



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nanci Klein  
Jacky Morales-Ferrand

**SUBJECT:** COMMERCIAL LINKAGE FEE  
STAFF RECOMMENDATION

**DATE:** September 1, 2020

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Approved D. DSYL Date 9/1/20

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## SUPPLEMENTAL

### REASON FOR SUPPLEMENTAL

The recommended fee level for Residential Care Facility is being reduced to account for the considerable uncertainty about future rent rates due to COVID-19.

### RECOMMENDATION

The recommended fee level for Residential Care Facilities is \$6 per square foot.

### ANALYSIS

Residential care is a unique case as a commercial use building type. Most residential care facilities include both “assisted living” units and “memory care” units which are different in design, services provided, and how the occupant is charged. Due to the progressive nature of services provided to the residents, some of the units include small kitchens (generally assisted living units) and others do not include kitchen or sometimes even bathrooms (generally memory care units). Under the City’s Inclusionary Housing Ordinance and Affordable Housing Impact Fee, units within a residential care facility that include kitchens are defined as residential and included in the inclusionary housing program, while those without kitchens are not. Residents of these units pay a monthly rent and have a lease which is typical of a standard residential apartment. In addition, renters can add a range of additional services such as meals. Rents collected for residential care facilities range from a low of \$2,000 a month to over \$15,000 a month for a 2-bedroom unit. Specifically, the [Inclusionary Housing Ordinance Guidelines](#) define a dwelling unit as the following:

1. “Dwelling Unit” shall not be interpreted to exempt from the Inclusionary Housing Ordinance less traditional developments described or designed or permitted based on

shared common facilities (e.g., single room occupancy, suite-style student or senior housing) or accessory dwelling units.

2. In such nontraditional projects, number of units shall be determined in a manner that reasonably separate rental of bedrooms or suites. Provided however, with respect to projects permitted as assisted living – a room or suite is a Dwelling Unit only if it has all of the following: its own bathroom; a second sink outside of the bathroom; an outlet (120V or greater) and room for a refrigerator (dorm size or larger); and a second outlet and room or counter space for a microwave oven or other food cooking appliance.

Recognizing that many residential care facilities have living spaces that are subject to the Inclusionary Housing Ordinance and others that are not, the proposed Commercial Linkage Fee Ordinance includes an exception for “A project or the portion of a project that is required to comply with the Inclusionary Housing Ordinance (IHO) (Chapter 5.08) or the AHIF (Resolution No. 77218).” This was included to ensure that an owner would not be charged on units that are already covered by the IHO or AHIF.

Residential care uses were included in the Non-Residential Nexus Study to capture that portion of the facility that is not residential and is not contributing to the IHO or AHIF. Every recent residential care facility that has submitted a project in the City has had a combination of units subject to in-lieu fees and units that are not subject to fees. For residential care units subject to the IHO requirements, rental in-lieu fees are applied, which under proposed updates to the Inclusionary Housing Ordinance reviewed by City Council in late 2019 but not yet adopted, would be set at an initial rate of \$18/SF in most areas. Previously these projects were subject to the AHIF program, also at a fee of approximately \$18/SF.

The original staff recommendation was to apply the \$18/SF fee to both units with and without kitchens. However, when reviewing the recommendation more closely, the Commercial Linkage Fee would also be charged to the additional commercial space within the proposed development.

### ***Reduced Fee Rate***

The recommended fee levels in the Feasibility Study were approximately 3% of the development cost for each use category established in the Nexus Analysis. The staff recommended fee levels are in the 1-2% range for each use category, reduced to account for the considerable uncertainty about future rent rates due to COVID.

Nursing homes and assisted living facilities have been severely affected by outbreaks of coronavirus.<sup>1</sup> It is uncertain at this time if there will be a long-term impact on the demand for residential care facilities. Demographic trends continue to drive interest in this type of living, while concerns for safety during the pandemic are being addressed by the industry. Using a similar approach to the other fee adjustments, staff is recommending a \$6 per square foot fee for all non-residential space within a residential care facility, which is equivalent to 1% of the cost

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<sup>1</sup> <https://covid19.ca.gov/care-in-senior-facilities/>

of development for residential care on a per square foot basis (assuming \$600 per square foot for cost of development). The following is an example of how the fee would be applied to a proposed residential care development:

<b>Space within the Development</b>	<b>Unit Count</b>	<b>SQFT Area</b>	<b>Cost for AHIF (\$18.26 FY 19-20)</b>	<b>Cost for CLF (\$5/sqft)</b>
Assisted Living	120	60,000	\$ 1,095,600	\$ --
Memory Care	30	10,000	\$ --	\$60,000
Other Commercial Areas	--	16,500	\$ --	\$99,000
<b>TOTALS</b>	<b>151</b>	<b>86,449</b>	<b>\$ 1,095,600</b>	<b>\$159,000</b>

Residential care facilities were considered as a part of the Nexus Study. The demand for affordable housing calculated on a per square foot basis was determined to be \$52.30 per square foot. The recommended fee level of \$6 per square foot does not exceed the amount determined by the Nexus Study and is equivalent to 1% of the per square foot development cost.

/s/  
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/s/  
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