

OAKLAND CITY COUNCIL
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ORDINANCE NO. _____ C.M.S.

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

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

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

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

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

The Legislature finds and declares that the need for decent housing among individuals of very low and low income is great, and that residential hotels are often the only form of housing affordable to these individuals. Many residential hotels are in poor condition and in need of rehabilitation, and many are being demolished or converted to other uses. California Health and Safety Code § 50519(a)

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

WHEREAS, real estate market trends as well as city, regional, and state land use planning and development policies favoring the downtown and transit corridors where residential hotels were

historically developed mean that residential hotel properties are susceptible to a more recent version of the development pressure that reduced the inventory in the 1960s and 1970s; and

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

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

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

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

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

WHEREAS, on December 13, 2016, the City Council adopted interim Ordinance No. 13410, establishing a temporary moratorium on the conversion, demolition, reconfiguration, and rehabilitation of residential hotels, to take immediate effect; and

WHEREAS, on January 17, 2017, pursuant to Government Code 65858, the City Council extended the moratorium initially enacted under Ordinance No. 13410 C.M.S. for twenty-two (22) months and fifteen (15) days, following additional notice, and under Ordinance No. 13415 C.M.S., the moratorium thus was extended until December 11, 2018 or whenever permanent regulations are adopted, whichever occurs first; and

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

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

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

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

WHEREAS, HEG has conducted a nexus analysis in accordance with the Mitigation Fee Act, and prepared a report entitled "Nexus Analysis – Impact Fee to Mitigate Loss of Residential

Hotel Units in Oakland, for the City of Oakland, dated October 5, 2018 (the "Nexus Analysis"), a copy of which was previously provided to the City Council and made available to the public; and

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

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

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

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

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

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

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

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

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

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

WHEREAS, the Residential Hotel Conversion and Demolition Impact Fee was considered at a regular, duly noticed, meeting of the Committee on October 23, 2018, and the Committee

WHEREAS, this Ordinance was considered, after a duly noticed public hearing, at a regular meeting of the City Council on October 30, 2018; now, therefore

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

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

Section 2. The City Council determines the adoption of this Ordinance is (1) not a Project under the California Environmental Quality Act ("CEQA") and is therefore exempt pursuant to CEQA Guidelines section 15378 (b)(4); (2) statutorily exempt pursuant to CEQA Guidelines section 15273(a)(4) (Rates, Tolls, Fares and Charges for obtaining funds for capital projects necessary to maintain service within existing service area); (3) statutorily exempt pursuant to CEQA Guidelines section 15267 (Financial Assistance to Low or Moderate Income Housing); (4) not in-and-of-itself a "Project" (pursuant to CEQA Guidelines 15378) since the adoption of the fee itself will not result in a physical change in the environment, though the actions authorized by this Ordinance may be part of a larger "Project" that will be subject to environmental review in accordance with CEQA at "the earliest feasible time" prior to "approval" consistent with CEQA Guidelines Sections 15004 and 15352, and the approval of any replacement residential hotel units or equivalent housing constructed with fee monies will be subject to appropriate review under CEQA prior to any administrative or City Council approvals; and/or (5) not intended to, nor does it, provide CEQA clearance for future development-related projects by mere payment of the fees. Each of the foregoing provides a separate and independent basis for CEQA compliance and when viewed collectively provides an overall basis for CEQA compliance.

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

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

Chapter 15.70

RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE

Article I – General Provisions

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15.70.020 – Findings.

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Article I – General Provisions

15.70.010 – Purpose.

The purpose of this chapter is to establish impact fees in the City of Oakland sufficient to produce equivalent replacement units thereby mitigating the impacts of displacement of residential hotel residents when residential hotel units are demolished or converted.

15.70.020 – Findings.

- A. The City of Oakland conducted a Nexus Analysis that examined the significance of the remaining inventory of residential hotel units as housing supply for individuals with few housing options and the link between development actions that result in the loss of residential hotel units and displacement of residents who are at high risk of homelessness, therefore creating the need for replacement residential hotel units affordable to residents displaced; and
- B. The Nexus Analysis establishes a justifiable impact fee to replace residential hotel units lost due to demolition or conversion based on the objective of no net loss of residential hotel units and directly proportional, on a one-for-one basis, to the cost to develop an equivalent residential hotel unit; and
- C. The Nexus Analysis has documented and confirmed that the cost analysis is specific to Oakland's real estate market and to residential development costs current as of 2018; and
- D. The fee is based on the cost to develop an equivalent residential hotel unit including land acquisition and new residential construction similar in characteristics to residential hotel units (consisting of rooming units or efficiency dwelling units) in buildings that have services and facilities comparable to those of existing residential hotels; and
- E. Through the payment of the fee, developers who demolish or convert residential hotel units will address the impact of the loss of the residential hotel unit(s) and of the resultant displacement of residential hotel tenants; and
- F. Impact fees are necessary to replace the permanent loss of supply of residential hotel units in Oakland when these units are demolished or converted; and
- G. The Residential Hotel Demolition and Conversion 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.

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

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

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

"City" means the City of Oakland.

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

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

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

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

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

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

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

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

"Impact Fee" means the Residential Hotel Demolition and Conversion Impact Fee imposed under this chapter as set forth in the City's Master Fee Schedule, as the

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

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

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

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

15.70.040 – Applicability.

The Applicant for the Demolition or Conversion of a Residential Hotel Unit may elect to pay the Residential Hotel Demolition and Conversion Impact Fee instead of providing replacement rental units as required in Section 17.153.050 of the Oakland Planning Code. The regulations, requirements and provisions of this chapter shall apply to any Demolition or Conversion of a Residential Hotel Unit that decides to pay the Impact Fee instead of providing the replacement rental units as stated in Section 17.153.050 of the Oakland Planning Code, unless exempt from this chapter. The Applicant for any Demolition or Conversion of a Residential Hotel Unit, as a condition of the building permit issuance, must pay to the City the required Impact Fee.

A. Effective date. Any Applicant for a Demolition or Conversion of a Residential Hotel Unit that does not satisfy the requirement to construct replacement rental units equivalent in affordability, size, services and facilities offered to each unit proposed for demolition or conversion pursuant to Subsection 17.153.050(A) for which a building Permit is issued on or after January 26, 2019, must pay the Impact Fee in effect at the time of Complete Building Permit Application. If a building permit is issued after February 5th, 2019 but prior to April 6th, 2019, replacement rental units are required per Section 17.153.050 of the Oakland Planning Code.

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

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

Article II – Fee Requirements and Procedures.

15.70.050 – Amount of Impact Fees.

The City Council hereby establishes a Residential Hotel Demolition and Conversion Impact Fee to be imposed on all applicants for a Demolition or Conversion of a Residential Hotel Unit that do not satisfy the requirement to construct replacement rental units equivalent in affordability, size, services and facilities offered to each unit proposed for demolition or conversion pursuant to Subsection 17.153.050(A), which shall be calculated and updated in accordance with this chapter. The Impact Fees shall be calculated for each Demolition or Conversion of a Residential Hotel Unit as follows, pursuant to the Impact Fee amount as stated in the Master Fee Schedule in effect at the time of a Complete Building Permit Application:

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

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

15.70.060 – Payment of Impact Fees.

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

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

As an alternative to payment of the Impact Fee set forth in this chapter, an Applicant for a Demolition or Conversion of a Residential Hotel Unit subject to the Impact Fee may elect to comply with those requirements through the provision of

15.70.070 – Reductions, Waivers, and Appeals.

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

1. The Demolition or Conversion of a Residential Hotel Unit will not generate any need for a replacement Residential Hotel Unit;
2. The Demolition or Conversion of a Residential Hotel Unit 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;
3. The requirements of this chapter have been incorrectly applied to a Demolition or Conversion of a Residential Hotel Unit; and/or
4. That application of the requirements of this chapter to a Demolition or Conversion of a Residential Hotel Unit 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 Demolition or Conversion of a Residential Hotel Unit on a form provided by the City, and shall include payment of fees as established in the Master Fee Schedule. The burden of establishing by satisfactory factual proof the applicability and elements of this Section shall be on the Applicant. The Applicant must submit full information in support of their submittal as requested by the City Administrator. Failure to raise each and every issue that is contested in the application and provide appropriate supporting evidence will be grounds to deny the application and will also preclude the Applicant from raising such issues in court. Failure to submit such an application shall 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.

15.70.080– Enforcement.

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

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

1. Withhold issuance of building-related permits;

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

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

Article III – Miscellaneous.

15.70.90 – Administrative Regulations.

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

15.70.100 – Conflicting Provisions.

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

FEE DESCRIPTION

FEE UNIT

PLANNING & ZONING

LL. RESIDENTIAL HOTEL DEMOLITION AND CONVERSION IMPACT FEE (Effective Jan. 26, 2019)

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

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

1.08.20 - Scope.

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

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

15.62.20 - Definitions.

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

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

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

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

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

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

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

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

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

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

15.62.030 Funding sources.

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

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

B. Redevelopment Dissolution Funds. An amount equal to twenty-five percent (25%) of all funds distributed to the City as a taxing entity under the Dissolution Laws,

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

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

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

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

15.62.040 Use of funds.

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

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

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

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

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

who are at risk of losing their home or becoming homeless. Notwithstanding the above, until June 30, 2018, funds deposited into the Affordable Housing Trust Fund from the setaside of funds distributed to the City as a taxing entity under the Dissolution Laws may also be used for services for homeless residents.

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

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

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

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

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

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

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

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

other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

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

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

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

NOTICE AND DIGEST

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