



IMPORTANT INFORMATION REGARDING IMPACT FEES

In accordance with Oakland Municipal Code (OMC) *Sections 15.72.040/15.74.040 - Applicability and 15.72.050/15.74.050 – Amount of Impact Fees*, the Oakland Planning and Building Department (PBD) increases the Affordable Housing, Transportation and Capital Improvement impact fees each fiscal year in accordance with the Marshall and Swift cost index. Those increases, memorialized legislatively, are automatically effective whether or not the Master Fee Schedule has been amended to reflect the adjustment.

Any applicant for a development project for which a 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. Further, if at any time a development project does not meet all the criteria listed in *OMC 15.72.040/15.74.040 subsection B items 1-4* (listed below), the applicant must pay the fees in effect at the current rate:

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 (3) years of the building permit being issued.

Prior to scheduling the final inspection, your project will be subject to an impact fee review. Provided that you have met all timelines listed in criteria above, your project will be released for the final inspection. If it is determined that all the criteria have not been met, the project will be subject to reassessment of the fees that are in effect before a certificate of occupancy will be issued.

SB937

Pursuant to SB937, which went into effect January 1, 2025, for residential projects with 10 or less housing units, payment of the Transportation and Capital Improvement Impact Fees will be deferred until final. If a residential project has more than 10 housing units but falls under one of these categories:

- a. Density Bonus Project
- b. 100% Affordable Housing Project
- c. Low Barrier Navigation Center Projects
- d. High Road High Jobs Acts Projects
- e. SB35 Project
- f. Affordable Housing on Faith and Higher Education Lands Projects

the payment will be deferred. These fees, when assessed on residential projects, are not subject to being increased.

The City Administrator does acknowledge specific circumstances when the issuance of a certificate of occupancy or temporary certificate of occupancy cannot be met within the 3-year deadline due to delays beyond the reasonable control of the Applicant. In such cases, a waiver may be granted for a deadline extension to obtain a certificate of occupancy or temporary certificate of occupancy. Please note that for such a waiver request, the Applicant must: raise the issue of delay as soon as possible; diligently resolve the delay; diligently pursue the Development Project to completion; and demonstrate such to the reasonable satisfaction of the Chief Building Official (CBO) or the CBO's designee. A waiver application submitted after the three-year deadline has already passed will generally not be approved.

Pursuant to GOV § 66023 of the California Code you have the right to request an audit and pursuant to GOV § 66006 of the California Code you may file a written request for mailed notice of the City of Oakland's meeting to review the impact fee annual report.

For more information regarding impact fees and/or delay waivers please review the Oakland Administrative Regulations and Manual which can be found on the Impact Fees web page.

[City of Oakland | Impact Fees \(oaklandca.gov\)](https://oaklandca.gov/impact-fees)

For additional information regarding impact fees please contact us at impactfees@oaklandca.gov.

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.
- B. **Exemptions Based on Submittal Date.** Any development project for which 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 (3) years of the building permit being issued.

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:

Residential Projects: Impact Fee = Fee Per Housing Unit x 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.

(Ord. No. 13365, § 4, 5-3-2016)

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 sixty (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 (3) years of the building permit being issued.

In addition, Development Projects that obtain a vested right, as defined by California law, no later than sixty (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 five thousand (5,000) square feet of building floor area occupied by institutional uses;
 2. Nonresidential projects involving less than five thousand (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;
 4. Vehicular residential facilities, as defined in Section 17.10.700 of the Oakland Planning Code; or
 5. 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.

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 Subsections 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.

(Ord. No. 13366, § 4, 5-3-2016)

State of California

GOVERNMENT CODE

Section 66006

66006. (a) If a local agency requires the payment of a fee specified in subdivision (c) in connection with the approval of a development project, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned by moneys in the capital facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected.

(b) (1) For each separate account or fund established pursuant to subdivision (a), the local agency shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year:

(A) A brief description of the type of fee in the account or fund.

(B) The amount of the fee.

(C) The beginning and ending balance of the account or fund.

(D) The amount of the fees collected and the interest earned.

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

(F) (i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

(ii) An identification of each public improvement identified in a previous report pursuant to clause (i) and whether construction began on the approximate date noted in the previous report.

(iii) For a project identified pursuant to clause (ii) for which construction did not commence by the approximate date provided in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.

(H) The amount of refunds made pursuant to subdivision (e) of Section 66001, the number of persons or entities identified to receive those refunds, and any allocations pursuant to subdivision (f) of Section 66001.

(2) The local agency shall review the information made available to the public pursuant to paragraph (1) at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public, as required by this subdivision. Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the local agency for mailed notice of the meeting. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(c) For purposes of this section, “fee” means any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements within the meaning of subdivision (b) of Section 66000, and that is imposed by the local agency as a condition of approving the development project.

(d) Any person may request an audit of any local agency fee or charge that is subject to Section 66023, including fees or charges of school districts, in accordance with that section.

(e) (1) A local agency shall inform a person paying a fee subject to this section of both of the following:

(A) The person’s right to request an audit pursuant to Section 66023.

(B) The person’s right, pursuant to paragraph (1) of subdivision (b), to file a written request for mailed notice of the local agency’s meeting to review the information made public pursuant to paragraph (1) of subdivision (b).

(2) A local agency shall provide a person paying a fee subject to this section a link to the page on the local agency’s internet website where the information made public pursuant to paragraph (1) of subdivision (b) is available for review.

(f) The Legislature finds and declares that untimely or improper allocation of development fees hinders economic growth and is, therefore, a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this section shall supersede all conflicting local laws and shall apply in charter cities.

(g) At the time the local agency imposes a fee for public improvements on a specific development project, it shall identify the public improvement that the fee will be used to finance.

(Amended by Stats. 2023, Ch. 741, Sec. 1. (AB 516) Effective January 1, 2024.)

State of California

GOVERNMENT CODE

Section 66023

66023. (a) (1) Except as otherwise provided in paragraph (3), a person may request an audit in order to determine all of the following:

(A) Whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, as defined in Section 66000, or service provided by the local agency.

(B) When the revenue generated by a fee or charge is scheduled to be expended.

(C) When the public improvement is scheduled to be completed.

(2) (A) Except as provided in subparagraph (B), if a person makes a request pursuant to paragraph (1), the legislative body of the local agency may retain an independent auditor to conduct an audit to determine whether the fee or charge is reasonable, when the revenue generated by a fee or charge is scheduled to be expended, and when the project is scheduled to be completed.

(B) The legislative body is not required to conduct the audit if an audit has been performed for the same fee within the previous 12 months.

(3) Subparagraphs (B) and (C) of paragraph (1) shall not apply to a fee subject to Section 66013.

(b) To the extent that the audit determines that the amount of any fee or charge does not meet the requirements of this section, the local agency shall adjust the fee accordingly. This subdivision does not apply to a fee authorized pursuant to Section 17620 of the Education Code, or Sections 65995.5 and 65995.7.

(c) Except as otherwise provided in subdivision (h), the local agency shall retain an independent auditor to conduct an audit only if the person who requests the audit deposits with the local agency the amount of the local agency's reasonable estimate of the cost of the independent audit. At the conclusion of the audit, the local agency shall reimburse unused sums, if any, or the requesting person shall pay the local agency the excess of the actual cost of the audit over the sum which was deposited.

(d) Any audit conducted by an independent auditor to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of providing the product or service shall conform to generally accepted auditing standards.

(e) The procedures specified in this section shall be alternative and in addition to those specified in Section 54985.

(f) The Legislature finds and declares that oversight of local agency fees is a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this chapter shall supersede all conflicting local laws and shall apply in charter cities.

(g) This section shall not be construed as granting any additional authority to any local agency to levy any fee or charge which is not otherwise authorized by another provision of law, nor shall its provisions be construed as granting authority to any local agency to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.

(h) Notwithstanding subdivision (c), if a local agency does not comply with subdivision (b) of Section 66006 for three consecutive years, both of the following shall apply:

(1) The local agency shall not require a deposit for an independent audit requested pursuant to this section and shall pay the cost of the audit.

(2) The independent audit conducted shall include each consecutive year the local agency did not comply with subdivision (b) of Section 66006.

(Amended by Stats. 2023, Ch. 741, Sec. 3. (AB 516) Effective January 1, 2024.)