

LEGISLATIVE DIGEST

[Planning Code - Inclusionary Affordable Housing Fee and Requirements]

Ordinance amending the Planning Code to revise the amount of the Inclusionary Affordable Housing Fee and the On-Site and Off-Site Affordable Housing Alternatives and other Inclusionary Housing requirements; affirming the Planning Department’s determination under the California Environmental Quality Act; making 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

The City generally requires private developers of new market-rate housing to provide affordable housing (“Inclusionary Housing”) by paying a fee to the City. A developer could also opt to provide Inclusionary Housing on- or off-site. The City’s Inclusionary Affordable Housing Fee and other requirements are set forth in Planning Code Sections 415 *et seq.* and provide 3 methods of complying with the requirements.

1. Affordable Housing Fee: The development project pays 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 33%.

2. If a developer opts to provide affordable housing on-site, the on-site Affordable Housing would be provided as follows:

- 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 units must be affordable to low-income households.
- 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-income households and 10% of the units affordable to low- or middle- income households.

3. If a developer opts to provide affordable housing off-site, the off-site Affordable Housing would be provided as follows:

- 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-income households and 13% of the units affordable to low- or middle-income households.

If there is a higher Inclusionary Housing requirement in specific zoning districts, the higher requirement would apply. There are specific Inclusionary Housing requirements for the UMU and SOMA Youth & Families Zoning Districts. The Planning Code also contains a number of “grandfathering” provisions, which set the Inclusionary Housing requirements at lower percentages for a limited period of time, depending on when a complete environmental evaluation application was submitted.

The Planning Code directs the Mayor’s Office of Housing and Community Development (“MOHCD”) to set the amount of the fee to be paid by the project sponsor to calculate the “affordability gap” using data on the cost of construction of providing the residential housing and the Maximum Purchase Price for the equivalent unit size.

The Planning Code also requires an applicant seeking a density bonus under State law to provide analysis to support any requested concessions and incentives under the State law.

The Planning Code requires the Controller to study the economic feasibility of the City’s inclusionary housing requirements and produce a report in 2016 and 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 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. The Controller has not yet completed this feasibility analysis.

Amendments to Current Law

The Amendments would reduce the Inclusionary Affordable Housing Fee for projects consisting of 25 dwelling units or more to 30%.

The Amendments would direct MOHCD to calculate the Inclusionary Affordable Housing Fee by using data on the cost of construction of providing the residential housing on-site and the Maximum Purchase Price for the equivalent unit size. The Fee would be calculated for 4 different building types and 2 types of tenure, ownership and rental, rather than a single fee calculation uniformly applied to all types of projects. The 4 building types would be based on

the height of the building, and consist of 4 different building heights: (A) up to 55 feet; (B) above 55 feet up to 85 feet; (C) above 85 feet up to 300 feet; and (D) above 300 feet. The Planning Department and MOHCD would update the technical report from time to time as they deem appropriate in order to ensure that the Fee amount remains current and reflects current costs for the different building types and tenures.

If an applicant elects to provide on-site Inclusionary Housing in certain neighborhoods with historically high concentrations of low and moderate income households that are undergoing displacement and gentrification, evidenced by high levels of evictions, or which through local legislation adopted after January 1, 2015, received (1) a 20% or greater increase in developable residential gross floor area over prior zoning, or (2) a 35% or greater increase in residential densities over prior zoning, there would be a higher on-site inclusionary requirement. In these neighborhoods, the on-site inclusionary affordable housing alternative requirement would be 10% higher than the on-site inclusionary amounts otherwise applicable. The Amendments direct that the Mission District, Chinatown, Richmond and Western SOMA neighborhoods be evaluated to determine whether they meet these criteria.

An applicant seeking a density bonus under the provisions of State Law must provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, and waivers or reductions of development standards, consistent with State law.

Background Information

The City published the Residential Affordable Housing Nexus Analysis in November 2016. The reduction of the Inclusionary Affordable Housing Fee for projects consisting of 25 dwelling units or more to 30% reflects conclusions in this Nexus Analysis.

The Controller has not yet completed the Feasibility Analysis required by Planning Code Section 415.10.

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