

RESOLUTION NO. ____-15

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE TO ADOPT HOUSING IMPACT FEES FOR
RENTAL HOUSING DEVELOPMENTS**

WHEREAS, land and construction costs are a key factor preventing the development of new affordable housing. New housing construction in the City which does not include affordable units aggravates the existing shortage of affordable housing by absorbing the supply of available residential land. This reduces the supply of land for affordable housing and increases the price of remaining residential land. At the same time, new market-rate housing contributes to the demand for goods and services in the city, increasing local service employment at wage levels which often do not permit employees to afford housing in the city; and

WHEREAS, rents in Sunnyvale have steadily increased and for recently built projects currently range from an average of \$2,500 for a studio apartment to \$4,600 for a three-bedroom apartment, which are not affordable to households with incomes at or below the area median income; and

WHEREAS, in July 2012, the City eliminated from the Municipal Code the inclusionary affordable housing requirements for new rental housing developments in response to the *Palmer/Sixth Street Properties v. City of Los Angeles* decision and evolving case law, thus diminishing the City's ability to require developers of new market-rate rental housing to mitigate their impact on the need for affordable rental housing; and

WHEREAS, in July 2012, the City Council also directed staff to prepare a Nexus Study to determine the nexus between new market-rate rental housing developments and the increase in local demand for affordable rental housing for purposes of creating housing impact fee; and

WHEREAS, on December 16, 2014, after several community outreach meetings and recommendations from the Housing & Human Services and Planning Commissions, the City Council adopted its 2015-2023 Housing Element update which contemplates, among other things, the goal of encouraging the development of affordable housing, in part through the use of Housing Mitigation Funds, to meet the City's assigned share of the regional housing needs as required by state law; and

WHEREAS, to ensure that the housing impact fees adopted hereunder do not exceed the actual affordable housing impacts attributable to the development projects to which the fees relate, the City has received and considered a report from Economic and Planning Systems, Inc. dated December 5, 2014, entitled "Nexus Based Affordable Housing Fee Analysis for Rental Housing" (the "Nexus Study"); and

WHEREAS, the Nexus Study demonstrates that a reasonable relationship exists between new market-rate rental housing development within the City and an increased need for additional affordable housing. A reasonable relationship also exists between the fee's use and the impacts of new market-rate rental housing development. Development of new rental housing results in more residents living in the City. The residents who move into new rental housing developments will increase the demand for services provided by the public and private sectors. Some of the public and private sector employees needed to meet the needs of the new City residents earn incomes that do not allow these employees to afford market-rate housing. Rather, many of these new employees will require housing affordable to lower-incomes. This type of affordable housing is in very short supply within Sunnyvale, and other available housing subsidies are inadequate to meet the additional need created by new rental housing developments. The rental housing impact fee will be used to help increase the supply of affordable housing in the City to meet the increased need generated by new rental housing developments; and

WHEREAS, after multiple community outreach meetings and commission hearings and recommendations, the Council considered the Nexus Study and various staff reports at a public hearing on March 17, 2015, and directed staff to draft a Rental Housing Impact Fees Ordinance and Resolution for Council adoption; and

WHEREAS, to implement the affordable housing goals, objectives, policies and programs of the City's 2015-2023 Housing Element update, the Council has considered and adopted on this same date a Housing Impact Fees Ordinance that, among other things, authorizes the imposition of housing impact fees for certain market-rate rental housing development projects to mitigate the impact of such projects on the need for affordable housing in the City; and

WHEREAS, the Council now desires to adopt rental housing impact fees for market-rate rental housing development projects as authorized by section 19.75.040 of the Housing Impact Fees Ordinance, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the development projects to which the fees relate, as determined by the Nexus Study; and

WHEREAS, the Nexus Study demonstrated that to fully mitigate the impacts of new market-rate rental housing development on the need for affordable housing, the maximum nexus-supported housing impact fees would be equivalent to \$55 to \$98 per square foot; and

WHEREAS, to ensure that market-rate rental housing development projects remain economically feasible, the adopted housing impact fees are lower than the amount needed to fully mitigate the impacts for market-rate rental housing development, as shown in the Nexus Study; and

WHEREAS, the use of the housing impact fees will be restricted to mitigating the affordable housing impacts of market-rate rental housing developments and will be deposited into the City's Housing Mitigation Fund to be used for affordable housing programs and projects; and

WHEREAS, at least ten days prior to the date this resolution is being considered, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including general fund revenues in accordance with Government Code section 66019; and

WHEREAS, no persons have requested notice of these fees in accordance with Government Code section 66019; and

WHEREAS, notice of the hearing on the proposed fees was published twice in the manner set forth in section 6062a of the Government Code and was otherwise given in the manner required by law.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE:

1. The foregoing recitals are true and correct and incorporated into this resolution by this reference.
2. The Council hereby adopts the housing impact fees for new market-rate rental housing developments and the developer credits for on-site units shown on Exhibit "A", attached hereto and incorporated by reference herein.
3. The Council further finds that all of the housing impact fees adopted pursuant to this Resolution do not exceed the actual affordable housing impacts of the development projects to which those housing impact fees relate, as further set forth in the Nexus Study.
4. The fees authorized by this Resolution are adopted in conjunction with the Housing Impact Fee Ordinance and shall become effective 60 days from and after the date of adoption of this Resolution if the Housing Impact Fee Ordinance is adopted and effective at that time.
5. Staff shall return to the City Council within two years after adoption to reevaluate and possibly modify the housing impact fee.
6. Any judicial action or proceeding to attack, review, set aside, void or annul this resolution shall be brought within the 120-day time period as established by Government Code Section 66022.

Adopted by the City Council at a regular meeting held on _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

City Attorney

EXHIBIT A

A. Housing Impact Fee for Rental Housing Developments

1. Developments with 4 – 7 units:	\$8.50 per net new habitable sq. ft.
2. Developments with 8 or more units:	\$17.00 per net new habitable sq. ft.

*Fees will be adjusted annually based on the Consumer Price Index for all urban consumers for the San Francisco-Oakland-San Jose area

B. Developer Credit for Affordable Units Provided On-Site

On-Site Unit Income Level	Developer Credit Per Unit
Very Low-Income unit	\$300,000
Low-Income unit	\$150,000

If a developer opts to provide affordable units on-site instead of paying the housing impact fee, the City has determined that the developer shall be credited \$300,000 for every very low-income unit provided on-site and/or \$150,000 for every low-income unit provided on-site, up to the total housing impact fee amount owed by the project. In case any fee obligation remains after the affordable unit developer credits are applied, the developer may opt to provide another affordable unit or pay the remaining fee obligation balance.

These developer credits are based on the subsidy amounts required to develop affordable units, which the rental impact fee nexus study dated Dec. 5, 2014, determined to be \$302,496 for a very low-income unit and \$146,233 for a low-income unit. These subsidy levels may be adjusted periodically to reflect significant changes in the costs to develop affordable units.