



# City of Sunnyvale

## Agenda Item

23-0122

Agenda Date: 2/16/2023

### 2023 COUNCIL STUDY ISSUE

**NUMBER**

CDD 23-03

**TITLE**

Review and Potentially Update the Housing In-Lieu Fees for Rental and Ownership Housing

**BACKGROUND**

**Lead Department:** Community Development  
**Support Departments:** Office of the City Manager  
 Office of the City Attorney  
**Sponsor(s):** Housing and Human Services Commission  
**History:** 1 year ago: N/A  
 2 years ago: N/A

**SCOPE OF THE STUDY**

**What precipitated this Study?**

The purpose of this Study is to examine whether higher residential housing in-lieu fees for rental and ownership housing developments are justified and desirable to meet the growing demand for affordable housing, and the rising development cost. The Rental Housing In-Lieu Fee (SMC Chapter 19.77) and Below Market Rate (BMR) ownership in-lieu fee (SMC Section 19.76.100) programs offer the ability for a market rate developer to pay the in-lieu fee for residential developments at the sole discretion of the City Council through an Inclusionary Housing “Alternative Compliance Plan”. The cost to develop one unit of affordable housing is nearly \$850,000, and this cost increases over time. The City should regularly analyze, using a formal Nexus Study, the current fee structures to ensure that the in-lieu inclusionary fees for all residential development effectively support the City’s efforts by using these funds to create new loans for non-profit affordable housing developers. The construction of affordable housing is needed to help meet the City’s Regional Housing Needs Allocation. The fees are currently as follows:

Rental Development	Fee
Small Rental Projects (3-6 units)	\$14.00 per applicable sq. ft.
Large Rental Projects (7+ units)	\$28.50 per applicable sq. ft.

23-0122

Agenda Date: 2/16/2023

Ownership Development	Fee
Ownership Developments with seven (7) or more units.	The amount of the in-lieu fee shall be equal to <b>seven percent (7%)</b> of the contract sales price of all units in the project. If the applicant is paying the in-lieu fee for a fractional unit only, the minimum fee rate may be adjusted proportionally.

### What are the key elements of the Study?

A new formal Nexus Study for both rental and ownership in-lieu fees would be recommended for the City to analyze appropriate fees that will not burden new development. A consultant would be required to perform the work, along with significant outreach to developers and stakeholders. As part of the Nexus Study, an analysis of neighboring jurisdictions' fees will be conducted as well.

**Estimated years to complete study:** 1 year.

### FISCAL IMPACT

#### **Cost to Conduct Study**

Level of staff effort required (opportunity cost):	Moderate
Funding Required for Non-Budgeted Costs:	\$150,000
Funding Source:	Will seek budget supplement

Costs associated with this Study include hiring a qualified economic consultant team to conduct the Study and prepare a formal Nexus Study of both rental and ownership housing in-lieu fees; it is assumed both fees can be analyzed in one study. Staff support and management of the consultant are assumed internal costs that the Housing Division can absorb.

#### **Cost to Implement Study Results**

Minimal or no cost expected to implement.

### EXPECTED CITY COUNCIL, BOARD OR COMMISSION PARTICIPATION

Council-Approved Work Plan: No  
 Council Study Session: No  
 Reviewed by Boards/Commissions: Housing and Human Services Commission, Planning Commission

### STAFF RECOMMENDATION

Support. This policy issue merits discussion at the 2023 Study Issues Workshop.

It is recommended that housing in-lieu fees be reviewed from time to time. While the inclusionary ordinances for rental and ownership were updated in 2019 and 2021 respectively, the fees were not analyzed or modified when the ordinances were updated. Therefore, based on the significant increase in the lower income RHNA allocation for the upcoming 2023-2031 Housing Element cycle, a deeper review of fees is recommended as a tool to support developers that acquire land and/or build

---

**23-0122**

**Agenda Date: 2/16/2023**

---

new deed-restricted affordable housing units in Sunnyvale.

Prepared by: Jenny Carloni, Housing Officer

Reviewed by: Trudi Ryan, Director, Community Development

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager