



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand  
Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** February 21, 2019

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Approved D. D. Syl Date 2/21/19

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**COUNCIL DISTRICT: 3**

## SUPPLEMENTAL

**SUBJECT: PP18-101: AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE (THE ZONING CODE) BY ADDING A NEW PART 3.75 TO CHAPTER 20.80, AMENDING CHAPTER 20.70 TO ADD CO-LIVING COMMUNITY AS AN ENUMERATED USE IN THE DOWNTOWN, AMENDING CHAPTER 20.200 TO ADD A NEW DEFINITION OF CO-LIVING COMMUNITY, ADDING RELATED PARKING REQUIREMENTS TO CHAPTER 20.90, AND MAKING OTHER TECHNICAL, NON-SUBSTANTIVE OR FORMATTING CHANGES TO TITLE 20.**

## REASON FOR SUPPLEMENTAL

The purpose of this supplemental memorandum is to:

- 1) Provide clarifications that a “bedroom” in a “co-living community” is intended to be a unit for Regional Housing Need Allocation purposes, and will also be considered equivalent to dwelling units under the Inclusionary Housing Ordinance; and
- 2) Provide feedback from stakeholders regarding the bicycle parking requirement and recommend reducing the requirement to comport with the City of San Francisco co-living model.

## **BACKGROUND**

On January 30, 2019, the Planning Commission conducted a public hearing on the proposed amendments to the Zoning Code. The proposed amendments added two terms “co-living community” and “bedroom” that were not previously part of the Municipal Code housing definitions. The Commissioners then voted to recommend approval of the item pursuant to staff’s recommendations with an amendment to change the minimum bedrooms per kitchen from ten to six. Prior to the Planning Committee meeting, staff discussed the need to add a “cross reference” between the new definitions and the existing definitions in the Municipal Code, but this language was not added the ordinance prior to the Planning Committee meeting.

Since the Planning Commission meeting, Housing staff conducted further outreach and met with developers who are in the process of proposing co-living developments. The need to clarify how co-living projects will be treated under the Affordable Housing Impact Fee<sup>1</sup> versus under the Inclusionary Housing Ordinance<sup>2</sup> emerged. The purpose of this memorandum is to provide context and clarification on these two affordable housing programs and their application to future co-living projects.

Also since the Planning Commission meeting, Planning staff met with co-living housing developers who shared concerns that the bicycle parking requirement of 0.5 space per bed is too high, particularly as compared to denser cities such as San Francisco and Portland. Staff has reviewed San Francisco’s model and recommends lowering the proposed bicycle parking requirement.

## **ANALYSIS**

### *Application of Affordable Housing Impact Fee and Inclusionary Housing Ordinance to Co-Living Communities*

As mentioned in the attached Staff Report to the Planning Commission, co-living communities are subject to regulatory programs and requirements administered by the Department of Housing, including but not limited to the Affordable Housing Impact Fee and the Inclusionary Housing Ordinance. The configurations and definitions in the Co-Living Ordinance (“Ordinance”) differ from the definitions in those affordable housing ordinances, so it was requested that cross referenced language be added to clarify that each bedroom shall be considered a dwelling unit

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<sup>1</sup> On November 18, 2014, the San José City Council approved the adoption of an Affordable Housing Impact Fee to help address the need for affordable housing connected with the development of new market rate residential rental units. Affordable Housing Impact Fee requires all projects with 3 to 19 dwelling units to pay an impact fee per livable square foot to satisfy its affordable housing requirement.

<sup>2</sup> The Inclusionary Housing Ordinance, Chapter 5.08 of the San José Municipal Code, was adopted on January 12, 2010. The Inclusionary Housing Ordinance requires all residential developers who create new, additional, or modified For-Sale or Rental units to provide 15% of housing on-site that is affordable to income qualified buyers/renters. There are alternative compliance options, including but not limited to, a payment of an in-lieu fee.

for the purposes of those programs and requirements, and that heated common areas associated with the bedrooms (e.g. shared living rooms, shared kitchens) will not be excluded from the determination of square footage.

Housing staff will work with developers on existing projects that are changing to co-living developments and update their Affordable Housing Compliance Plans as needed. For Affordable Housing Impact Fee projects, staff would assist with recomputing the project square footage. Housing staff would also update the Affordable Housing Impact Fee Regulations to address co-living developments consistent with this memorandum.

If a new co-living project falls under the Inclusionary Housing Ordinance, the Housing Department would treat each bedroom unit that is individually leased as a dwelling unit. Currently there is no definition of co-living dwelling units in the Inclusionary Housing Ordinance, but Housing staff is planning to update the Inclusionary Housing Ordinance Implementation Guidelines to address co-living developments and clarify that each bedroom unit is considered a dwelling unit. Thus the total number of dwelling units will be used to calculate the Inclusionary Housing Ordinance obligation whether the development chooses to build 15% of the total units on-site as income-restricted affordable or choose an alternative compliance option such as paying the in-lieu fee (based off 20% of the total units). A co-living unit will be considered a studio apartment in terms of projected rents and incomes. Incomes for a one-person household would range from \$46,550 to \$66,150 and rents would range from \$1,164 to \$1,654 per month<sup>3</sup>. Co-living developments tend to be more affordable per unit and therefore the Housing staff is encouraging developers to provide income-restricted units on-site to satisfy their Inclusionary Housing Ordinance requirements.

In addition, San José is required to adopt a Housing Element as part of its General Plan that shows how the community plans to meet the existing and projected housing needs of people at all income levels. The Regional Housing Need Allocation is the state-mandated process to identify the total number of housing units (by affordability level) that each jurisdiction must accommodate in its Housing Element. Thus if these bedrooms are each considered equivalent to dwelling units under the Inclusionary Housing Ordinance and under Regional Housing Need Allocation, then these units would also further the City Council's goal of creating both 15,000 market-rate and 10,000 affordable units by 2022. Currently the Housing Department has limited resources to reach this affordable housing goal.

The Housing Department has commenced research and is reviewing elements of the Inclusionary Housing Ordinance in response to City Council. As part of this research, Housing staff had included considering potential variations to new development models such as co-living to better understand if any other options would be needed to support development. Housing staff will also continue to work with the State on the application of these units to our Housing Element and Regional Housing Need Allocation goals. The Housing Department plans to return to the City Council to consider these changes to the Inclusionary Housing Ordinance in fall 2019.

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<sup>3</sup> According to 2018 Housing and Community Development (HCD) Income and Rent Limits. The City of San José annually publishes AMI levels for the City and posts these on its website.

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*Bicycle Parking Requirement for Co-Living Communities*

Since the Planning Commission meeting, staff received several comments from co-living developers that the proposed bicycle parking requirement of 0.5 per bedroom is too high and that more dense cities, such as San Francisco and Portland, have lower requirements. One co-living developer of a project in San Francisco noted that a substantial amount of bicycle spaces is unused as many renters choose bike share options, rather than owning a bicycle. Staff conducted additional research on the City of San Francisco's co-living ordinance/program and determined that it is a sound model for many aspects of co-living, including parking requirements. Therefore, staff recommends that the proposed 0.5 per bedroom requirement be reduced to reflect San Francisco's requirement:

- Long Term Spaces (60%) – 0.25 per bedroom. For buildings containing over 100 bedrooms, 25 long term spaces plus 0.20 spaces for every bedroom over 100
- Short Term Spaces (40%) – 2 spaces for every 100 bedrooms

The draft Ordinance posted online does not include staff's recommendation for the reduced bicycle parking requirement. Should the City Council approve staff's recommendation to reduce the bicycle parking requirement, a new Ordinance will be drafted prior to the second reading for the Ordinance.

/s/

ROSALYNN HUGHEY, DIRECTOR  
Planning, Building and Code Enforcement

/s/

JACKY MORALES-FERRAND, DIRECTOR  
Housing Department

For questions, please contact Amy Chen, Senior Development Officer, Housing Department, at (408) 975-4489; or Michael Brilliot, Deputy Director, PBCE, at (408) 535-7831.