



# IMPACT FEE ASSESSMENT AND APPEAL INFORMATION

Per Ordinance 13853

(Approved 7/15/2025, fully effective 9/13/2025)

On July 15, 2025, City Council approved Ordinance 13853 to amend the City of Oakland impact fee program. Beginning September 13, 2025, all impact fees will be calculated per square foot and the fees will be due prior to issuance of a requested Temporary Certificate of Occupancy (TCO) or Certificate of Occupancy (CO). The fees will continue to be assessed at the time of a complete building permit application.

The ordinance also includes several exemptions to the affordable housing impact fee that went into effect July 15, 2025. Revised on-site affordable housing options will also be effective September 13, 2025.

## **AFFORDABLE HOUSING IMPACT FEE (AHIF)**

### **Types of Projects Subject to Impact Fees:**

- New housing units, except those exempt as described below.

### **Exempt:**

- Missing Middle – 2-4 Units on a single parcel not subject to Planned Unit Development (PUD) regulations
- Single Family Dwellings (SFD) (one unit on a single lot, whether detached or attached to a unit constructed on adjacent lot) that are 1750 square feet or less and not subject to PUD regulations
- Projects located in Zone 3 (exemption set to expire in FY27-28)
- Development Project approved pursuant to State Law SB684 (the “Starter Home Revitalization Act” that streamlines subdivision of land and development of 10 or fewer homes)
- Exemptions in place prior to adoption of the new ordinance:
  - Non-residential projects (not including live/work or work/live units)
  - Accessory Dwelling Units (ADUs)
  - Affordable Housing Units
  - Additions to existing housing units

### **Exempt Projects that have already been assessed AHIF under the previous ordinance**

Projects that are now exempt under the new regulations become exempt immediately with the following provisions:

- If the first installment of the impact fee has been paid, there will be no refund issued, but the second installment will be credited (no additional AHIF will be due)
- If no payment has been made for the AHIF, then both installments will be credited

**Partially Exempt:**

- Project with more than 4 units – the smallest 4 units are exempt, then the remaining units are charged per square foot.

**Partially Exempt Projects that have already been assessed AHIF:**

(note: the size of the units is only relevant to fees assessed on or after September 13, 2025)

- If the fees have already been assessed on a per unit basis, the calculation will not change to a per square foot calculation.
- If the first installment of the AHIF has been paid
- There will be no refund for the 4 smallest units that are now exempt.
- The second installment of the AHIF will be reduced by the remaining amount of AHIF owed on the 4 units that are now exempt.
- If no payment has been made toward AHIF, the assessment will be changed on September 13, 2025, to reflect the 4 smallest units that are now exempt. The applicant may:
  - choose to make the first installment payment in full to release the building permit for issuance, or
  - they may wait until September 15th at which time the building permit can be released where the full payment shall not be not due until CO issuance.

**Not Exempt**

- Single Family Dwellings that are larger than 1750 square feet on a single lot are not exempt, and the new assessment calculation will be determined per square foot, for the appropriate zone. The calculation is for the complete square footage of the home; there is no reduction applied to the first 1750 square feet.

**Not Exempt Projects that have already been assessed AHIF:**

- The project sponsor must pay the full AHIF as first assessed. The calculation will not change to a per square foot calculation.
- The project sponsor may choose to make the first installment payment to release the building permit for issuance, or they may wait until September 15th at which point the building permit can be released, and the full payment will be due at TCO or CO issuance.

## Revised On-Site affordable housing options

Income Levels	Zone 1 and 2	Zone 3
Very Low Income (VLI)	10%	5%
Low Income (LI)	12%	10%
Moderate Income (MI)	15%	15%
Combination	Combination of Moderate, Low, and Very Low-Income Units = Total Housing Units × 15%; or Combination of Low and Very Low-Income Units = Total Housing Units × 12%	Combination of Moderate, Low, and Very Low-Income Units = Total Housing Units × 15%; or Combination of Low and Very Low-Income Units = Total Housing Units × 10%

## CAPITAL IMPROVEMENT IMPACT FEE AND TRANSPORTATION IMPACT FEE (CIIF and TIF)

### Per Ordinance 13853:

“Prior to the effective date of the ordinance (**September 13, 2025**) which added this paragraph to this Chapter, the impact fee [for residential projects] was calculated using a formula based on additional housing units rather than additional residential square footage. Where impact fees were **calculated and assessed** prior to this modification, the prior calculation shall remain in effect unless reassessment is required pursuant to Section 15.74.040.A and where no vested rights have been obtained. The City shall not grant any refund requests based on changes incorporated by the ordinance which added this paragraph to this Chapter.”

If the CIIF and TIF have been calculated and assessed prior to September 13, 2025, no changes will be made to the assessed amounts.

For the AHIF, CIIF, and TIF, the only time a reassessment should occur is if more than five years pass between the issuance of the building permit and the first major inspection (e.g. foundation, underfloor, frame).

Beginning September 13, 2025, the CIIF and TIF will remain due in one installment but will be payable prior to the issuance of a temporary certificate of occupancy or certificate of occupancy, rather than prior to issuance of a building permit. A project sponsor may choose to pay the CIIF and TIF early to release the building permit for issuance, or they may wait until September 13th at which point the building permit can be released, and the full payment will be due at TCO or CO issuance.

## **RIGHT TO APPEAL**

An appeal of all Impact Fees cited herein may be granted by the City Administrator to a Development Project for any one of the following reasons (a more detailed description of each of the following reasons can be found in the “Impact Fee Administrative Regulations and Manual”):

1. Infeasibility
2. No or Limited Need for Affordable Housing, Citywide Transportation Infrastructure, or Capital Facilities
3. Delay
4. Incorrect Fee Application
5. Unlawful Fee Application
6. City, Port, or School District Non-Residential Projects Waived per Nexus Analysis

The Applicant must apply for an appeal to the City Administrator no later than ninety (90) days from the date of application for the building permit for the Development Project in writing on a form provided by the City. In the situation where an applicant was not aware of the basis for the appeal until the fee is assessed, the appeal shall be applied for no later than ninety (90) days from imposition of the fee, consistent with California Government Code Section 66020.

The Applicant shall pay the Appeal Filing Fee for the appeal application as established in the Master Fee Schedule. This Appeal Filing Fee is not refundable, regardless of the outcome of the Appeal provided that if an appeal is granted under “Incorrect Fee Application” (Section VIII.A.4), then the Appeals Filing Fee may be refunded.

The burden shall be on the Applicant to establish proof to the City’s satisfaction for the applicability of elements of this section for an appeal. The Applicant must submit full information in support of their submittal as requested by the City Administrator.

Failure to raise every issue that is contested in the application for appeal and to 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 for appeal shall preclude the Applicant from challenging the Impact Fee in court. The City Administrator may require review of the submitted materials by a third party at the expense of the Applicant.

**For complete information regarding impact fees and the appeal process please refer to the “Impact Fee Administrative Regulations and Manual” as amended after September 13, 2025.**