

**DEPARTMENT OF
CITY PLANNING**

CITY PLANNING COMMISSION

DAVID H. J. AMBROZ
PRESIDENT

RENEE DAKE WILSON
VICE-PRESIDENT

ROBERT L. AHN

CAROLINE CHOE

RICHARD KATZ

JOHN W. MACK

SAMANTHA MILLMAN

VERONICA PADILLA-CAMPOS

DANA M. PERLMAN

JAMES K. WILLIAMS
COMMISSION EXECUTIVE ASSISTANT
(213) 978-1300

**CITY OF LOS ANGELES
CALIFORNIA**



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801

VINCENT P. BERTONI, AICP
DIRECTOR
(213) 978-1271

KEVIN J. KELLER, AICP
DEPUTY DIRECTOR
(213) 978-1272

LISA M. WEBBER, AICP
DEPUTY DIRECTOR
(213) 978-1274

JAN ZATORSKI
DEPUTY DIRECTOR
(213) 978-1273

<http://planning.lacity.org>

June 1, 2017

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California, 90012

Attention: PLUM Committee

Dear Honorable Members:

PROPOSED AFFORDABLE HOUSING LINKAGE FEE ORDINANCE; CF 17-0274

The Department of City Planning is hereby transmitting a revised Affordable Housing Linkage Fee ordinance to the Planning and Land Use Management Committee for consideration. The proposed revisions are minor in nature and intended to improve clarity and consistency. They are as follows:

- 1) Clarify that the definition of "Development Project," which defines the types of projects subject to the proposed linkage fee, includes a single-family detached home project that results in a net increase of more than 1,500 square feet.
- 2) Include the Extremely Low Income (ELI) category (30% of Area Median Income) into the proposed on-site affordable housing exemption to align with Measure JJJ and the Transit Oriented Communities (TOC) Program, which allows for this income category to be served.
- 3) Clarify that when a private contractor or other non-governmental entity is constructing a government or public institution intended for community use, on behalf of the government or public institution, that the project is exempt from the proposed linkage fee requirements.
- 4) Clarify that a project is exempt from the Linkage Fee requirements if it is subject to higher on-site affordability requirements due to another land use policy, ordinance or development agreement.

This clarifying language will reduce an uncertainty on the part of the public and various city agencies. They do not change the policy intent or provisions of the original ordinance. With these changes, the proposed draft of this ordinance remains substantially consistent with that which was approved by the City Planning Commission on February 23, 2017.

Very truly yours,

VINCENT P. BERTONI, AICP
Director of Planning

KEVIN J. KELLER, AICP
Deputy Director

Attachments - Ordinance

ORDINANCE NO. _____

An ordinance adding Section 21.18 and amending Section 16.02 of the Los Angeles Municipal Code, as well as adding Section 5.578 of Chapter 172 of the Administrative Code, establishing an Affordable Housing Linkage Fee, and directing Linkage Fees derived from Development Projects to the Housing Impact Trust Fund.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Chapter II of the Los Angeles Municipal Code is amended to add:

**ARTICLE 1.18
AFFORDABLE HOUSING LINKAGE FEE**

SEC. 21.18.1. DEFINITIONS

Terms have the meaning ascribed in Section 12.03 or 12.22 of the Los Angeles Municipal Code, or if not defined, have the following meanings:

- (a) "Additional Housing Units" means the number of dwelling units or guest rooms to be added on a parcel of real property by issuance of a building permit, less the number of dwelling units or guest rooms legally removed, or authorized to be removed, from the same parcel of real property.
- (b) "Additional Nonresidential Floor Area" means the amount of floor area, as defined in Section 12.03 of this code, to be added on a parcel of real property by issuance of a building permit, less the amount of floor area legally removed, or authorized to be removed, from the same parcel of real property.
- (c) "Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, limited liability company, entity, combination of entities or authorized representative thereof, who undertakes, proposes or applies to the City for a Development Project.
- (d) "Complete Building Permit Application" means a complete application for a building permit a building or structure that is submitted along with architectural and structural plans sufficient for a complete plan check that is accepted by the Department of Building and Safety.
- (e) "Development Project" means any activity involving or requiring the issuance of a building permit that results in Additional Housing Units, Additional Nonresidential Floor Area, additional single-family residential floor area meeting one of the provisions of Paragraph 21.18.2(b)(4), or a change of use from commercial or industrial to residential.

- (f) "Linkage Fee" means that housing Linkage fee imposed under Article 1.18 of the Los Angeles Municipal Code on applicants for certain Development Projects.

SEC. 21.18.2. APPLICABILITY

The following provisions apply to any Development Project otherwise covered by these regulations for which a building permit is approved by the City. 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 Linkage Fee. The provisions of this Section are subject to the requirements set forth in California Government Code Section 66000 et seq.

(a) **Effective Date.**

Any Applicant for a Development Project for which a Complete Building Permit Application or Department of City Planning entitlement application is submitted, whichever is first, on or after _____, 2017 (*180 days after adoption*), must pay the Linkage Fee in effect at the time of building permit issuance. For these purposes, a Department of City Planning entitlement application is an application that has been accepted by City Planning and the application fees have been paid. If a project had submitted a building permit application or application sufficient for a planning or zoning entitlement for the Development Project prior to this date, the project shall not be subject to a fee.

- (b) **Exemptions.** The Department of Building and Safety shall determine which of the following exemptions apply to any Development Project based on documentation submitted by the applicant prior to the issuance of the building permit. The fee imposed by this article shall not apply to construction which includes the following:

1. Less than 15,000 square feet of Additional Nonresidential Floor Area in any nonresidential building, as determined by the Department of Building and Safety.
2. Any for-sale or rental housing development containing restricted affordable units where at least 40% of the total units or guest rooms are dedicated for moderate income households, or at least 20% of the total units or guest rooms are dedicated for low income households, or at least 11% of the total units or guest rooms are dedicated for very low income households, or at least 8% of the total units or guest rooms are dedicated for extremely low income households, for at least 55 years, where a covenant has been made with the Housing and Community Investment Department. Such a covenant shall also ensure that projects using this exemption are subject to the replacement policy found in Government Code Section 65915(c)(3). For the purposes of this section, total units includes units added by a density bonus or other land use incentive.
3. Any Development Project being constructed by or on behalf of a government or public institution such as a hospital, school, museum, homeless shelter or other

similar projects that are intended for community use, or any private Elementary and High School which does not discriminate, as determined by the Director of Planning.

4. A single-family detached home meeting one or more of the following conditions:
 - a. Any addition of up to 1,500 square feet to an existing single-family detached home located in a single-family or multiple-family zone.
 - b. New construction of any single-family detached home located in a single-family zone that is less than 1,500 square feet.
 - c. Any replacement of a single-family detached home resulting in a net increase of less than 1,500 square feet from the prior home that existed on the property.
5. A Second Dwelling Unit as defined by Section 12.03 of this code, or an Accessory Dwelling Unit as defined by California Government Code Section 65852.2.
6. Any project located within the boundaries of the Central City West Specific Plan Area, as defined in Ordinance No. 163,094, if the Applicant by covenant and agreement or development agreement to abide by the Linkage fee and replacement housing obligations set forth in the Specific Plan for the Central City West Area.
7. If a residential project is subject to a greater affordable housing fee requirement pursuant to the Mello Act to satisfy a project's inclusionary housing Mello obligations, or is required to provide one or more physical housing units to satisfy inclusionary housing Mello obligations, the residential component of the project shall be exempt from the linkage fee and will be subject to Mello requirements. Commercial portions of mixed-use Coastal Zone projects shall be analyzed separately from residential portions of mixed-use projects for the purposes of the linkage fee. Commercial portions of such projects shall be subject to the linkage fee ordinance. The provision of housing units or in-lieu fees to satisfy replacement housing obligations under the Mello Act (as opposed to inclusionary housing obligations) shall not exempt a project from the linkage fee ordinance.
8. If a residential or mixed-use Development Project subject to affordable housing requirements pursuant to any land use policy or ordinance or development agreement that exceeds the Linkage Fee requirements in either fee amount or on-site affordable housing as provided in Paragraph 21.18.2 (b)(2) above, that project shall be exempt from the linkage fee.
9. If a residential or mixed-use Development Project is subject to affordable housing and labor requirements pursuant to LAMC 11.5.11 (Measure JJJ), that project shall be exempt from the linkage fee.
10. Any Grocery Store, provided there is no existing Grocery Store within one-third (1/3) mile radius of the project site. For the purposes of this Section, a Grocery Store shall be defined as a Retail Use of which greater than one half of the floor area is devoted

to the sale of food items intended for consumption or use off the premises, excluding alcoholic beverages.

11. Any Adaptive Reuse Project that is a designated Historic-Cultural Monument and is being converted to a residential use.

(c) Deductions or Credits.

1. **Change of Use.** If the Development Project is the result of a change of use from commercial or industrial to residential, the Linkage Fee to be paid is the result of subtracting the equivalent fee amount that either was paid or would have been paid based on the pre-existing use from the fee requirement amounts below.
2. **Affordable Housing Units.** Any Restricted Affordable Units as defined in 12.22 A.25 may be subtracted from the total number of dwelling units or guest rooms in a building in determining the required Linkage Fee.
3. **Mixed Use.** The first 25,000 square feet of nonresidential use in a mixed-use building shall be excluded from the calculation of floor area.
4. **Land Dedication.** If the Department of Housing and Community Investment Department accepts, on behalf of the City, an offer to dedicate for the purpose of building affordable housing, the value of the land, as demonstrated as the average of two independent appraisals funded by the applicant, may be deducted from the Fee amount.

SEC. 21.18.3 FEE REQUIREMENTS

The regulations, requirements and provisions of this chapter shall apply to any Development Project. The applicant for any such project, as a condition of its building permit, must pay to the City those Linkage Fees necessary to mitigate the increased demand for affordable housing which are anticipated to be generated by or attributable to such development project, as set forth in this chapter.

The Linkage Fee shall be calculated for each development project as the amount of new or added Floor Area as defined in Section 12.03 of this Code, in the Development Project devoted to the following uses, as determined by the Department of Building and Safety, multiplied by the amount of the applicable fee, as found below or in the most recent Linkage Fee Schedule, at the time of a Complete Building Permit Application, minus any deductions or credits.

Type of Use	Fee Per Square Foot
Nonresidential Uses including Hotels	\$5

Residential Uses (6 or more units in a Development Project)	\$12
Residential Uses (5 or less units in a Development Project)	\$1

- (a) **Annual Adjustments.** The Linkage Fee amount in the Linkage Fee Schedule shall be adjusted for inflation annually beginning on July 1, 2018, by the Director in accordance with the latest change in year-over-year Consumer Price Index for Urban Consumers (CPI-U) for the Los Angeles-Riverside-Orange County area, or if such index ceases to be published, by an equivalent index chosen by the Director.
- (b) **Payment of Linkage Fee.** The Linkage Fee is due and payable by the Applicant prior to the issuance of a building permit. No additional fee shall be required for projects seeking extension of expired building permits.
- (c) **Refunds of Linkage Fee.** Any fee paid under the provisions of this article may be refunded to the Applicant if the application for the building permit has expired and was not utilized to begin construction of the project.

Section 2. Section 16.02 in Article 6 of Chapter 1 of the Los Angeles Municipal Code is amended to read:

SEC. 16.02. SPECIAL PROVISIONS FOR OTHER LAND USE PROCEEDINGS.

Notwithstanding any provision of Articles 1 through 9 of Chapter I of this Code or any other ordinance to the contrary, with respect to those uses, buildings and sites destroyed or damaged in connection with a declared emergency, and in the area covered by the declaration of emergency, the following exceptions shall apply:

- C. Payment of the Linkage Fee pursuant to Article 1.18.

Section 3. Chapter 172 of the Administrative Code is added to read:

**CHAPTER 172
HOUSING IMPACT TRUST FUND**

Sec. 5.578. Creation and Administration of the Housing Impact Trust Fund

- (a) There is hereby created and established within the Treasury of the City of Los Angeles a special fund to be known as the **City of Los Angeles Housing Impact Trust Fund** (the “Fund”) for the purposes of complying with the California Mitigation Fee Act to maintain separate accounting for impact fees. The total Affordable Housing Linkage Fee revenues received by the City pursuant to Article 1.18, shall be

placed in the Housing Impact Trust Fund. The Mayor and City Council may establish additional revenue sources and appropriate funds for deposit in the Fund from time to time. The Fund shall be administered by the Housing and Community Investment Department (“HCID”).

- (b) The money from the Fund shall only be expended within the boundaries of the City of Los Angeles to address the evolving and varied affordable housing needs of the City, pursuant to guidelines (the “**Guidelines**”) promulgated for this purpose by HCID. The Guidelines and any amendments thereto shall be approved by the City Council.
- (c) The Housing Impact Trust Fund, including accrued interest, shall be subject to reporting requirements for purposes of accounting and expenditure of the Fund to increase the supply of affordable housing in the City of Los Angeles. Annually, HCID shall prepare for City Council consideration a report detailing the amount and source of all Fund revenues generated and funds disbursed as a result of the Affordable Housing Linkage Fee ordinance.
- (d) In compliance with the California Mitigation Fee Act, for the fifth fiscal year following the first deposit into the Fund, and every five years thereafter, and only if any unexpended funds remain in the Housing Impact Trust Fund, whether committed or uncommitted, HCID shall make the following additional findings:
 - (1) Identify the purpose of imposing the fee;
 - (2) Demonstrate a reasonable relationship between the fee and the purpose for which is it charged;
 - (3) Identify all the sources and funding amounts anticipated to complete financing of affordable housing projects;
 - (4) Designate the approximate dates HCID expects the funding for uncompleted or unfunded affordable housing projects to be deposited in the Fund;
 - (5) Failure to make the five-year findings requires HCID refund the monies on a prorated basis to the owner of record of the project sites originally contributing to the Fund.
- (e) All monies loaned from the Fund shall be repaid to the Fund in accordance with the terms of the loan. The repaid principal and interest shall be placed in the Fund.
- (f) Any gifts, contributions or other money received for the stated purposes of the Fund shall be placed in the Fund. All interest earnings accruing on money in the Fund shall become part of the Fund. Money in the Fund shall not revert to the Reserve Fund of the City.
- (g) The General Manager of HCID or his or her designee shall make recommendations to the City Council for expenditures from the Fund. No expenditure may be made

from the Fund without the prior approval of the Mayor and City Council, unless otherwise authorized by the Guidelines.