

# Transportation, Capital Improvements, and Affordable Housing Impact Fees Summary



On May 3, 2016, the Oakland City Council adopted Transportation, Capital Improvements, and Affordable Housing Impact Fees. This handout is a summary of the Impact Fee regulations. Please also read the adopted Impact Fee chapters of the Oakland Municipal Code (“OMC”) for the specific requirements which govern if there are any inconsistencies (OMC Chapter 15.74, Transportation and Capital Improvements Impact Fees and OMC Chapter 15.72, Affordable Housing Impact Fees).

## 1. Types of projects subject to Impact Fees:

- **Affordable Housing Impact Fees**
  - New housing units (including live/work and work/live units)
- **Transportation and Capital Improvements Impact Fees**
  - New housing units (including live/work and work/live units)
  - New nonresidential projects
  - Nonresidential projects with additional floor area
  - Nonresidential projects with a “Change and Intensification of Use”<sup>1</sup>

## 2. Projects exempt from Impact Fees:

“Applies” means the Impact Fee applies to the project type.

“Exempt” means the project type is exempt from the specified Impact Fee.

	Transportation	Capital Improvements	Affordable Housing
Institutional projects involving less than 5,000 sf of floor area	Exempt	Exempt	Exempt
Nonresidential projects involving less than 5,000 sf of “Changed and Intensified” floor area (not including live/work or work/live units) <sup>2</sup>	Exempt	Exempt	Exempt
Nonresidential projects (not including live/work or work/live units) <sup>2</sup>	Applies	Applies	Exempt
Secondary (in-law) units (see Section 17.04.090 of the Planning Code)	Exempt	Exempt	Exempt
Affordable housing units	Applies	Exempt	Exempt
Additions to existing housing units (not including new units)	Exempt	Exempt	Exempt

## 3. Project timeline for applicability of Impact Fees:

A project will be subject to the Impact Fees at the time of a Complete Building Permit Application<sup>3</sup> submittal, except in the following circumstances:

- If the building permit expires the project is subject to the Impact Fee amount that is in effect when the application for a new building permit is made (except if the building permit only needs final inspections to be completed); or
- If the building permit is not issued within one year after the submission of a Complete Building Permit Application,<sup>3</sup> the project is subject to Impact Fee amount that is in effect when the building permit is finally issued; or
- If a certificate of occupancy (including a temporary certificate) is **not** issued within three years of the issuance of the building permit, the project is subject to the Impact Fee amount that is in effect when a temporary certificate of occupancy or certificate of occupancy is finally issued, whichever comes first.

<sup>1</sup> “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.

<sup>2</sup> For Office and Warehouse uses there is also a separate Jobs/Housing Impact Fee (OMC Chapter 15.68).

<sup>3</sup> “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 contains all the building permit application submittal materials required on the City’s submittal checklist.

**4. Changes to building permit:**

- Projects that have applied for a building permit and make small changes that do not trigger a new building permit are only subject to new Impact Fees for any additional housing units or additional nonresidential square footage added after the initial building permit application.
- Projects that have applied for a building permit and make substantial changes to the building that trigger a new building permit will be required to pay the Impact Fees that apply at that time for the entire project.

**5. Impact fees do not apply to projects with a vested right:**

- Projects that acquired a vested right by July 2, 2016 through either (a) a Development Agreement; (b) a vesting tentative map approval; and/or by (c) obtaining a validly issued building permit and beginning substantial construction are not subject to the Impact Fees.
- Projects with a vesting tentative map application either deemed or determined complete by November 27, 2015 are also not subject to the Impact Fees.
- Revisions to projects with an approved vesting tentative map are not subject to the Impact Fees if the vesting map is still valid, however, any additional units and/or additional nonresidential square footage not part of the original project and vesting map approvals are subject to the Impact Fees.

**6. When Impact Fee payments are due:**

- All Transportation and Capital Improvements Impact Fees are due prior to the issuance of a building permit.
- The Affordable Housing Impact Fee is due in two installments:
  - 1) The first installment of 50% of the Impact Fee is due prior to the issuance of a building permit; and
  - 2) The second installment for the remaining 50% is due prior to the issuance of a temporary or permanent certificate of occupancy, whichever comes first.

**7. Developer build option for Transportation, Capital Improvements and/or Affordable Housing:**

- A developer may construct transportation or capital facilities that would otherwise be funded by the Impact Fee, if approved by the City in its sole and absolute discretion.
- If a developer voluntarily decides to provide affordable housing units as part of their project, they will not be subject to the Affordable Housing Impact Fee. For the Affordable Housing Impact Fee, the total number of required affordable units shall be at least one of the following:
  - 1) Very low income units = 5% of the total number of housing units; or
  - 2) Low income units = 10% of the total number of housing units; or
  - 3) Moderate income units = 10% of the total number of housing units.

Projects including the minimum number of affordable housing units above may be entitled to a density bonus and development incentives under the Oakland Density Bonus and Incentive Procedure (OMC Chapter 17.07) and State density bonus program (Government Code Section 65915-65918). Moderate income rental units may take advantage of provisions in OMC Chapter 17.07 that otherwise apply to moderate income for-sale units.

**8. Online resources:**

OMC Chapter 15.74, Transportation and Capital Improvements Impact Fees (Ordinance No. 13366 C.M.S.), and OMC Chapter 15.72, Affordable Housing Impact Fees (Ordinance No. 13365 C.M.S.), and a summary of the Impact Fees are available on the City's website at <https://www.oaklandca.gov/topics/impact-fees>.

**9. For questions:**

Please contact Jack Schmidt in the Planning and Building Department at [jschmidt2@oaklandca.gov](mailto:jschmidt2@oaklandca.gov) or (510) 238-7289.