

HOUSING DEPARTMENT

Impact Analysis Report

OVERVIEW

The Housing Department is responsible for the collection of fees related to the Rental Rights and Referrals Program (RRRP) and for the collection of Inclusionary Fees, Affordable Housing Impact Program, Rental Mediation Penalty Fees, Homebuyer Subordination Fees, and Multi-Family Fees.

The Rental Rights and Referrals program, also referred to as the Rent Stabilization Program, fees are collected from property owners, renters, and mobilehome owners to support work associated with implementation of the Apartment Rent Ordinance (ARO), Tenant Protection Ordinance (TPO), Ellis Act Ordinance, and Mobilehome Ordinance. The fees are set to cover the estimated costs of providing the Program, which include mediation services to settle tenant-landlord disputes, information and referral services, tenant protection, and outreach and education services.

As directed by City Council on April 19, 2016, the Housing Department engaged a consultant to develop a staffing plan to implement a phased approach for the introduction of new positions and program fee increases. The findings of this study was Phase I of the implementation plan and was approved in June 2017 as part of the annual budget process. Phase II was approved by City Council on November 14, 2017, along with final adoption of the ARO. Phase III marks the final phase of the implementation, and was included as part of the 2018-2019 Proposed Operating Budget. Phase III costs are also included in the calculation of the 2018-2019 fee and is included the Proposed Schedule of Fees and Charges. Implementation of these three phases provides the

supplies and staffing needed to properly administer, monitor, and enforce the requirements of the Rental Rights and Referrals Program.

The City's Inclusionary Housing Policy, established in 1988, requires the development of affordable housing units in newly-constructed, for-sale housing developments with greater than 10 units that are located in former Redevelopment Project Areas. In limited circumstances, developers may choose to pay an "in-lieu" fee instead of building the required affordable units. Although redevelopment agencies in California have been dissolved, the relevant provisions of the California Redevelopment Law requiring housing affordability in residential construction in Redevelopment Project Areas remain in effect. Therefore, San José continues to implement its Inclusionary Housing Policy and require affordability in newly-constructed, for-sale developments in those areas. For more information on the City's Inclusionary Housing Policy, please visit the Housing Department's website at: <http://www.sanjoseca.gov/index.aspx?NID=1307>.

The Inclusionary Housing Ordinance (IHO), Chapter 5.08 of the San José Municipal Code, was adopted on January 12, 2010. The IHO applies to for-sale and rental market rate developments of 20 or more units. The provisions of the IHO that apply to rental developments were suspended until the court decision in *Palmer v. City of Los Angeles* was superseded. On September 29, 2017, the Governor signed Assembly Bill 1505, clarifying the State Legislature's intent to supersede the court decision in *Palmer v. City of Los Angeles*, thus allowing the IHO requirements to apply to rental residential developments, effective January 1, 2018.

HOUSING DEPARTMENT

OVERVIEW

The IHO provides several ways that a developer may meet the affordable unit requirement. This includes construction of affordable units that are evenly distributed on-site, where 15% of the on-site units are deed restricted affordable. When a developer selects an alternative compliance option to provide the units off-site, then the requirement to provide affordable units is increased from 15% to 20%. Similarly, the In-Lieu fee is calculated based on the 20% requirement.

The ordinance requires the City to establish an in-lieu fee on an annual basis. In accordance with the methodology outlined in the Ordinance and by City Council direction, the Housing Department has calculated the proposed in-lieu fees for 2018-2019. Therefore, the in-lieu fee for each For-Sale Inclusionary Housing home shall be \$167,207 (previously \$153,426), and \$125,000 for each Inclusionary Rental Apartment (new fee).

On November 18, 2014, the City Council adopted an ordinance to establish an Affordable Housing Impact Fee Program (AHIF) on new market-rate rental housing development to address the need for affordable housing associated with such new development. The City Council delayed the effective date of the ordinance to July 1, 2016, to allow the implementation of an exemption process to minimize the financial impacts on development projects in the pipeline. The grandfathering process exempts pipeline development projects from the new \$17 per square foot Housing Impact Fee if the rental development project has received an entitlement prior to July 1, 2016, and if the project receives its Certificate of Occupancy prior to January 31, 2020. Fees associated with the collection of pipeline

project applications, and to cover the cost for staff to track compliance and monitoring of exempted projects, are recommended in accordance with the plan adopted by City Council. Additionally, the ordinance increases the Housing Impact Fee by 2.4% annually. Therefore, the Housing Impact Fee is proposed to increase from \$17.41 to \$17.83 per square foot in 2018-2019.

On December 19, 2017, the City Council adopted resolution 78473 amending the AHIF to provide a framework for a transition process between the AHIF and the IHO programs for rental developments with 20 or more units. After the transition period, AHIF will only apply to rental development projects with 3-19 units. Additional clarification for the transition period between the AHIF and IHO is scheduled to be heard by Council on May 22, 2018.

The 2018-2019 proposed changes to the Housing Department's fees and charges overall cost recovery rate will remain the same as the 2017-2018 level of 99.9%.

SUMMARY AND IMPACT OF PROPOSED FEE REVISIONS

Existing Fees

Rental Rights and Referrals Program – On November 14, 2017, City Council approved the final version of the ARO and Phase II of a staffing plan to implement the expanded scope of the program raising the fee from \$30.30 per unit to \$55.80 per unit. Phase III costs included in the 2018-2019 Proposed Operating Budget further increase the fee from \$55.80 per unit to \$77.30 per unit for rent-controlled

HOUSING DEPARTMENT

SUMMARY AND IMPACT OF PROPOSED FEE REVISIONS

Existing Fees (Cont'd.)

apartments. Non-rent controlled apartments are subject to the TPO fee, which is proposed to increase from \$4.10 per unit to \$6.20 per unit to maintain full cost recovery. As directed by the City Council, a Manager's Budget Addendum will be released during the 2018-2019 budget process to further detail the Apartment Rent Ordinance staffing and fee implementation.

Mobilehome Fee: The Mobilehome fees will not be impacted by the new positions associated with the updated ARO and the TPO. To keep the mobilehome fee at cost recovery, staff recommends that the fee be decreased from \$34.10 to \$25.70 per unit for one year. After reserves are used during 2018-2019, the fee will return to prior levels.

Ellis Act Ordinance Fee: An increase in the fee per unit up to 10 units from \$2,235 to \$2,258 is also recommended. Additional units (above 10 units) would be increased from \$860 to \$872 per unit. This fee recovers staff and consultant costs associated with the review of Ellis Act applications. This work includes reviewing the Notice of Intent to Withdraw, relocation issues, and coordinating with both property owners and tenants.

Multi-Family Fee Program – The hourly rate and the base transactions driven by the hourly rate are recommended to increase to maintain cost recovery (from \$140 per hour to \$157 per hour for Housing staff and from \$202 per hour to \$206 per hour for City Attorney staff time). The proposed

changes reflect the actual costs for the positions that perform these functions. Fees which hourly rates and base transactions which are subject to change are the: *Affordable Housing Compliance Plan Fee, Multi-Family Loan Conversion Fee, Multi-Family Loan Origination Fee, Multi-Family Loan Payoff Processing Fee, Multi-Family Loan Recapitalization Fee, Multi-Family Loan Refinance Fee, Multi-Family Project Owner Transfer Fee, Multi-Family Project Restructuring Fee, and the Supplemental Document Processing Fee.*

Changes to Single-Family and Multi-Family Asset Management transaction fees are recommended as outlined below. These cost recovery fees align with the costs necessary to complete these types of transactions and have been updated to reflect changes in salary, benefit and indirect costs. If additional time above the standard transaction fee is necessary, an hourly rate of \$206 for Attorney staff time, and \$157 for Housing staff time, would be applied.

Single-Family Loan Pay-off Fee: An increase to the Short Sale fee (from \$350 to \$392.50 per transaction) and Loan Payoff fee (from \$210 to \$235.50 per transaction) is recommended.

Multi-Family Loan Servicing Fee: A decrease in the fee (from \$27.65 to \$25.69 per unit) is recommended. This fee recovers the costs associated with the servicing of the City's loans including construction oversight and the annual review of the project's operating budget and audit.

Multi-Family Affordability Restriction Monitoring Fee: A decrease in the fee (from \$27.65 to \$25.69 per unit) is

HOUSING DEPARTMENT

SUMMARY AND IMPACT OF PROPOSED FEE REVISIONS

Existing Fees (Cont'd.)

recommended. This fee recovers the costs associated with the monitoring of compliance with the City's affordability restrictions, including the annual review of the developer's tenant's income and rents.

Homebuyer Subordination Fee: A decrease to the Homebuyer Subordination Fee (from \$322 to \$314 per transaction) is recommended.

NOTIFICATION

The Housing Department staff is scheduled to meet with potential impacted stakeholders at the public hearings on the May 10, 2018 Housing and Community Development Commission meeting. The Proposed Fees and Charges Report was released on May 4, 2018, allowing for a minimum of 10 days for public review. Public input on fee proposals will be heard by the City Council at public hearings held on Tuesday, May 15, 2018, at 1:30 p.m. and Monday, June 11, 2018, at 6:00 p.m. in the Council Chambers.

DEPARTMENTAL FEES AND CHARGES

HOUSING

Service	2017-2018 Adopted Fee	2017-2018 % Cost Recovery	2018-2019 Proposed Fee	2018-2019 Estimated Cost	2018-2019 Estimated Revenue		2018-2019 % Cost Recovery	
					Current Fee	Proposed Fee	Current Fee	Proposed Fee
MULTI-FAMILY HOUSING - CATEGORY I								
1. Homebuyer Subordination Fee								
1 Homebuyer Subordination Fee	\$322 per transaction		\$314 per transaction					
Sub-total Homebuyer Subordination Fee		100.0%		7,863	8,050	7,850	102.4%	99.8%
2. Multi-Family Affordable Restriction Monitoring Fee								
1 Multi-Family Affordability Restriction Monitoring Fee	\$27.65/unit per year		\$25.69/unit per year					
Sub-total Multi-Family Affordable Restriction Monitoring Fee		100.0%		61,656	66,360	61,656	107.6%	100.0%
3. Multi-Family Loan Conversion Fee								
1 City Attorney Staff Time	\$202/hr in excess of 89 hours		\$206/hr in excess of 89 hours					
2 City Housing Staff Time	\$140/hr in excess of 183 hours		\$157/hr in excess of 183 hours					
3 Standard Transaction	\$43,595 per transaction		\$46,987 per transaction					
Sub-total Multi-Family Loan Conversion Fee		100.0%		93,973	87,190	93,973	92.8%	100.0%
4. Multi-Family Loan Origination Fee								
1 City Attorney Staff Time	\$202/hr in excess of 89 hours		\$206/hr in excess of 89 hours					
2 City Housing Staff Time	\$140/hr in excess of 204 hours		\$157/hr in excess of 204 hours					
3 Standard Transaction	\$46,535 per transaction		\$50,362 per transaction					
Sub-total Multi-Family Loan Origination Fee		100.0%		151,086	139,605	151,086	92.4%	100.0%
5. Multi-Family Loan Payoff Processing Fee								
1 City Attorney Staff Time	\$202/hr in excess of 3 hours		\$206/hr in excess of 3 hours					

DEPARTMENTAL FEES AND CHARGES

HOUSING

Service	2017-2018 Adopted Fee	2017-2018 % Cost Recovery	2018-2019 Proposed Fee	2018-2019 Estimated Cost	2018-2019 Estimated Revenue		2018-2019 % Cost Recovery	
					Current Fee	Proposed Fee	Current Fee	Proposed Fee
MULTI-FAMILY HOUSING - CATEGORY I								
5. Multi-Family Loan Payoff Processing Fee								
2 City Housing Staff Time	\$140/hr in excess of 24 hours		\$157/hr in excess of 24 hours					
3 Standard Transaction	\$3,970 per transaction		\$4,386 per transaction					
Sub-total Multi-Family Loan Payoff Processing Fee		100.0%		21,930	19,850	21,930	90.5%	100.0%
6. Multi-Family Loan Recapitalization Fee								
1 City Attorney Staff Time	\$202/hr in excess of 89 hours		\$206/hr in excess of 89 hours					
2 City Housing Staff Time	\$140/hr in excess of 183 hours		\$157/hr in excess of 183 hours					
3 Standard Transaction	\$43,570 per transaction		\$46,987 per transaction					
Sub-total Multi-Family Loan Recapitalization Fee		100.0%		187,946	174,280	187,946	92.7%	100.0%
7. Multi-Family Loan Refinance Fee								
1 City Attorney Staff Time	\$202/hr in excess of 29 hours		\$206/hr in excess of 29 hours					
2 City Housing Staff Time	\$140/hr in excess of 106 hours		\$157/hr in excess of 106 hours					
3 Standard Transaction	\$20,650 per transaction		\$22,616 per transaction					
Sub-total Multi-Family Loan Refinance Fee		100.0%		113,080	90,464	113,080	80.0%	100.0%
8. Multi-Family Loan Servicing Fee								
1 Multi-Family Loan Servicing Fee	\$27.65/unit per year		\$25.69/unit per year					
Sub-total Multi-Family Loan Servicing Fee		100.0%		61,656	66,360	61,656	107.6%	100.0%

DEPARTMENTAL FEES AND CHARGES

HOUSING

Service	2017-2018 Adopted Fee	2017-2018 % Cost Recovery	2018-2019 Proposed Fee	2018-2019 Estimated Cost	2018-2019 Estimated Revenue		2018-2019 % Cost Recovery	
					Current Fee	Proposed Fee	Current Fee	Proposed Fee
MULTI-FAMILY HOUSING - CATEGORY I								
9. Multi-Family Project Owner Transfer Fee								
1 City Attorney Staff Time - New Parties	\$202/hr in excess of 29 hour		\$206/hr in excess of 29 hours					
2 City Attorney Staff Time - Related Parties	\$202/hr in excess of 22 hours		\$206/hr in excess of 22 hours					
3 City Housing Staff Time - New Parties	\$140/hr in excess of 106 hours		\$157/hr in excess of 106 hours					
4 City Housing Staff Time - Related Parties	\$140/hr in excess of 82 hours		\$157/hr in excess of 82 hours					
5 Standard Transaction - New Parties	\$20,695 per transaction		\$22,538 per transaction					
6 Standard Transaction - Related Parties	\$15,870 per transaction		\$17,328 per transaction					
Sub-total Multi-Family Project Owner Transfer Fee		100.0%		131,713	120,740	131,713	91.7%	100.0%
10. Multi-Family Project Restructuring Fee								
1 City Attorney Staff Time	\$202/hr in excess of 20 hours		\$206/hr in excess of 20 hours					
2 City Housing Staff Time	\$140/hr in excess of 21 hours		\$157/hr in excess of 21 hours					
3 Standard Transaction	\$6,980 per transaction		\$7,236 per transaction					
Sub-total Multi-Family Project Restructuring Fee		100.0%		7,236	6,980	7,236	96.5%	100.0%
11. Single-Family Loan Payoff Fee								
1 Short Sale Loan Payoff Fee	\$350 per transaction		\$392.50 per transaction					
2 Single-Family Loan Payoff Fee	\$210 per transaction		\$235.50 per transaction					
Sub-total Single-Family Loan Payoff Fee		100.0%		8,635	7,700	8,635	89.2%	100.0%

DEPARTMENTAL FEES AND CHARGES

HOUSING

Service	2017-2018 Adopted Fee	2017-2018 % Cost Recovery	2018-2019 Proposed Fee	2018-2019 Estimated Cost	2018-2019 Estimated Revenue		2018-2019 % Cost Recovery	
					Current Fee	Proposed Fee	Current Fee	Proposed Fee
MULTI-FAMILY HOUSING - CATEGORY I								
12. Supplemental Document Processing Fee								
1 City Attorney Staff Time	\$202 per hour		\$206 per hour					
2 City Housing Staff Time	\$140 per hour		\$157 per hour					
3 Standard Transaction	Actual costs charged by the County Recorder to the City		No Change					
Sub-total Supplemental Document Processing Fee		100.0%						
SUB-TOTAL MULTI-FAMILY HOUSING - CATEGORY I		100.0%		846,774	787,579	846,761	93.0%	100.0%
MULTI-SOURCE HOUSING FD - CATEGORY I								
1. Affordable Housing Compliance Fee Program								
1 City Attorney Staff Time	\$202/hr in excess of 7 hours		\$206/hr in excess of 7 hours					
2 Housing Staff Time	\$140/hr in excess of 20 hours		\$157/hr in excess of 20 hours					
3 Standard Application	\$3,200 per application		\$4,582 per application	91,640	64,000	91,640	69.8%	100.0%
Sub-total Affordable Housing Compliance Fee Program				91,640	64,000	91,640	69.8%	100.0%
2. Affordable Housing Impact Fee Program								
1 Affordable Housing Impact Fee	\$17.41/sf	100.0%	\$17.83/sf	1,410,000	1,377,000	1,410,000	97.7%	100.0%
Sub-total Affordable Housing Impact Fee Program		100.0%		1,410,000	1,377,000	1,410,000	97.7%	100.0%
3. Housing Impact Fee Program - Pipeline Annual Fee								
1 City Attorney Staff Time	\$160/hr in excess of 2 hours		No Change					
2 City Housing Staff Time	\$100/hr in excess of 13 hours		No Change					
3 Standard Transaction	\$1,740 per transaction		No Change	34,800	34,800	34,800	100.0%	100.0%

DEPARTMENTAL FEES AND CHARGES

HOUSING

Service	2017-2018 Adopted Fee	2017-2018 % Cost Recovery	2018-2019 Proposed Fee	2018-2019 Estimated Cost	2018-2019 Estimated Revenue		2018-2019 % Cost Recovery		
					Current Fee	Proposed Fee	Current Fee	Proposed Fee	
MULTI-SOURCE HOUSING FD - CATEGORY I									
3. Housing Impact Fee Program - Pipeline Annual Fee									
Sub-total Housing Impact Fee Program - Pipeline Annual Fee				34,800	34,800	34,800	100.0%	100.0%	
4. Inclusionary In-Lieu Fees									
Note: Previously titled "Inclusionary In-Lieu Fee"									
1 For Sale Inclusionary In-Lieu Fee	\$153,426/unit		\$167,207/unit						
Note: Previously titled "Inclusionary In-Lieu Fee"									
2 Rental Inclusionary In-Lieu Fee			\$125,000/unit						
Sub-total Inclusionary In-Lieu Fees									
5. Rental Rights and Referrals Program									
1 Apartment Unit	\$30.30 annually	99.9%	\$77.30 per unit annually	3,320,090	1,300,264	3,317,175	39.2%	99.9%	
2 Ellis Act Filing Fees - additional per unit over 10 units	\$860 additional per unit over 10 units		\$872 additional per unit over 10 units						
3 Ellis Act Filing Fees - per unit up to 10 units	\$2,235 per unit up to 10 units		\$2,258 per unit up to 10 units						
4 Mobile Home Unit	\$34.10 annually	99.8%	\$25.70 per unit annually	275,003	364,427	274,656	132.5%	99.9%	
5 Non-Rent-Controlled Apartment Units	\$4.10 annually	99.4%	\$6.20 per unit annually	304,764	200,900	303,800	65.9%	99.7%	
Sub-total Rental Rights and Referrals Program		99.8%		3,899,857	1,865,591	3,895,631	47.8%	99.9%	
SUB-TOTAL MULTI-SOURCE HOUSING FD - CATEGORY I		99.9%		5,436,297	3,341,391	5,432,071	61.5%	99.9%	

DEPARTMENTAL FEES AND CHARGES

HOUSING

Service	2017-2018 Adopted Fee	2017-2018 % Cost Recovery	2018-2019 Proposed Fee	2018-2019 Estimated Cost	2018-2019 Estimated Revenue		2018-2019 % Cost Recovery	
					Current Fee	Proposed Fee	Current Fee	Proposed Fee
MULTI-SOURCE HOUSING FD - CATEGORY II								
1. Inclusionary Fees								
1 For-Sale - High Rise units not located in the Downtown Core	\$17.00 per square foot of market-rate housing; maximum \$200,200		No Change					
2 For-Sale - High rise units located in a Downtown High-Rise Incentive Area	\$8.50 per square foot of market-rate high-rise units; maximum \$65,000		No Change					
3 For-Sale - Low-Rise Condominium/Stacked Flat Projects	\$17.00 per net square foot of market-rate housing; Maximum \$90,000		No Change					
4 For-Sale - Single-Family Detached Units	\$17.00 per square foot of market-rate housing; maximum: \$200,000		No Change					
5 For-Sale - Townhouse/Row-House projects	\$17.00 per square foot of market-rate housing; maximum: \$120,000		No Change					
6 Ownership Alternative Restricted Unit to be developed outside a redevelopment project area	\$130,000 per unit		No Change					
7 Ownership Alternative Restricted Unit to be developed within a redevelopment project area	\$65,000 per unit		No Change					
8 Rental Alternative Restricted Unit to be developed outside a redevelopment project area	\$142,800 per unit		No Change					
9 Rental Alternative Restricted Unit to be developed within a redevelopment project area	\$71,400 per unit		No Change					

DEPARTMENTAL FEES AND CHARGES

HOUSING

Service	2017-2018 Adopted Fee	2017-2018 % Cost Recovery	2018-2019 Proposed Fee	2018-2019 Estimated Cost	2018-2019 Estimated Revenue		2018-2019 % Cost Recovery	
					Current Fee	Proposed Fee	Current Fee	Proposed Fee
MULTI-SOURCE HOUSING FD - CATEGORY II								
1. Inclusionary Fees								
10 Rental Units	\$17.00 per net square foot of market-rate housing; maximum \$85,500		No Change					
2. Rental Mediation Penalty: Apartments								
1 30 days past due = 25% of principal	Penalties and interest assessed for delinquent permit payment		No Change					
2 60 days past due = 50% of principal	Penalties and interest assessed for delinquent permit payment		No Change					
3. Rental Mediation Penalty: Mobile Homes								
1 30 days past due = 10% of the amount of the fee	Penalties and interest assessed for delinquent permit payment		No Change					
SUB-TOTAL MULTI-SOURCE HOUSING FD - CATEGORY II				5,000,000	5,000,000	5,000,000	100.0%	100.0%
TOTAL DEPARTMENT - NON-GENERAL FUND				11,283,071	9,128,970	11,278,832	80.9%	100.0%
TOTAL DEPARTMENT - Category I				6,283,071	4,128,970	6,278,832	65.7%	99.9%
TOTAL DEPARTMENT - Category II				5,000,000	5,000,000	5,000,000	100.0%	100.0%
TOTAL DEPARTMENT				11,283,071	9,128,970	11,278,832	80.9%	100.0%