

Chapter 17.40 LOWER-INCOME HOUSING FEES

17.40.010 Purpose.

A lower-income housing fee is established as set forth in this chapter in order to assist in meeting the lower-income and moderate-income housing goals as established in the general plan. (Ord. 1488 § 1, 1990)

17.40.020 Definitions.

As used in this chapter:

- A. “Commercial office or industrial development project” means any construction of a new commercial, office or industrial structure, the addition to any existing commercial, office or industrial structure, or the conversion of an existing commercial, office or industrial structure to a use classification capable of employing additional employees.
- B. “House of lower-income” means a household composed of those individuals or families with incomes no greater than 80 percent of the median family income for the Standard Metropolitan Statistical Area, defined as Alameda and Contra Costa Counties for a family of four persons, adjusted up or down for larger or smaller household sizes (PMSA Median).
- C. “Household of moderate-income” means a household comprised of those individual or families with incomes greater than 80 percent, but less than 120 percent, of the median family income for the Standard Metropolitan Statistical Area, defined as Alameda and Contra Costa Counties for a family of four persons, adjusted up or down for larger or smaller household sizes (PMSA Median).
- D. “Lower-income housing units” means new or rehabilitated units to be used by households of lower-income for at least 25 years and the total housing cost for each unit shall not exceed 30 percent of household income.
- E. “Moderate-income housing units” means new or rehabilitated units to be used by households of moderate-income for at least 25 years and the total housing cost for each unit shall not exceed 30 percent of household income.
- F. “Rehabilitated unit” means any housing unit not meeting Uniform Building Code requirements for occupancy which is improved so as to meet those requirements.
- G. “Residential development project” means the construction of a new housing unit. (Ord. 1488 § 1, 1990)

17.40.030 Lower-income housing fee required.

A. All residential and commercial office or industrial development projects not otherwise exempt shall pay a lower-income housing fee as established by separate city council resolution and which fee shall be set forth in the city’s fees and charges appendix.

If additional floor area is constructed for, or converted to, commercial, industrial or office use, the fee shall be applicable only to the square footage of the floor area added or to that portion of the square footage of the floor area converted for which the fee has not been paid.

B. The city council may adjust the fee in consideration of on-site programs promoting lower-income

housing such as the dedication of land suitable for lower-income housing. (Ord. 1488 § 1 (part), 1990)

17.40.040 Exemptions.

- A. The following are exempt from the lower-income housing fee:
1. All units within a residential development project when the project has a minimum of 15 percent lower-income housing units;
 2. Those lower-income housing units in a residential development project with less than 15 percent lower-income housing units;
 3. Moderate-income housing units in residential development projects;
 4. Second units as that term is used in Section 56852.2 of the Government Code;
 5. Reconstruction or other new development on a site when such reconstruction replaces an equal number of square feet of floor area, as defined in the Uniform Building Code, when the use is similar, and when such reconstruction occurs within two years from the time the previous structure on the site was demolished;
 6. Churches.
- B. The project developer shall enter into a regulatory agreement with the city in order for a project to qualify for an exemption by the inclusion of lower-income or moderate-income housing units. (Ord. 1488 § 1 (part), 1990)

17.40.050 Reduction of fee—Commercial, office or industrial project.

- A. The city council may reduce the required fee for a commercial, office or industrial development project when the project developer can demonstrate (1) that the proposed use will generate substantially fewer workers than the uses which have established the fee; and (2) that the building design is unable to house another use without substantial renovation. Examples of such uses are public utility facilities, exclusive storage buildings, etc.
- B. In the event such buildings are renovated to house another use, the fee then applicable shall be due at that time. (Ord. 1488 § 1 (part), 1990)

17.40.060 Commercial, office or industrial projects—Construction of lower-income housing.

Commercial, office or industrial development projects may construct lower-income housing to fulfill the requirements of this chapter in accordance with this section.

- A. Lower-income housing proposed to offset the requirements of this chapter must be proposed in conjunction with the commercial, office or industrial development project which would give rise to the fee and must be approved by the city council in offsetting otherwise required lower-income housing fees.
- B. For lower-income housing constructed on lands designated for other than residential development in the general plan as of the effective date of the ordinance codified in this chapter, the project developer shall be given a credit, for purposes of offsetting the lower-income housing fee otherwise required, in an amount established by separate city council resolution and which credit amount shall be set forth in the city's fees and charges appendix.
- C. For lower-income housing constructed on lands designated for residential development in the general plan as of the effective date of the ordinance codified in this chapter, for each lower-income housing unit

constructed beyond 15 percent of the residential development project, the project developer shall be given a credit for purposes of off-setting the lower-income housing fee otherwise required, in an amount established by separate city council resolution and which credit amount shall be set forth in the city's fees and charges appendix.

D. In the event the lower-income housing constructed by the developer of a commercial, office or industrial development project creates an offset of the lower-income housing fee greater than the total fee required by the development project, the developer may apply the difference to other sites then owned by the developer. This transfer shall be so noted in the regulatory agreement accompanying the project. (Ord. 1488 § 1 (part), 1990)

17.40.070 Annual adjustment of the fee.

The lower-income housing fee shall annually be revised effective January 1st of each year, commencing on January 1, 1992, by the percentage increase or decrease in the Consumer Price Index for San Francisco/Oakland region. (Ord. 1488 § 1 (part), 1990)

17.40.080 Establishment of lower-income housing fund.

A. All fees generated pursuant to this chapter shall be deposited into the lower-income housing fund, and any property interest or other value contributed, including interest earned by the fund, shall be segregated and used exclusively for the purposes provided for herein.

B. The city manager shall make a written annual report to the city council regarding the administration of the housing fund, and shall present such annual report at a regular meeting of the city council.

C. Pursuant to Government Code Section 66000, et seq., the city shall make findings once each fiscal year with respect to any portion of the fees remaining unexpended or uncommitted in its account five or more years after the deposit of the fees to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The findings required by this section need only be made for moneys in the possession of the city and need not be made with respect to letters of credit, bonds or other instruments taken to secure payment of the fee at a future date.

D. Any refunds shall be made pursuant to Government Code Section 66001. (Ord. 1488 § 1 (part), 1990)

17.40.090 Use of lower-income housing fund.

A. Any moneys generated by this chapter shall be used in accordance with and in support of activities to implement the city's adopted housing element. Activities may include, but are not limited to, land acquisition, construction, rehabilitation, subsidization, and counseling or assistance to other governmental entities, private organizations, or individuals to expand housing opportunities to lower-income households.

B. Moneys in the housing fund may be disbursed, hypothecated, collateralized, or otherwise employed for the purposes set forth herein. These purposes include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, development loan funds, participation leases, loans to develop affordable housing or other public/private partnership arrangements. The housing fund may be used for the benefit of both rental or owner-occupied housing.

C. Moneys in the housing fund shall be so segregated such that revenue generated by commercial, office or industrial development projects shall be used solely for lower-income housing activities aimed at

providing such housing for workers.

D. When the city uses housing fund moneys to construct or assist in the construction of lower-income units, the city may establish the rules which will apply to occupancy of said units. It is the intention of this chapter and the general plan that such units be made available on a priority basis to Pleasanton residents and workers.

E. The city council may use housing fund moneys for moderate-income housing as determined necessary and desirable to meet general plan goals and policies. (Ord. 1488 § 1 (part), 1990)

17.40.100 Time of payment.

Lower-income housing fees shall be paid at the time of issuance of a building permit for the residential unit and/or for the commercial, office or industrial development project giving rise to the fee, unless otherwise determined by the city. (Ord. 1488 § 1 (part), 1990)

CITY COUNCIL OF THE CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 94-80

**RESOLUTION APPROVING POLICIES AND GUIDELINES
FOR USE OF THE LOWER-INCOME HOUSING FUND**

WHEREAS, the City Council of the City of Pleasanton has adopted an ordinance establishing a Lower-Income Housing fee; and

WHEREAS, said ordinance establishes general uses for the Lower-Income Housing Fund created through the collection of said fees from residential and commercial development; and

WHEREAS, at its meeting of April 5, 1994, the City Council directed staff to develop more specific policies and guidelines concerning the use of the Lower-Income Housing Fund for housing activities, including projects related to the City's Community Development Block Grant (CDBG) program; and

WHEREAS, at its meeting of July 5, 1994, the City Council reviewed the report of the Director of Planning and Community Development (SR 94:218) regarding proposed policies for use of the Lower-Income Housing Fund.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON RESOLVES AS FOLLOWS:

Section 1: The City Council adopts the policies and guidelines for use of the Lower-Income Housing Fund as set forth in Exhibit "A", attached hereto and incorporated herein by this reference.

Section 2: This resolution shall become effective immediately upon its passage and adoption.

I HEREBY CERTIFY THAT THE FOREGOING WAS DULY AND REGULARLY ADOPTED BY THE CITY COUNCIL OF THE CITY OF PLEASANTON, AT A MEETING HELD ON JULY 5, 1994 BY THE FOLLOWING VOTE:

AYES: Councilmembers - Dennis, Mohr, Pico, Scribner, and Mayor Tarver
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:


 Peggy L. Ezdro, City Clerk

APPROVED AS TO FORM:



 Michael H. Roush, City Attorney

EXHIBIT A:

POLICIES AND GUIDELINES FOR USE OF THE CITY OF PLEASANTON LOWER-INCOME HOUSING FUND

July 5, 1994

Purpose of the Lower-Income Housing Fund

To create new affordable (lower-income and moderate income) housing to offset the impacts of new development, both residential and commercial/office/industrial, on the City's housing stock.

To enable the City to meet the portion of its lower-income and moderate income housing needs, as identified in the General Plan Housing Element, which cannot be adequately met through other measures such as inclusionary programs and market rate projects.

Definitions

The various terms used in these policies (e.g., moderate income, lower-income) shall be as defined in the ordinance establishing the Lower-Income Housing fee (Municipal Code Chapter 17.40), except as otherwise described in this section.

As noted in Section 17.40.020, the term "lower-income" refers to households with incomes no greater than 80% of the area median income level. This broad category includes both "low income" (50% to 80% of median) and "very low income" (less than 50% of median) households.

General Policies

Housing Funds shall be used for projects or activities which benefit Pleasanton residents and/or workers and which address the goals, policies, and programs of the General Plan Housing Element for affordability level, housing tenure, and other priority issues.

Priority shall be given to projects which address the housing needs of "very low income," "low income," and "moderate income" households according to the level of need established in the General Plan Housing Element.

Priority shall be given to projects or activities which create new affordable housing through new construction, acquisition, rehabilitation, extending the term of affordability, and similar methods.

If deemed appropriate, the City Council may establish a target or cap each year for the amount of the Housing Fund which may be made available to supplement the Community Development Block Grant (CDBG) program in conjunction with the annual CDBG funding allocation process.

The portion of the Housing Fund which is derived from fees collected from commercial, office, and industrial development shall be segregated from the portion of the fund derived from residential development, as required in Section 17.40.090C. Accordingly, the former may be used solely for activities aimed at providing lower-income housing for Pleasanton workers.

Uses of the Lower-Income Housing Fund

The City Council has established the following categories as allowable uses of the Housing Fund:

I. Property Acquisition

- A. The purchase of land for which the purpose is the new construction of:**
 - 1. Rental or ownership housing for "very low income" and/or "low income" households.**
 - 2. Ownership housing for "moderate income," first-time home buyer households.**

- B. The purchase of existing housing units for which the purpose is the development (e.g., through conversion, redevelopment, rehabilitation) of:**
 - 1. Rental or ownership housing for "very low income" and/or "low income" households.**
 - 2. Ownership housing for "moderate income," first-time home buyer households.**

- C. The purchase of existing affordable housing units in which prior affordability provisions are at risk of termination or expiration and where the objective is to maintain or prolong housing affordability, including:**

1. Rental or ownership housing for "very low income" and/or "low income" households.
2. Ownership housing for "moderate income," first-time home buyer households.

II. New Construction

- A. The payment of costs, including fees, associated with the construction of new rental or ownership housing units for "very low income" and/or "low income" households. Priority shall be given to projects which benefit "very low income" households.
- B. The payment of costs associated with the construction of new ownership housing units for "moderate income," first-time home buyer households.

III. Rehabilitation

- A. Rehabilitation projects or activities in existing rental or ownership housing units where the activity results in or is related to an increase in the City's stock of lower-income housing (i.e., the provision of new "very low" and/or "low income" units through rehabilitation rather than through new construction).
- B. Rehabilitation projects or activities in existing rental or ownership housing units occupied by "very low income" and/or "low income" households where the activity is related to the physical maintenance of existing lower-income housing units to ensure their continued availability as part of the City's lower-income housing stock. In order to be eligible for Housing Fund assistance, maintenance-oriented rehabilitation projects must include substantial City involvement, e.g., complete or partial City ownership, prior City financial commitment, legal or contractual City involvement, etc.

IV. Housing Counseling/Public Services Related to Housing

- A. The provision of counseling and similar assistance (either directly or through other governmental entities, private organizations, or individuals) in which the goal is to expand housing opportunities in Pleasanton for lower-income households. The counseling activities for which the Housing Fund is used must be demonstrated to benefit at least 70% lower-income households.

V. Financial Activities

- A. Direct financial assistance to projects or activities which are related to one or more of the categories described elsewhere in these policies (e.g., assistance to housing development corporations, equity participation loans, grants, subsidization, redevelopment loan funds, participation leases, loans to develop affordable housing or other public/private partnership arrangements).**
- B. Provision of funds to the City's Second Mortgage Home Loan Program to provide financial assistance in the form of second mortgage loans (maximum 20% of sales price) with deferred and/or below market interest payments to supplement the financing needed to acquire a home loan. The assistance shall be related to homes sold at lower-income or moderate income sales prices through participation in the Pleasanton Homeownership Assistance Program (PHAP).**
- C. Encumbrance of specified amount(s) of the Housing Fund as a guarantee for loans against properties related to projects which are consistent with these policies.**
- D. Encumbrance of specified amount(s) of the Housing Fund as a mechanism to leverage funding from other sources to finance projects which are consistent with these policies.**

City Council Approval Required

The use of Housing Funds for any activity shall be subject to review and approval by the City Council on a case-by-case basis to ensure consistency with Chapter 17.40 and with these policies. The application of these policies shall similarly be subject to the provisions and requirements of Chapter 17.40. As a condition of funding for any individual case, the city council may require the execution of an agreement between the City and the beneficiary to establish standards and restrictions for the use of Housing Funds, commitments to use the funding for its intended purpose, provisions for repayment of funds (e.g., upon resale of property), etc.

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June 29, 1994