

LEGISLATIVE DIGEST
(3/22/2016, Substituted)

[Planning, Administrative Codes - Inclusionary Affordable Housing Fee and Requirements; Preparation of Economic Feasibility Report; Establishing Inclusionary Housing Technical Advisory Committee]

Ordinance amending the Planning and Administrative Codes to increase the Inclusionary Affordable Housing fee and other requirements; require the Controller to prepare an economic feasibility report regarding the City's inclusionary housing requirements and make recommendations by July 31, 2016 and every three years thereafter; and establish the Inclusionary Housing Technical Advisory Committee to provide advice about the economic feasibility of proposals to set maximum economically viable inclusionary housing requirements, and set forth the membership and duties of the Advisory Committee; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of public convenience, necessity, and welfare 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

The Charter generally requires private developers of new market-rate housing to provide affordable housing ("Inclusionary Housing") in one of three ways:

- pay a fee equal to 17% to 20% of their project's units to support low-income housing;
- make at least 12% of the on-site housing units affordable; or
- create new affordable units off-site, equal to 17 to 20% of the project's units.

These requirements can be modified if a project meets an exception specified in the Charter (or if the Charter is amended). The Planning Code contains detailed requirements for implementation of these three Inclusionary Housing options, in the Inclusionary Affordable Housing Program set forth in Planning Code Sections 415 *et seq.*

Amendments to Current Law

The ordinance would not take effect unless and until the voters approve amendments to the Charter at the June 7, 2016 election. The ordinance is intended to adopt new Inclusionary Housing obligations following the process set forth in Section 16.110(g) of the proposed

Charter amendment. This ordinance would supersede and replace the interim Inclusionary Housing requirements set forth in the proposed Charter amendment.

The legislation provides that the Board would review and consider any recommended changes to the Inclusionary Affordable Housing Program after the completion of the proposed Economic Feasibility Study and the update of the City's Nexus Analysis.

There are 3 components to this ordinance. It sets forth new Inclusionary Housing requirements, requires preparation of an Inclusionary Housing economic feasibility study, and establishes a technical advisory committee to consult with the Controller on the economic feasibility study.

New Inclusionary Housing Requirements

The new Inclusionary Housing requirements could be satisfied by payment of a fee, or provision of on-site or off-site Inclusionary Housing:

1. Affordable Housing Fee: The development project would pay a fee equivalent to the applicable off-site percentage of the number of units in the principal project:

- For development projects consisting of 10 dwelling units or more, but less than 25 dwelling units, the percentage would be 20%.
- For development projects consisting of 25 dwelling units or more, the percentage would be 30% for buildings whose height is less than 120 feet, and 33% for buildings whose height is 120 feet or greater.

2. On-site Affordable Housing:

- The number of affordable units constructed on-site would generally be 12% of all units constructed on the project site for housing development projects consisting of 10 dwelling units or more, but less than 25 dwelling units.
- The number of affordable units constructed on-site would generally be 25% of all units constructed on the project site for housing development projects consisting of 25 dwelling units or more, with a minimum of 15% of the units affordable to low- and very low-income households and 10% of the units affordable to very low-, low- or middle-income households.

3. Off-site Affordable Housing:

- For housing development projects consisting of 10 dwelling units or more but less than 25 units, the number of affordable units constructed off-site would be 20% of the number of units in the principal project.
- For housing development projects consisting of 25 dwelling units or more, the number of affordable units required to be constructed off-site would be 33% of the number of units in the principal project, with 20% of the units affordable to low- and very low-income households and 13% of the units affordable to middle-income households.

4. Temporary Requirements. The ordinance would provide different temporary requirements for certain projects that contain 25 or more dwelling units, and have submitted complete environmental evaluation applications as follows.

On-site Temporary Requirements.

- Submittal of an application prior to January 1, 2014: 13% of the number of units constructed on-site.
- Submittal of an application prior to January 1, 2015: 13.5% of the number of units constructed on-site.
- Submittal of an application on or prior to January 12, 2016: 14.5% of the number of units constructed on-site.

Fee or Off-site Temporary Requirements.

- Submittal of an application prior to January 1, 2014: 25% of the number of units constructed on-site.
- Submittal of an application prior to January 1, 2015: 27.5% of the number of units constructed on-site.
- Submittal of an application on or prior to January 12, 2016: 30% of the number of units constructed on-site.

Exceptions to Temporary Requirements. The temporary requirements would not apply to: buildings over 120 feet in height; projects located in a UMU Zoning District and proposing to eliminate a Production, Distribution and Repair (PDR) use; projects located in the Mission NCT Zoning District; or projects located in the South of Market Youth and Family Zoning District.

General Exception. The new Inclusionary Housing requirements contained in Sections 415.5, 415.6, and 415.7, as well as the temporary requirements contained in Section 415.3(b), would not apply to any mixed use project that (i) is located on a site for which a height limit increase has been approved by the voters prior to January 12, 2016 to satisfy the requirements of Administrative Code Section 61.5.1, or (ii) has entered into a development agreement or other similar binding agreement with the City as of January 12, 2016.

Economic Feasibility Study

The ordinance would require the Controller to study the economic feasibility of the City's inclusionary housing requirements and produce a report by July 31, 2016, and by October 31 every three years thereafter. The Board must consider the report within three months and consider legislative amendments to the City's Inclusionary Housing in-lieu fees, on-site, off-site, or other alternatives recommended by the Controller and/or the Planning Commission adjusting levels of inclusionary or affordable housing obligations and income levels based on the feasibility analyses and with guidance from the City's Nexus Study, with the objective of maximizing affordable Inclusionary Housing in market rate housing production.

Technical Advisory Committee

The ordinance would require the creation of a Technical Advisory Committee, consisting of eight members. The Mayor and the Board of Supervisors would each appoint four members. The Advisory Committee would provide input to the Controller, the Mayor, the Planning Department, and the Board of Supervisors regarding the content of the economic feasibility analysis. The Advisory Committee would hold technical workshops to evaluate the fiscal feasibility of various inclusionary housing fees and on-site and off-site alternatives.

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