

Inclusionary Housing Ordinance

Briefing Sheet — Amendments to the Ordinance — Rental & For-Sale Properties

DIRECTED BY CITY COUNCIL

Current		Amended	
Base Requirement & Small Projects: Study how to incentivize density where appropriate for small projects between 1 -4 units' and between 5-20 units. Return to Council after outreach to small-project builders about the viability of those projects, and offer recommendations to incentivize densifying these projects including, but not limited to, considering bonuses to small projects that are substantially densifying infill sites.			
Rental & For-Sale 5.08.250	Applicability: 20 or more units	▶ 10 or more units	
	Base Requirement: Minimum 15% IHO On Site Obligation	▶ No Change	
	Small Projects: Small rental developments pay an impact fee only & Small for-sale are not subject to AHIF or IHO	▶ 10 to 19 unit developments are now under IHO but may pay half the in lieu fee rate if providing at least 90% of maximum density allowed by the General Plan	
Serve a Wider Income Range: Accept staff recommendation to serve a wider range of target income levels as listed (5% at 100% AMI, 5% at 60% AMI, 5% at 50% AMI)			
Rental 5.08.400	Target income levels On-Site: • 9% at 80% AMI • 6% at 50% AMI	Target income levels Off-Site: • 12% at 60% AMI • 8% at 50% AMI	Income levels On-Site: • 5% at 100% AMI • 5% at 60% AMI • 5% at 50% AMI OR • 10% at 30% AMI
In-lieu Fee Option & Geographic Market Areas: Accept staff recommendation to restructure the in-lieu fee option to apply the fee on a square foot basis and change the amount to \$43 per square foot for rental development and \$25 per square foot for for-sale development; Direct staff to develop geographic market areas to phase in the in-lieu fee adjustments over time.			
Rental 5.08.520	Applied to 20% of the units at \$125,000 (\$28/ ft ²) set by Council resolution in 2018	▶ Applied to all units based on square footage based on 20% in lieu requirement – applied to rentable square footage	
		▶ Strong Market \$43/ft ²	Moderate Market \$18.70/ft ²
Rental 5.08.212	In-Lieu Fees are set at the same rate across the City	▶ • Strong Market Areas are Central and West Valley • All other Market Areas are moderate	
For-Sale 5.08.520	Per unit applied to 20% of the units \$157,858 (~\$27.45/ ft ²)	▶ Per square footage applied to all units \$25/ ft ²	
Encourage On-Site Compliance (New Option): Accept staff recommendation to encourage rental developments to choose on-site compliance option by setting the in-lieu fee to \$17.60 per square foot where at least 5% of the units are provided on-site and allowing affordable units to be in a separate building on-site.			
Rental 5.08.525	Combination of on-site apartments and in-lieu fees, but each proposal must be evaluated.	▶ Building 5% of total units at 100% AMI On-Site (The rate of the in-lieu fee is adjusted based on AMI level)	
		▶ Strong Market \$18.70/ ft ² in-lieu for all rentable areas	Moderate Market \$11.87/ ft ² in-lieu for all rentable areas
Longer Deed-Restriction Affordability: Report back with the specific outreach to, and resulting responses from, market rate and affordable housing developers and financiers regarding impact on financing by extending period of affordability to 99 years.'" Study and consider "life of the project" as San Francisco applies to their affordable projects.			
Rental 5.08.600	55 years	▶ • 99 years with voluntary demolition after 55 years and relocation benefits for inclusionary units • Affordable developers may request a term of no less than 55 years	
Land Dedication: Purchasing land that meets the requirements to utilize Senate Bill 35(SB 35) and land requirements for the IHO; Entitling the land with the City of San Jose; Giving the entitled land to the City of San Jose (which the City will then solicit to developers to build 100% affordable projects)			
Rental & For-Sale 5.08.520	Current Dedication of Land Compliance option does not require use for housing	▶ Added New option for SB 35 entitled land to be used for housing	

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DIRECTED BY CITY COUNCIL - CONTINUED

Current		Amended
<p>Clustering of Affordable Units On-Site Expanded: Include explicit flexibility for the City Manager/Housing Director to approve offsite (unintegrated) affordable housing plans that do not meet the minimum standard for contributions (currently proposed at 75% of in-lieu fee value) if the project incorporates innovative or unique partnerships with affordable housing developers that better accomplish City goals. Explore lowering percentage threshold in order to encourage innovative partnerships to maximize affordable housing as part of a project.</p>		
<p>Rental 5.08.590</p>	<p>No clustering option and must be dispersed within market-rate development</p>	<ul style="list-style-type: none"> • If located on an immediately adjacent parcel and in close proximity to the market rate building, then subject to only the 15% requirement • Must have Low Income Housing Tax Credit Financing or other public financing that requires separation • Establish a minimum contribution from market rate developer to affordable developer equivalent of 75% of the required in-lieu fee obligation • Provide a Letter of Credit of in-lieu fees, if affordable building does not begin construction before the earlier of 5 years or the issuance of the first Certificate of Occupancy for the market rate building • Clustered affordable units must have equivalent amenities as market rate

Incentive: Direct the Director of Parks, Recreation and Neighborhood Services to explore an amendment to the Park Impact Ordinance (SJMC 14.25) to clarify that on site deed restricted 100% AMI rental units qualify for a 50% per unit credit towards the payment of park impact in-lieu fees

➤ PRNS will return to City Council this spring with an amendment to the Park Fees ordinance.

RECOMMENDED BY STAFF FOR CITY COUNCIL REVIEW

Current		Amended
<p>Streamlining for Affordable Developments</p>		
<p>Rental 5.08.620</p>	<p>Required all developments to have a stand-alone inclusionary housing agreement.</p>	<ul style="list-style-type: none"> • Inclusionary Affordability restrictions may be incorporated into density bonus agreements • Developments funded and restricted by the City may be deemed to meet the IHO requirements
<p>Transition Process for Projects</p>		
<p>Rental 5.08.740</p>	<p>Developers who has a planning permit before May 1, 2021 may stay under the existing IHO requirements.</p>	<ul style="list-style-type: none"> • Developers may choose the new IHO regulations if they meet the following criteria: <ul style="list-style-type: none"> ○ Have planning permits before May 1, 2021, or otherwise final under state law ○ Building permit has not been issued ○ Has not paid any inclusionary in-lieu fees ○ Has not recorded an inclusionary agreement ○ Submit a replacement affordable housing compliance plan and record the inclusionary agreement
<p>Rental & For-Sale 5.08.740</p>	<p>Transition for Small Projects</p>	<ul style="list-style-type: none"> ➤ Projects less than 10 units must have planning permit prior to May 1, 2021, or otherwise final under state law, to remain exempt from the current IHO
<p>Inclusionary Unit Requirements</p>		
<p>Rental & For-Sale 5.08.610</p>	<p>The purpose of the IHO program is to enhance the public welfare and market the Inclusionary Units to the public consistent with Fair Housing Laws</p>	<ul style="list-style-type: none"> ➤ Clearly state the Inclusionary Units must be available to the general public