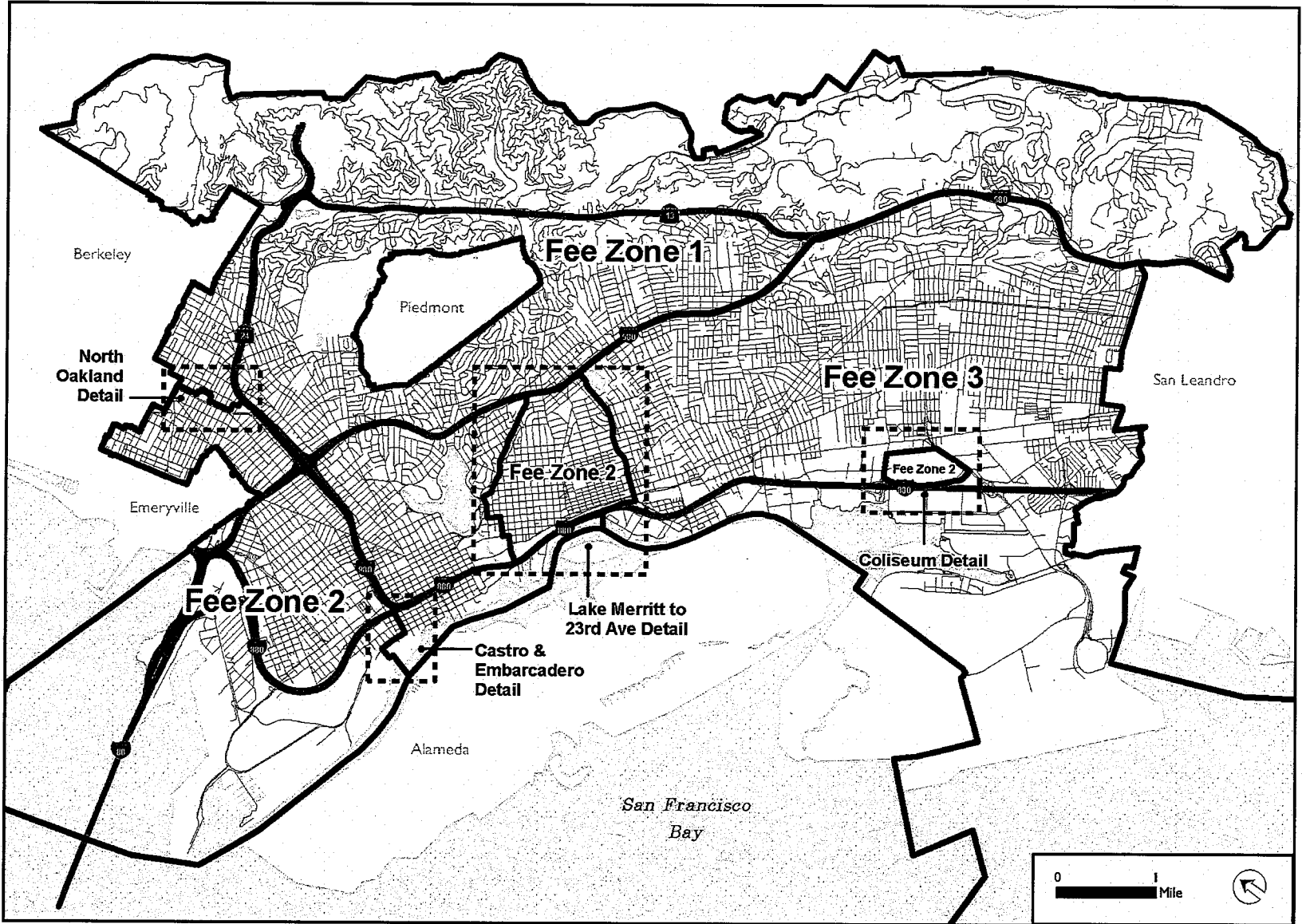
15.74.130 – Administrative Regulations.

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 may consider necessary to achieve the purposes of this chapter.

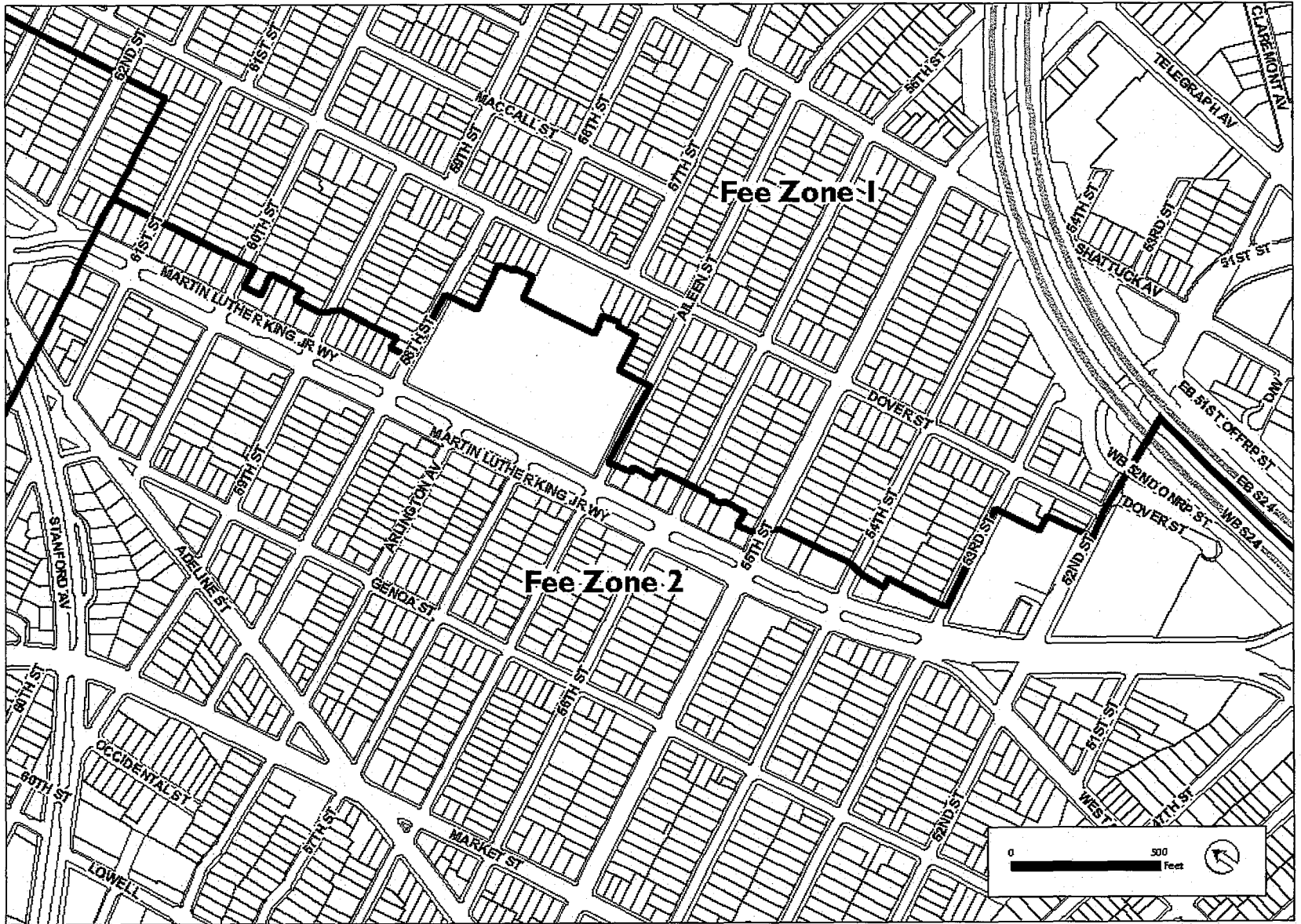
15.74.140 – Conflicting Provisions.

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

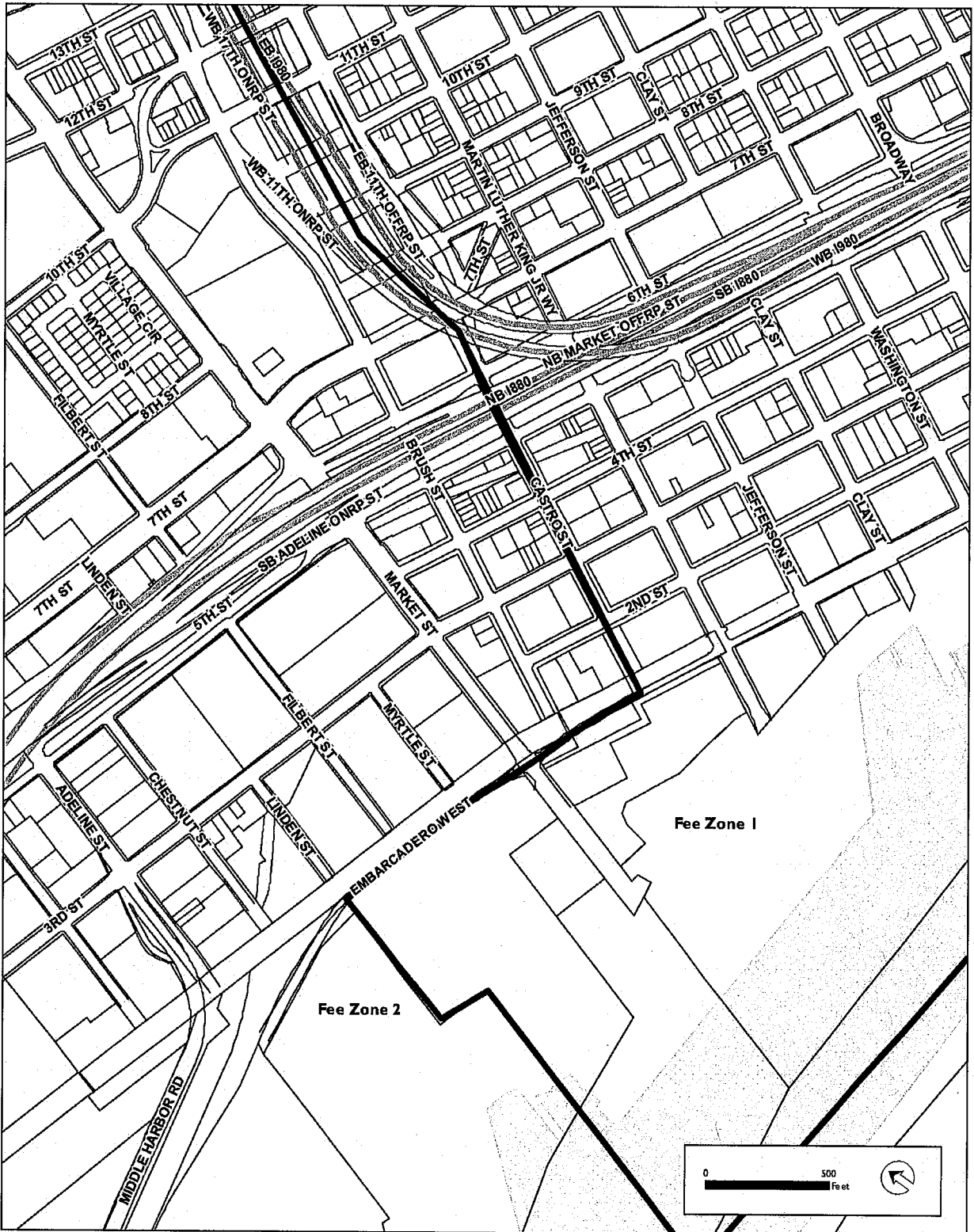
15.74.150 – Impact Fees Zone Maps.



Impact Fee Zones for Residential Projects

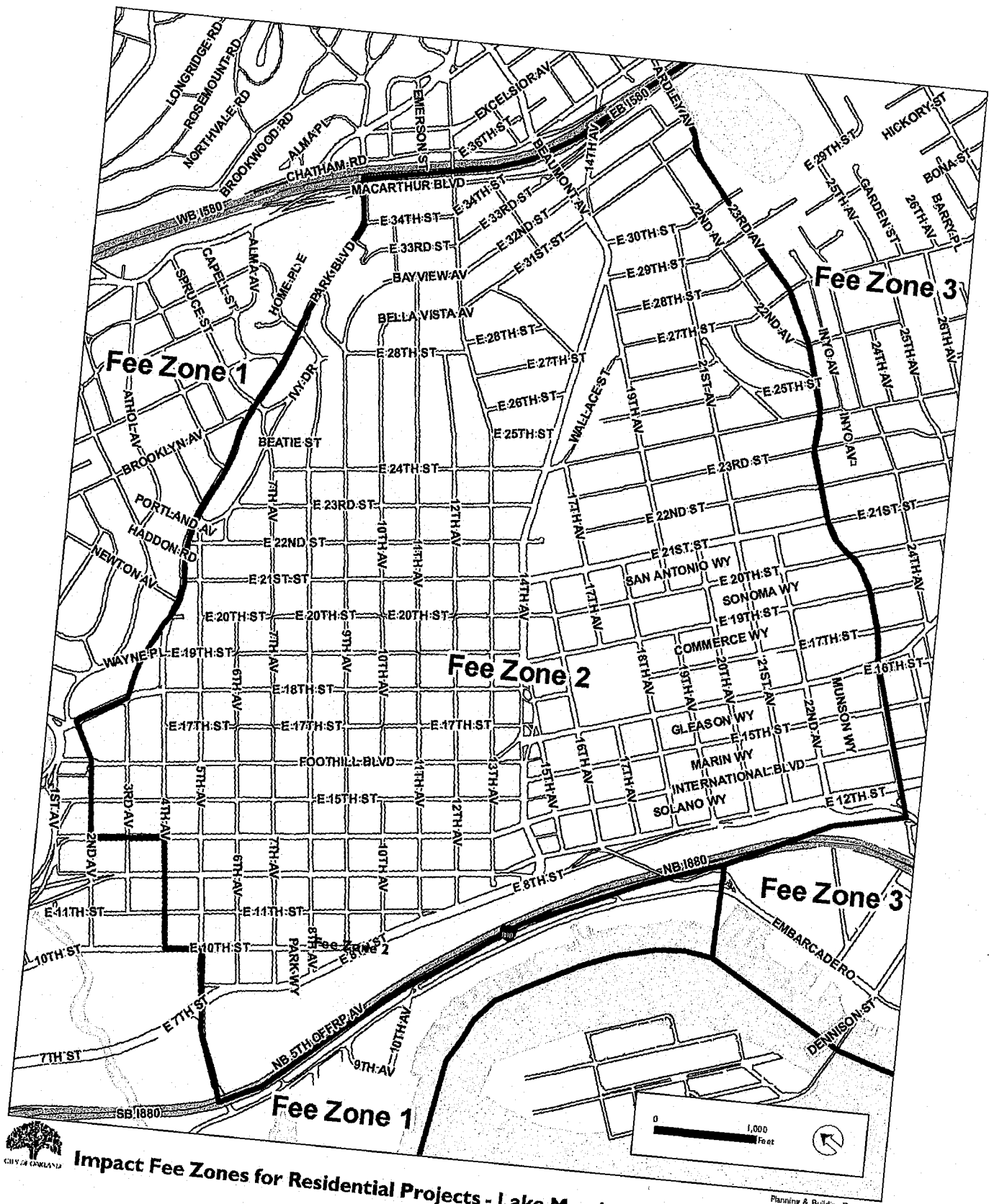


Impact Fee Zones for Residential Projects - North Oakland Detail



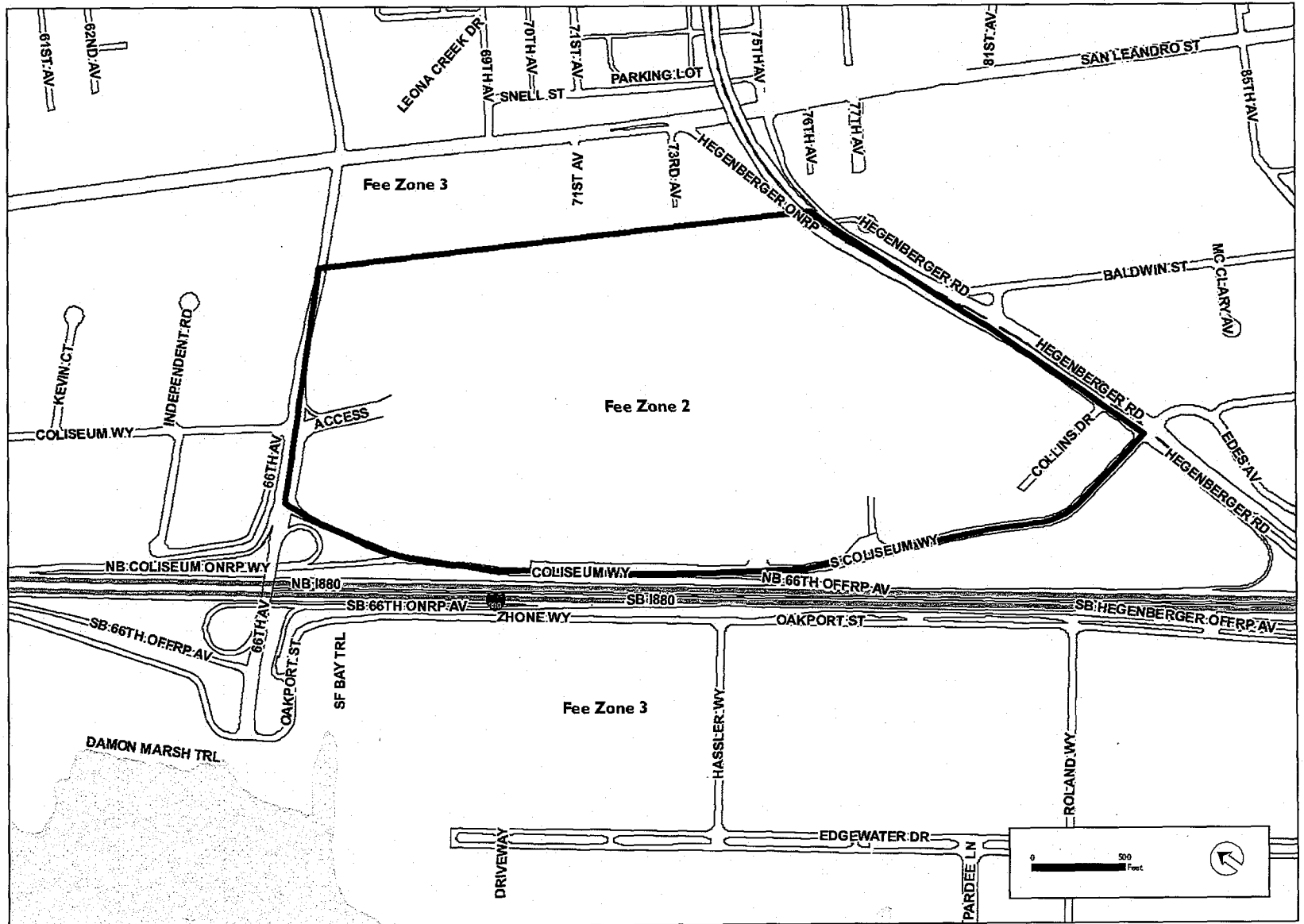
Impact Fee Zones for Residential Projects- Castro St & Embarcadero Detail

Planning & Building Department
March 10, 2016



Impact Fee Zones for Residential Projects - Lake Merritt to 23rd Ave Detail

Planning & Building Department
March 10, 2016



Impact Fee Zones for Residential Projects - Coliseum Detail

Section 5. The following is hereby added to the Master Fee Schedule (Ordinance No. 13320 C.M.S., as amended):

FEE DESCRIPTION	FEE UNIT
PLANNING & ZONING	
AA. CAPITAL IMPROVEMENTS IMPACT FEE (Effective Sept. 1, 2016 to Jun. 30, 2017)	
1 Multi-Family Housing	
a. Zone 1	750.00 Unit
b. Zone 2	250.00 Unit
c. Zone 3	0.00 Unit
2 Townhome Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	0.00 Unit
3 Single-Family Housing	
a. Zone 1	1,500.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	0.00 Unit
4 Office	0.00 Square Foot
5 Freestanding Retail	0.00 Square Foot
6 Ground Floor Retail	0.00 Square Foot
7 Industrial	0.40 Square Foot
8 Warehouse/Distribution	0.65 Square Foot
9 Hotel/Motel	0.10 Square Foot
10 Institutional	2.50 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal
BB. CAPITAL IMPROVEMENTS IMPACT FEE (Effective Jul. 1, 2017 to Jun. 30, 2018)	
1 Multi-Family Housing	
a. Zone 1	750.00 Unit
b. Zone 2	500.00 Unit
c. Zone 3	0.00 Unit
2 Townhome Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	0.00 Unit
3 Single-Family Housing	
a. Zone 1	2,000.00 Unit
b. Zone 2	1,500.00 Unit
c. Zone 3	0.00 Unit
4 Office	0.00 Square Foot
5 Freestanding Retail	0.15 Square Foot
6 Ground Floor Retail	0.00 Square Foot
7 Industrial	0.40 Square Foot
8 Warehouse/Distribution	0.90 Square Foot
9 Hotel/Motel	0.20 Square Foot
10 Institutional	2.50 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal

FEE DESCRIPTION	FEE UNIT
CC. CAPITAL IMPROVEMENTS IMPACT FEE (Effective Jul. 1, 2018 to Jun. 30, 2019)	
1 Multi-Family Housing	
a. Zone 1	1,250.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	0.00 Unit
2 Townhome Housing	
a. Zone 1	3,000.00 Unit
b. Zone 2	2,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	4,000.00 Unit
b. Zone 2	3,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	1.00 Square Foot
5 Freestanding Retail	0.25 Square Foot
6 Ground Floor Retail	0.00 Square Foot
7 Industrial	0.75 Square Foot
8 Warehouse/Distribution	1.00 Square Foot
9 Hotel/Motel	0.35 Square Foot
10 Institutional	2.50 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal
DD. CAPITAL IMPROVEMENTS IMPACT FEE (Effective Jul. 1, 2019 to Jun. 30, 2020)	
1 Multi-Family Housing	
a. Zone 1	1,250.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	0.00 Unit
2 Townhome Housing	
a. Zone 1	3,000.00 Unit
b. Zone 2	2,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	4,000.00 Unit
b. Zone 2	3,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	1.00 Square Foot
5 Freestanding Retail	0.25 Square Foot
6 Ground Floor Retail	0.00 Square Foot
7 Industrial	0.75 Square Foot
8 Warehouse/Distribution	1.00 Square Foot
9 Hotel/Motel	0.35 Square Foot
10 Institutional	2.50 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal

FEE DESCRIPTION	FEE UNIT
EE. CAPITAL IMPROVEMENTS IMPACT FEE (Beginning Jul. 1, 2020)	
1 Multi-Family Housing	
a. Zone 1	1,250.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	250.00 Unit
2 Townhome Housing	
a. Zone 1	3,000.00 Unit
b. Zone 2	2,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	4,000.00 Unit
b. Zone 2	3,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	2.00 Square Foot
5 Freestanding Retail	0.50 Square Foot
6 Ground Floor Retail	0.00 Square Foot
7 Industrial	1.00 Square Foot
8 Warehouse/Distribution	1.00 Square Foot
9 Hotel/Motel	0.60 Square Foot
10 Institutional	3.00 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal
FF. TRANSPORTATION IMPACT FEE (Effective Sept. 1, 2016 to Jun. 30, 2017)	
1 Multi-Family Housing	
a. Zone 1	750.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	750.00 Unit
2 Townhome Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	0.85 Square Foot
5 Freestanding Retail	0.75 Square Foot
6 Ground Floor Retail	0.75 Square Foot
7 Industrial	0.55 Square Foot
8 Warehouse/Distribution	0.35 Square Foot
9 Hotel/Motel	0.65 Square Foot
10 Institutional	1.20 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal

FEE DESCRIPTION	FEE UNIT
GG. TRANSPORTATION IMPACT FEE (Effective Jul. 1, 2017 to Jun. 30, 2018)	
1 Multi-Family Housing	
a. Zone 1	750.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	750.00 Unit
2 Townhome Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	0.85 Square Foot
5 Freestanding Retail	0.75 Square Foot
6 Ground Floor Retail	0.75 Square Foot
7 Industrial	0.55 Square Foot
8 Warehouse/Distribution	0.35 Square Foot
9 Hotel/Motel	0.65 Square Foot
10 Institutional	1.20 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal
HH. TRANSPORTATION IMPACT FEE (Effective Jul. 1, 2018 to Jun. 30, 2019)	
1 Multi-Family Housing	
a. Zone 1	750.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	750.00 Unit
2 Townhome Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	1.00 Square Foot
5 Freestanding Retail	0.75 Square Foot
6 Ground Floor Retail	0.75 Square Foot
7 Industrial	0.55 Square Foot
8 Warehouse/Distribution	0.35 Square Foot
9 Hotel/Motel	0.65 Square Foot
10 Institutional	2.00 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal

FEE DESCRIPTION	FEE UNIT
II. TRANSPORTATION IMPACT FEE (Effective Jul. 1, 2019 to Jun. 30, 2020)	
1 Multi-Family Housing	
a. Zone 1	750.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	750.00 Unit
2 Townhome Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	1.00 Square Foot
5 Freestanding Retail	0.75 Square Foot
6 Ground Floor Retail	0.75 Square Foot
7 Industrial	0.55 Square Foot
8 Warehouse/Distribution	0.35 Square Foot
9 Hotel/Motel	0.65 Square Foot
10 Institutional	2.00 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal
JJ. TRANSPORTATION IMPACT FEE (Beginning Jul. 1, 2020)	
1 Multi-Family Housing	
a. Zone 1	750.00 Unit
b. Zone 2	750.00 Unit
c. Zone 3	750.00 Unit
2 Townhome Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
3 Single-Family Housing	
a. Zone 1	1,000.00 Unit
b. Zone 2	1,000.00 Unit
c. Zone 3	1,000.00 Unit
4 Office	2.00 Square Foot
5 Freestanding Retail	0.75 Square Foot
6 Ground Floor Retail	0.75 Square Foot
7 Industrial	0.55 Square Foot
8 Warehouse/Distribution	0.35 Square Foot
9 Hotel/Motel	0.65 Square Foot
10 Institutional	3.00 Square Foot
The Records Management Fee and Technology Enhancement Fee do not apply to the above fees. See OMC Section 17.74.150 for the maps of the above zones.	
11 Appeals	
a. Filing Fee	4,010.43 Appeal

Section 6. Section 1.08.020A.1 of the Oakland Municipal Code is hereby amended as follows (additions are in underline and deleted language is indicated with ~~strikeout~~ text).

1.08.20 - Scope.

- A. This chapter authorizes the administrative assessment of civil penalties to effect abatement of:
 - 1. Any violations of provisions of the following Oakland Municipal Codes: Oakland Building Code (OMC Chapter 15.04), the Oakland Housing Code (OMC Chapter 15.08), Uniform Fire Code (OMC Chapter 15.12), Fire Damaged Area Protection & Improvement Code (OMC Chapter 15.16) Bedroom Window Security Bar & Smoke Detector Permit Code (OMC Chapter 15.64), Oakland Planning Code (OMC Title 17), Transient Occupancy Tax Code (OMC Chapter 4.24), Hotel Rates & Register Code (OMC Chapter 5.34), Animal Code (OMC Title 6), Health & Safety Code (OMC Title 8), Public Peace, Morals and Welfare Code (OMC Title 9), Vehicles and Traffic Code (OMC Title 10), Streets, Sidewalks & Public Places Code (OMC Title 12), Creek Protection, Storm Water Management and Discharge Control Code (OMC Chapter 13.16)), Transportation and Capital Improvements Impact Fees (OMC Chapter 15.74), and the Oakland Sign Code (OMC Chapter 14);

Section 7. The record before this Council relating to this Ordinance and supporting the findings made herein includes, without limitation, the following:

- 1. "Oakland Transportation and Capital Improvements Impact Fee Nexus Analysis" prepared by Urban Economics with Hausrath Economics Group, BKF Engineers, and Fehr & Peers dated March 10, 2016;
- 2. "Economic Feasibility Study for Oakland Impact Fee Program" prepared by HEG dated April 1, 2016;
- 3. "Oakland Impact Fee Program CEQA Compliance" prepared by Lamphier-Gregory dated March 10, 2016;
- 4. Materials provided to the Stakeholder Working Group;
- 5. All final staff reports, and other final documentation and information produced by or on behalf of the City, including without limitation supporting technical studies and all related/supporting final materials, and all final notices relating to the impact fee program and attendant meetings;
- 6. 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;
- 7. 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 8. The provisions of this Ordinance are severable. If a court of competent jurisdiction determines that any word, phrase, clause, sentence, paragraph, subsection, section, chapter or other provision (collectively called "Part") is invalid, or that the application of any Part of this Ordinance to any person or circumstance is invalid, such decision shall not affect the validity of the remaining Parts of this Ordinance. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any Part of this Ordinance or its application to such persons or circumstances have expressly excluded from its coverage.

Section 9. This Ordinance shall take effect sixty (60) days after its adoption, but shall not apply to Development Projects which obtain a vested right, as defined by California law, no later than 60 days after the adoption date of this Ordinance. Moreover, this Ordinance shall 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 no later than 60 days after the adoption date of this Ordinance.

Section 10. This Ordinance is enacted to serve the public interest and is necessary to protect the health, safety, and/or welfare of the citizens of Oakland, and is enacted pursuant to Article XI, Sections 5 and 7 of the California Constitution, the Mitigation Fee Act, Section 106 of the Oakland City Charter and the City's home rule powers, and the City's General Plan, specific plans and other land use plans.

Section 11. The City Council hereby authorizes the City Administrator or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), including omnibus cross-referencing conforming changes throughout the Oakland Municipal and Planning Codes, prior to formal publication of these amendments in the Oakland Municipal Code.

Section 12. 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 13. The Environmental Review Officer, or designee, is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

DATE OF ATTESTATION: _____

MPW

AN ORDINANCE (1) AMENDING THE OAKLAND MUNICIPAL CODE TO ESTABLISH CITY-WIDE TRANSPORTATION AND CAPITAL IMPROVEMENTS IMPACT FEES AND MAKE RELATED AND CONFORMING AMENDMENTS, (2) AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NO. 13320 C.M.S., AS AMENDED) TO INCLUDE THE TRANSPORTATION AND CAPITAL IMPROVEMENTS IMPACT FEES, AND (3) ADOPTING CEQA EXEMPTION FINDINGS

NOTICE AND DIGEST

This Ordinance amends the Oakland Municipal Code to establish City-wide transportation and capital improvements impact fees on development. This Ordinance also makes other changes to the Oakland Municipal Code, including Chapter 1.08 (which establishes Civil Penalties), to update those sections, and conform those sections to this Ordinance. This Ordinance amends the City's Master Fee Schedule to add the transportation and capital improvements impact fees. Finally, this Ordinance adopts various findings including findings related to exemptions under the California Environmental Quality Act.