
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)