



# MEMORANDUM

DATE: 10/1/2019  
TO: City Council Affordable Housing Subcommittee  
FROM: John Swiecki, Community Development Director  
SUBJECT: **Inclusionary Ordinance Update**

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## Background

In April 2019 the Planning Commission recommended the City Council adopt a zoning text amendment modifying the City's density bonus and inclusionary zoning provisions. The proposed amendment, which will be scheduled for City Council consideration later this year, is primarily intended to bring the City's regulations into conformance with state law.

The purpose of this agenda item is not to review the full text of the proposed amendment, but rather to highlight some important policy issues that are either incorporated into the ordinance or that will need to be addressed subsequent to adoption of the ordinance.

## **DISCUSSION:**

Key policy issues related to inclusionary requirements include;

### **1. Inclusionary percentages and target income ranges**

The draft ordinance would replace the current sliding scale for inclusionary requirements with a flat percentage of 15% both for rental projects (in compliance with AB 1505) and for-sale projects. Additionally, the proposed ordinance requires the inclusionary units **for rental projects** to be targeted to very low income households, whereas the current ordinance targets low and very low income households. This recommendation is intended to address the issue that the City currently has not issued or approved any very low units in the current Regional Housing Needs Allocation (RHNA) cycle, which identifies the need for 114 dwelling units affordable to very low income households. Additionally, the Low Income Housing Tax Credit (LIHTC) program requires eligible projects to provide housing affordable to households making no more than 50-60 percent of the area's median income, which falls within the very low income household category for San Mateo County.

The draft ordinance breaks down affordability requirements between low and moderate income households for **for-sale** residential projects based on the project size as follows:

- Five- Ten Units/Lots: *15% affordable to moderate income households*
- Eleven or More Units/Lots: *10% affordable to moderate income households, 5% affordable to low income households*

### **2. Provide alternatives to constructing rental inclusionary units**

State law requires that the City provide at least one alternative to the construction of required inclusionary units within a **rental project**. Per state law it is up to the discretion of the developer to

construct required inclusionary units or comply with the alternative. Staff and the Planning Commission recommend that the alternative to inclusionary unit construction would be the payment of an in-lieu fee to the City. The city will need to perform a nexus study to determine the fee amount, and the City Council would need to formally adopt the fee.

Under a typical nexus study the legally defensible fee that than can be charged is usually expressed as a range, and the City can establish the fee as any amount within that range. It is likely that charging a lower fee will encourage developers to pay the fee instead of constructing inclusionary units. Conversely, setting a high in-lieu fee may encourage developers to construct the inclusionary units. The policy question of whether the City Council has a preference for fee collection (presumably to fund a specific housing initiative or project) or inclusionary unit construction is key when the fee is established.

### **3. Establish options for other adjustments of inclusionary housing requirement.**

The draft ordinance would allow an applicant to request City Council approval of an adjustment or reduction of the inclusionary housing requirements if they can demonstrate that the adjustment would better implement the goals, objectives, and policies of the Housing Element (e.g., a project providing special needs housing). The City Council would have sole discretion in approving the applicant's request based on the City's progress in meeting its housing goals, objectives, and policies at the time the request is made.

### **4. Other Fee Considerations**

While the inclusionary requirements apply to projects with 5 or more units the city has the option of charging housing impact fees on market rate residential projects on projects with fewer than 5 units if that is a policy direction the City Council wishes to pursue.

#### Next Steps

No action required. This information is being provided for the subcommittee's use and consideration. The subcommittee has the option of making formal recommendations to the full City Council when the matter is heard.