



Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: March 12, 2018

Approved

Date

March 16, 2018

COUNCIL DISTRICT: Citywide

SUBJECT: SMALL PROJECT INCLUSIONARY HOUSING ORDINANCE

RECOMMENDATION

Accept report and provide input on staff recommendations regarding a potential new Small Project Inclusionary Housing Ordinance that would apply to residential developments with one (1) to nineteen (19) homes.

OUTCOME

Input from the Community and Economic Development (CED) Committee will assist the Housing Department in crafting final recommendations to the City Council regarding the potential implementation of an Inclusionary Housing Ordinance that applies to for-sale and rental residential developments of fewer than 20 homes.

BACKGROUND

Currently, only the Affordable Housing Impact Fee (AHIF), adopted by resolution in November 2014 applies to residential developments with less than 20 units. It only applies to rental developments, and with respect to larger developments, it is being superseded by the Inclusionary Housing Ordinance, with a transition period ending in June. No affordable housing requirement applies to residential for-sale developments with less than 20 units.

The existing Inclusionary Housing Ordinance (IHO) was approved on January 12, 2010. The IHO generally requires that, in market-rate developments of 20 or more units, 15% of the units be made affordable to income eligible residents. The IHO provides alternative ways that the developer may meet this requirement, including, but not limited to, payment of an in-lieu fee and construction of affordable units off-site.

On September 29, 2017, the Governor signed AB 1505, which will go into effect on January 1, 2018. As a result, the IHO applies to new first approvals for residential rental projects for which applications for first approval are submitted after January 1, 2018.¹

On October 24, 2017, responding to previous City Council direction, the Housing Department presented initial recommendations on a potential separate inclusionary housing ordinance for “small projects,” with fewer than 20 units. City Council provided initial feedback, specifically requesting additional information about the policies of neighboring jurisdictions and the number of projects to which a small project Inclusionary Housing Ordinance would apply. The Housing Department was directed to conduct further research and report back with final recommendations

ANALYSIS

The Housing Department has completed additional research, analysis, and community outreach that informs the development of these recommendations. Since 2010, a total of 242 Planning Applications have been submitted for projects that would be subject to the proposed small project Inclusionary Housing Ordinance. These projects provide a total of 863 residential units. If the proposed small project Inclusionary Housing Ordinance was in place, approximately 130 affordable homes would have been produced or funded as a result of these projects.

Housing Department staff also researched the Inclusionary Programs of a number of jurisdictions located in Santa Clara, San Mateo, and Alameda Counties. Many cities have implemented an inclusionary housing threshold size that would qualify as a “small project” Several jurisdictions including Palo Alto, Menlo Park, Alameda, and Albany designate multiple threshold ranges. **Attachment A** provides a detailed description of the Inclusionary Programs of neighboring cities, by County and threshold size.

Finally, Housing Department staff met with representatives from the Building Industry Association (BIA), the Santa Clara County Association of Realtors, and individual developers to discuss the City’s inclusionary programs and potential recommendations. Considering all research and input, the Housing Department’s preliminary recommendation is a small project Inclusionary Housing Ordinance. It is intended that the proposed Small Projects Inclusionary Housing Ordinance would be substantially similar to the current IHO, and utilize the same guidelines for implementation to increase efficiency.

Housing’s key policy considerations for discussion with the Committee include:

- **Applicability:** What type of units should be subject to the small IHO? Which should be excluded?
- **Threshold:** How many units must a development project have to trigger the project to be subject to the small IHO?
- **Cap on Fees:** Should we have a maximum cap on fees?
- **Timing of Payment:** If the fee compliance option is chosen, when should the fee be due?

¹ On December 19, 2017, the City Council adopted a transition between the Affordable Housing Impact Fee and Inclusionary Housing Ordinance for qualifying rental residential developments.

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- **Operative Date:** Should a transition process be provided to developers who are in the pipeline?

Attachment B provides an overview of all policy considerations and feedback from developers and other stakeholders for a proposed small project Inclusionary Housing Ordinance, reflecting the feedback received to date.

COORDINATION

This item has been coordinated with the City Attorney's Office.

/s/

JACKY MORALES-FERRAND
Director, Housing Department

For questions, please contact Patrick Heisinger, Division Manager, at (408) 975-2647.

Attachment A – Inclusionary Programs by County, City, and Threshold Size

Attachment B – Policy Considerations for Small Project Inclusionary Housing Ordinance