

**Sacramento City Code**

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**Article IV. Housing Trust Fund Fee**

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**18.56.410 Definitions.**

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The following definitions apply in this article:

“Affordable housing” means housing that is rented at an affordable rent or sold at an affordable housing price.

“Affordable housing price” means a sales price at which low-income households can qualify for the purchase of for-sale dwelling units. Qualification is based on no more than 35% of income being applied to housing expenses (mortgage principal and interest, taxes, insurance, and assessments).

“Affordable rent” means a monthly rent consisting of a maximum of one-twelfth of 30% of 80% of the median income in the county, adjusted for household size appropriate to the unit, less a reasonable allowance for utilities. The median income in the county is determined by the United States Department of Housing and Urban Development.

“Fee report” means the city council-approved nexus study that calculates the housing trust fund fee amounts, including any amendments.

“Housing unit” means a dwelling unit of any tenure or price.

“Housing trust fund” means the fund created by section [18.56.430](#).

“Housing trust fund fee” means the fee established by the city council under section [18.56.420](#) to provide funding for the direct and indirect costs of constructing affordable housing, with priority given to very low-income households.

“Low-income households” means households with incomes at 80% or below of the median income in the county as determined by the United States Department of Housing and Urban Development.

“Mixed-use project” means any development project that is comprised of both a commercial or industrial use and a residential use.

“Nonresidential development project” means a construction project undertaken for the purpose of developing a commercial or industrial use set forth in the Planning and Development Code, a mixed-use project, or any other use determined by the city manager to impact housing demand.

“Regulatory agreement” means an agreement with the Sacramento Housing and Redevelopment Agency, recorded on title, requiring the dwelling units to remain affordable for a period of no less than 30 years.

“SHRA director” means the director of the Sacramento Housing and Redevelopment Agency or the director’s designee.

“Very low-income households” means households with incomes at 50% or below of the median income in the county as determined by the United States Department of Housing and Urban Development. (Ord. 2017-0013 § 1)

**18.56.420 Housing trust fund fee.**

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The housing trust fund fee is established and imposed on nonresidential development projects. The fee amounts adopted by city council resolution shall not exceed the amounts calculated in the fee report, provided that the fee amounts may be subject to automatic annual adjustment as specified by city council resolution. (Ord. 2017-0013 § 1)

**18.56.430 Housing trust fund; use of fee revenues.**

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- A. The housing trust fund is established. The city shall deposit all revenues generated under this article, and any interest earned on the fund balance, into the housing trust fund. The housing trust fund may receive monies from other sources.
- B. The housing trust fund shall be administered by the SHRA director, who has the authority to govern the fund consistent with this article and to prescribe procedures for that purpose, subject to approval by the city council.
- C. Revenues and interest income deposited into the housing trust fund shall be used to do the following:
1. Provide loans, grants, or other subsidies to nonprofit and for-profit housing developers, governmental entities, and individuals to develop new or substantially rehabilitated affordable housing for low-income and very low-income households whose members are in the labor force, with priority given to very low-income households; and
  2. Reimburse the city and SHRA for the costs of administering the housing trust fund fee, the housing trust fund, and this article.
- D. Section [18.56.140](#), concerning the disposition of unexpended or unappropriated fee revenues, does not apply to the housing trust fund fee or housing trust fund.
- E. Section [18.56.150](#), concerning annual reports and review of fees, does not apply to the housing trust fund fee or housing trust fund. Instead, the SHRA director, by June 30th of every year, shall prepare for the city council a report identifying the following information for the prior calendar year:
1. A statement of income, expenses, disbursements, and other uses of the housing trust fund;
  2. The current housing trust fund fee amount, reflecting any automatic annual adjustments under section [18.56.120](#);
  3. The total number of low-income and very low-income housing units constructed or assisted during the prior calendar year and the amount of such assistance; and
  4. Any recommended changes necessary to carry out the purpose of this article. (Ord. 2017-0013 § 1)

**18.56.440 Exemptions.**

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In addition to the exemptions set forth in subsection C of section [18.56.125](#), the following nonresidential development projects are exempt from the provisions of this article:

- A. Nonresidential development projects that are located on property owned by the State of California or the United States of America, or any of their agencies, with the exception of property not used exclusively for governmental or educational purposes; provided, however, this article shall apply at the time a nonresidential development project no longer meets the requirements for exemption. Compliance with this article shall be the obligation of the owner of the land on which the project is located when the project no longer meets the exemption requirements. If the land is owned by the State of California or the United States of America, but another party holds a possessory interest in the land, then the holder of the possessory interest shall comply with this article;
- B. Any commercial building area that is part of a mixed-use multi-unit dwelling where more than 50% of the gross area is devoted to dwelling units and at least 20% of the dwelling units are restricted to occupancy by low-income households as evidenced in a regulatory agreement;
- C. The use is operated by a nonprofit organization that provides food storage, meal service, or temporary shelter to the homeless;
- D. The use is operated by a nonprofit organization that provides essential services (such as medical or emergency care) without cost to the recipient and serves primarily low-income households;
- E. Carports and garages;

- F. Temporary commercial uses and buildings; and
- G. Any use made exempt by resolution of the city council. (Ord. 2017-0013 § 1)

**18.56.450 Special fee determinations.**

A. The city manager shall determine and calculate the housing trust fund fee in accordance with section [18.56.130](#). In the following situations, however, the city manager shall determine and calculate the housing trust fund fee on a case-by-case basis:

- 1. When the use requires a special fee determination as indicated in the fee resolution adopted under section [18.56.420](#);
- 2. When the use does not fall into one of the categories listed in the fee resolution adopted under section [18.56.420](#); and
- 3. When the city manager determines that due to the unique characteristics of the nonresidential development project, the project’s anticipated employee density is not consistent with the employee densities for the uses listed in the fee resolution.

B. The city manager’s determination of employee density pursuant to this section may be based on any of the following:

- 1. Data concerning anticipated employee density for the project submitted by the applicant;
- 2. Employment surveys or other research on similar uses submitted by the applicant or independently undertaken by the city manager; or
- 3. Any other data or information the city manager determines relevant.

C. Any application for a special fee determination under this section shall be accompanied by information sufficient to enable the city manager to make a determination of employee density under this section. (Ord. 2017-0013 § 1)

**18.56.460 Option to construct dwelling units.**

A. Requirement. Subject to the provisions of this section, in lieu of paying the housing trust fund fee, an applicant for a nonresidential development project may construct dwelling units. The required number of dwelling units shall be calculated by multiplying the gross square feet of nonresidential space within the nonresidential development project by the applicable housing factor, as follows:

Type of Use*	Housing Factor/Square Foot
Office	.000127
Hotel	.000042
Commercial	.000106
Manufacturing	.000042
Warehouse	.000021

Nonresidential development projects that do not fall within a specific type of use category will be evaluated on a case-by-case basis to determine the appropriate housing factor.

If this calculation produces a decimal number, the number shall be rounded up to the nearest whole number to yield the required number of dwelling units. The dwelling units may be of any value or tenure type. Dwelling units constructed in compliance with this option may not be used to satisfy the housing trust fund fee requirement for more than one nonresidential development project.

- B. Application and fee. To proceed under this section, an applicant must do the following:

1. Submit to the city manager an application that includes the following:
  - a. Sufficient information, as determined by the city manager, to enable the city manager to conclude that the applicant, within its financial means, will construct or cause to be constructed the required number of dwelling units within the timeframe set forth in this section; and
  - b. If an applicant intends to construct the dwelling units through a joint venture, partnership, or similar arrangement, the applicant must certify that it has paid to the joint venture, partnership, or under its similar arrangement, an amount equal to or greater than 60% of the housing trust fund fee it would otherwise pay to the city for the nonresidential development project. The applicant must certify that the joint venture, partnership, or similar arrangement will use these funds to construct the dwelling units.
2. Pay a fee equal to 40% of the housing trust fund fee otherwise due on the applicant's nonresidential development project. This fee may be paid in two installments of equal value as follows:
  - a. The first half of the fee must be paid at the time of submittal of the application to proceed under this section; and
  - b. The second half of the fee must be paid prior to the issuance of a building permit for the applicant's nonresidential development project.
- C. City manager approval. The city manager may approve or deny the application to proceed under this section.
- D. Timeline for construction of the dwelling units.
  1. Commencement. Within one year of the issuance of the first building permit for the applicant's nonresidential development project, the applicant must provide written certification to the city manager that it has commenced construction of the dwelling units. No certificate of occupancy for the nonresidential development project shall be issued until the applicant complies with this subsection.
  2. Completion. The applicant's dwelling units must pass the city's final inspection within two years of the issuance of the first building permit for the nonresidential development project.
  3. Extensions. The deadlines to commence and complete construction of the dwelling units may each be extended by a maximum of two one-year periods if the city manager determines, based on information submitted by the applicant, all of the following:
    - a. There is good cause for an extension or an additional extension;
    - b. The failure to comply with the time limits in this subsection D is beyond the applicant's control; and
    - c. The applicant has made a reasonable effort to comply with this subsection.
- E. Location of dwelling units. Dwelling units constructed under this section shall be located on infill sites that either have adequate improvements and facilities or are located in a proposed or existing assessment district that will ensure the provision of adequate improvements and facilities.
- F. Failure to construct dwelling units. If an applicant fails to construct dwelling units as required by this section, the applicant shall pay the housing trust fund fee for its nonresidential development project, together with interest accrued from the date of issuance of the first building permit for the project, less any amounts paid towards the fee under subsection B.1.b. of this section. Interest shall accrue at a rate equal to the city's annual earnings rate on Pool A funds for the previous fiscal year, per annum.
- G. The city manager may issue guidelines for the administration of this section. (Ord. 2017-0013 § 1)

#### **18.56.470 Conflict with other provisions.**

If there is any conflict between a provision of this article and any other provision of this chapter, the provision of this article governs. (Ord. 2017-0013 § 1)

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