

LEGISLATIVE DIGEST

(Duplicated - 07/02/26)

[Planning, Administrative, Building Codes - Inclusionary Housing Programs Updates and reductions; Development Impact fee reductions]

Ordinance amending the Planning Code to: 1) reduce Inclusionary Affordable Housing Program requirements for projects of 25 units or more; 2) delete Inclusionary Affordable Housing Program requirements for projects under 25 units; 3) allow all projects to dedicate land to the City as an alternative to payment of the Inclusionary Affordable Housing Program fee; 4) adopt a process for projects to request a modification to conditions of approval related to Inclusionary Affordable Housing Program requirements; 5) delete certain Article 4 affordable housing and development impact fees; and 6) adopt conforming amendments to various sections of the Planning Code; amending the Building Code to reduce Planning Code Article 4 development impact fees and allow deferral of payment of such fees; and amending the Administrative Code to adopt conforming amendments to the requirements of the Citywide Affordable Housing Fund; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Existing Law

Inclusionary Affordable Housing Program

The Inclusionary Affordable Housing Program ("Inclusionary Program" or "Program"), Planning Code section 415 *et seq.*, applies to new market-rate housing developments of 10 units or more. There are several ways to comply with the Program: a developer can (1) pay a fee to the City, which the City uses to construct affordable housing; (2) provide affordable units within the new development (on-site units); or provide affordable units in a separate development (off-site units). In a limited number of areas within the City, a developer can also comply with the Inclusionary Program by dedicating land to City for use as affordable housing; the land must allow a minimum of 40 units. The amount of the fee, or the number of on-site or off-site units required by the Inclusionary Program depends on a variety of factors, including the size of the project; whether the project is a rental project or an ownership project; where the project is located; when the project's development application was submitted; and in some cases, the height of the project. The Program requirements apply to the entire project, including any additional units allowed under the state density bonus law.

In 2023, the Board of Supervisors temporarily reduced the Inclusionary Program requirements. The temporary reduction was for a period of three years and is set to expire on November 1, 2026. After this date, the rates would increase as indicated below. In addition,

the Board further reduced the Program requirements of projects that had been approved prior to November 1, 2023, as a way to encourage the construction of those projects, provided that the projects begin construction within a certain timeframe.

Current and future Citywide Inclusionary Program requirements are set forth in this chart:

	Project Size	Pre 2023 ordinance citywide rates	Rates for “Pipeline Projects” approved before 11/1/2023	Temporary “interim” rates (projects approved 11/1/2023-11/1/2026)	Citywide rates for projects approved after 11/1/2026
Fee	Small (10-24 units)	20%*	16.4%	20%	20%
	Large (25+ units)	30% rental 33% ownership	16.4%	20.5%	24.5% rental 27% ownership
On-site	Small	15%	12%	15%	15%
	Large	22% rental 24% ownership	12%	15%	18% rental 20% ownership
Off-site	Small	20%	16.4%	20%	20%
	Large	30% rental 33% ownership	16.4%	20.5%	24.5% rental 27% ownership

* Percentages are for both ownership and rental projects, unless otherwise noted.

Various neighborhoods within the City, including parts of the Mission, SOMA, and the Tenderloin, and a number of special use districts, have unique Inclusionary Program requirements, which are higher than the citywide requirements. In the 2023 ordinance, the Board reduced the rates in these neighborhoods temporarily for projects approved before November 1, 2023; the reductions were in proportion to the reductions approved for the citywide rates.

The Inclusionary Program on-site requirements increase automatically each year until a specified amount is reached. These automatic increases were paused between 2023 and 2026, but after November 2028, the inclusionary on-site requirement for large projects increases by .5% per year until it reaches 26% for ownership projects and 24% for rental projects.

On-site units in small projects (10-24 units) are required to be rented at a price affordable to households earning 55% of Area Median Income (AMI) or sold at a cost affordable to households earning up to 80% of AMI. On-site units in large rental projects (25 units or more) are required to be rented at three levels of affordability: to households earning up to 55% of the Area Median Income (AMI), 80% AMI and 110% AMI. Similarly, on-site units in large

ownership projects are required to be priced at three tiers of affordability: affordable to households earning up to 80% AMI, 105% of AMI, and 130% of AMI. The percentage required at each income level varies, depending on the total inclusionary requirement. On-site affordable units must meet certain standards including standards related to size, bedroom and bathroom count, and location within the building.

In most instances, Inclusionary Program fees are deposited into the Citywide Inclusionary Affordable Housing Fund. In some areas, the Controller is directed to place fees in the Fund, but separately account for them; the fees are prioritized for affordable housing located in that same area, but can be used citywide.

Approval Process

Inclusionary Program requirements become conditions on a project approval. If the Planning Commission approves a development, the Planning Commission must modify the development's conditions of approval, although the Zoning Administrator has authority to allow some minor changes. Most projects are required to obtain a building or site permit within 36 months from project approval; projects that fail to meet this deadline must request an extension from the Planning Commission. Regarding Inclusionary Affordable Housing Program requirements specifically, projects that have not obtained a building or site permit within 30 months of project approval are subject to the Inclusionary Program rates at the time a building permit is issued. Projects can request a modification of their approvals to reduce their Inclusionary Program obligations consistent with the Interim or reduced pre-2023 rates. The Planning Department can approve the modifications administratively.

Development Impact Fees

San Francisco assesses development impact fees on residential and non-residential projects for various public purposes, including fees for transit, parks, public infrastructure, and art. Development impact fees are set forth in Article 4 of the Planning Code. The fees noted in the Code are increased each year by two percent; the current amount of each fee is noted in the Development Fee Register on the Planning Department's website. The 2023 ordinance temporarily reduced impact fees by 33% as long as the project receives a first construction document before May 1, 2029 for projects approved before November 1, 2023, or within 30 months of project approval for projects approved between November 1, 2023 and November 1, 2026. Development impact fees assessed after November 1, 2026 are not discounted. Projects approved under a development agreement are ineligible for reduced impact fees under this process.

Under Section 406, development impact fees are temporarily waived for Hotel, Bar, Restaurant, Outdoor Activity or Entertainment Uses in the downtown area (C-2 and C-3 districts) through December 31, 2026.

Under the Building Code, impact fees must be paid prior to issuance of a first construction document, unless state law requires a later date. Under the Building Code's fee deferral

program, certain projects can defer payment of up to 85% of most fees, or up to 80% of infrastructure fees in certain areas, until they are issued a certificate of occupancy.

Consistent with the Administrative Code, an “Inclusionary Housing Technical Advisory Committee” generally meets every three years. The most recent convening of the committee began in January 2026.

Amendments to Current Law

This ordinance would amend the Planning Code, Building Code and Administrative Codes as set forth below:

Planning Code Amendments

Reductions in Inclusionary Program Requirements (Section 415)

The ordinance would amend the inclusionary requirements as follows:

- Only projects of 25 or more units would be required to comply with the Inclusionary Program. Inclusionary requirements would only apply to a base project, not to additional units allowed under state density bonus law.
- The on-site requirement would be 5% for both ownership and rental projects citywide. The ordinance deletes the annual .5% increase in the rate. Project sponsors would be required to provide on-site units at two affordability levels: rental units would be rented at a price affordable to households earning 55% and 80% of AMI and ownership units would be sold at a price affordable to households earning 80% and 100% AMI.
- The fee requirement would be 10% for both ownership and rental projects. However, in the following areas, the requirement would be 15%:
 - Mission Area Plan
 - SOMA Neighborhood Commercial Transit District
 - North of Market Residential Special Use District
 - South of Market Youth and Family Special Use District
 - Urban Mixed Use (UMU) District
 - Western SOMA Special Use District
- All Inclusionary Program fees would be deposited in the Citywide Affordable Housing Fee Fund for use citywide.
- The off-site requirement would be 10% for both ownership and rental projects. The requirement would be 15% in the same areas listed under the fee requirement.
- The land dedication alternative would be available to all projects citywide. Dedicated land must allow for at least 70 units, or the equivalent number of off-site units, whichever is higher. Projects in Central SOMA would also have a 15% requirement. Dedicated land must be located within one mile of the principle

project, or if the principle project is within one of the areas or districts listed above, plus Central SOMA and in Well-Resourced Neighborhoods, within one mile or within that area.

The ordinance would make miscellaneous amendments to Section 415 related to definitions, procedures, unit designations (including requiring affordable units include no less than one private bathroom), and program administration, and would delete Sections 415A and 415B, the temporary provisions adopted as part of the 2023 ordinance. Those sections expire on November 1, 2029, and November 1, 2026, respectively, by operation of law.

Area Plan and Special Use District Affordable Housing Requirements.

The ordinance would delete the higher affordable housing requirements in the following areas or special use districts (SUDs):

- Van Ness SUD (Section 243)
- Geary and Masonic SUD (Section 249.20)
- Western SOMA SUD (Section 249.33)
- Central Soma SUD (Section 249.78)
- North of Market Residential SUD (Section 263)
- Market and Octavia Area Plan and Upper Market Neighborhood Commercial District Affordable Housing Fee (Section 416)
- Eastern Neighborhoods Area Plan Affordable Housing Requirement (Section 417)
- Housing Requirements for Residential Development Projects in the UMU Zoning Districts of the Eastern Neighborhoods and the Land Dedication Alternative in the UMU District, Mission NCT and Central SOMA Special Use District (Section 419)
- Van Ness and Market Affordable Housing and Neighborhood Infrastructure Fee and Program (Section 424.1-424.4)
- Divisadero Street Neighborhood Commercial Transit District Affordable Housing Fee and Requirements (Section 428, with a minor amendment to Section 759)

The ordinance would reduce the affordable housing requirements in HOME-SF (Section 206.3), and Potrero Center Mixed Use SUD (Section 249.40) in proportion to the citywide reductions.

Development Impact Fees.

The ordinance would delete the Van Ness and Market Residential Special Use District Infrastructure Fee in Planning Code 424.5 and the Van Ness and Market Community Facilities Fee in Planning Code section 425.3. Money from those fees already deposited in the Van Ness and Market Residential SUD Infrastructure Fund (Planning Code 424.5) or the Van Ness and Market Community Facilities Fund (Planning Code 425.4) would continue to be expended but no additional money would be collected. The funds would be dissolved when all current funds are expended.

The ordinance would reduce all impact fees, except for Inclusionary Program fees, for residential and commercial projects by 67%. The ordinance would set forth procedures for a previously approved project to request a reduced assessment, although the City would not refund fees already paid. Projects approved through a development agreement would be eligible for the reductions.

The ordinance would amend the temporary waiver of development impact fees to include all Retail Sales and Service Uses and Entertainment Uses in the downtown area (C-2 and C-3 districts) through December 31, 2029.

Conforming Amendments:

The ordinance would update the land dedication provisions in the following sections to reflect that land dedication would be allowed citywide:

- Housing Choice-San Francisco (Sections 206.10)
- SF Municipal Transportation Agency Non-Contiguous SUD (Section 249.22)
- Van Ness and Market Residential SUD (Section 249.33)
- Soma Youth and Family SUD (Section 249.38)
- Central SOMA SUD (Section 249.78)
- Large Project Authorizations (Section 329)
- Well-Resourced Neighborhoods Inclusionary Housing Ordinance Waiver and Additional Inclusionary Housing Options (Section 436).

The ordinance would make conforming amendments to certain cross-references found in Sections 414A.6, 207, and 343.

Modifications to Approved Projects' Affordable Housing Requirements.

The ordinance would create an administrative process for approved projects to request modifications to conditions of approval in order to reduce their Inclusionary Program requirements to the new reduced rates, provided that the Department of Building Inspection has not issued the project a first construction document. (The Planning Commission would need to delegate its authority to modify conditions of approval to the Planning Director). The Director of Planning would also be authorized to modify conditions of approval to allow projects to extend the time to obtain a site permit. Projects approved under a development agreement would be eligible to seek a modification under the administrative process.

If a project is modified to increase in size by more than 20%, or does not obtain a first construction document within three years of final approval, the Project would be subject to the rates in effect at the time a new application was approved.

Building Code Amendments

The ordinance would amend the Building Code to allow all projects citywide to defer payment of 85% of all fees until issuance of a first certificate of occupancy.

Administrative Code Amendments

The ordinance would amend the Administrative Code to require the Inclusionary Housing Technical Advisory Committee to convene no later than April 1, 2029 and every 36 months thereafter, and produce its next triennial feasibility analysis by September 1, 2029, and every 36 months thereafter. In addition, the ordinance would amend the Citywide Affordable Housing Fund to require that any previously deposited monies that were required to be separately accounted for be spent consistently with the priorities adopted for those separate accounts.

Background Information

Consistent with Planning Code section 415.10, from January to April 2026, the Controller and the Inclusionary Housing Technical Advisory Committee (TAC) met to review the impact of the City's inclusionary housing obligations on the feasibility of residential development. The Controller and the TAC studied key economic parameters including interest rates, capitalization rate, land prices, construction costs, use of the state density bonus, and rents and sales prices for both rental and condominium projects, finding that the current rates directly contributed to the economic infeasibility of residential development in San Francisco. The Controller issued a Technical Advisory Committee Report on April 30, 2026.

The June 2, 2026 substitute ordinance amended several definitions in Section 401 (low- and moderate-income; ownership project; rental project), deleted the definition of middle-income households, and added a minimum bathroom count for affordable units. In addition, the substitute ordinance updated language related to the Van Ness and Market Community Facilities fund (Section 425.4); added Residential Transit Oriented districts to the list of districts that are eligible for a waiver of the Inclusionary Affordable Housing Program under Section 436; updated the inclusionary requirement in the Potrero Center Mixed Use SUD (Section 249.20); and expanded the uses that qualify for a temporary impact fee waiver in the downtown area to include retail uses in Section 406.