

Consideration of an Ordinance to Update the Inclusionary Housing Ordinance, Alameda Municipal Code Section 30-16, and make a recommendation to City Council regarding its adoption. In accordance with the California Environmental Quality Act (CEQA), this action is categorically exempt from environmental review pursuant to CEQA Guidelines section 15061(b)(3).

To: President Cisneros and Members of the Planning Board

From: Steven Buckley, Planning Services Manager

### EXECUTIVE SUMMARY

On December 2, 2025, the City Council conducted a workshop to review various proposals to update the inclusionary housing ordinance, including consideration of the Planning Board's feedback from its workshop meeting on November 10, 2025. Both the Planning Board and Council provided guidance on several options to be considered, i.e. ways to adjust the percentage requirements for each of the affordability levels, fee options, and off-site project development parameters. Because the fee options will require a nexus study, which has not yet been commissioned, this report only covers the non-fee updates.

This report provides a summary of the issues and a staff recommendation for Planning Board to consider in formulating its recommendation to City Council.

### BACKGROUND

The requirement that new development contribute to the provision of affordable housing is a widely accepted development regulation in California. Alameda has had such a requirement since 2004. The current ordinance is provided as Exhibit 1. Proposed amendments are provided as Exhibit 2 and Exhibit 3, showing the strike-through edits and a clean version of the draft ordinance, respectively.

Previous staff reports and workshops have provided an overview of the overarching concepts and the Alameda-specific policies, ordinance, programs and issues for the Planning Board and City Council. Exhibit 4 and Exhibit 5 provide that background.

### DISCUSSION

Based on previous input from the ad hoc working group and community, and discussion with the Planning Board and City Council, staff recommends a variety of options that would be equivalent to the baseline requirements of State law AB1505 applicable to rentals (Govt. Code 65850 and 65850.01) and administrative guidance for the regional Transit-Oriented Communities program that guides the funding decisions of ABAG and MTC, and meets local policy objectives and practical considerations.

AB1505 provides in pertinent part that local jurisdictions are authorized to:

Require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate income, lower income, very low income, or extremely low income households specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code. The ordinance shall provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.

ABAG/MTC guidance provides in pertinent part as follows:

To comply with the TOC Policy, a jurisdiction's inclusionary zoning policy must meet the following minimum requirements:

- The policy must apply to newly constructed residential or mixed-use residential projects. The policy must apply to ownership and rental units.
- The policy may exempt properties with fewer than 11 units, student housing, 100% affordable housing, senior housing, or other special housing types.
- The policy must require at least 15% of units be deed-restricted affordable housing units.
- For rental units, the policy's affordability requirements must require the income mix of affordable units to average out to 80% of AMI or less, with no affordable rental units available to households above 120% of AMI. For ownership units, the policy's affordability requirements must require the income mix of affordable units to average out to 120% of AMI or less, with no affordable ownership units available to households above 150% of AMI. Jurisdictions should require deeper levels of affordability where feasible or through offering additional incentives. A policy with an income mix that does not meet this standard will not be considered compliant, even if the policy was based on a financial feasibility analysis.
- The policy may require less than 15% affordable units if:
  - The jurisdiction provides an analysis showing that an alternative requirement is economically equivalent to the 15% standard (for example, a policy that required fewer units at a deeper affordability level, such as 10% of units affordable to households earning less than 50% of AMI). OR
  - A financial feasibility analysis (completed within 24 months of the date that inclusionary zoning policy was adopted) found that a 15% requirement was not feasible.
- The policy may require more than 15% affordable units.
- Affordable units must have recorded documents that set binding maximum rent or price restrictions to ensure affordability. These requirements must restrict rents and sales prices to affordable levels as defined by the rules of any applicable state or federal affordable housing program. These restrictions must also ensure affordability for at least 55 years for rental housing or at least 45 years for ownership housing.

- Per state law, inclusionary zoning must allow for alternative means of compliance (e.g., paying in-lieu fees to support affordable housing development, building affordable units off-site, or dedicating land for the construction of affordable housing). For compliance with the TOC Policy, a jurisdiction with an in-lieu fee that typically results in a payment of less than \$100,000 per affordable unit, must provide a justification for why the fee will result in at least as many restricted affordable housing units as would be required of a project providing onsite units.

The City's 2023-2031 Housing Element includes several policies and programs related to inclusionary housing. Among the most pertinent are:

Policy H-3: Distribute new housing, affordable and market rate, supportive housing, and special needs housing across all neighborhoods and increase the supply of affordable housing and special needs housing in higher opportunity areas and in neighborhoods that currently have fewer affordable housing units or special needs housing to affirmatively further fair housing.

Policy H-4: Expand rental and for-sale housing for people of all income levels in all Alameda neighborhoods with units for extremely low-, very low-, low-, moderate-income and special needs households, including people with disabilities, senior citizens, and people in need of assisted, supportive, and/or transitional housing...

Program 7: Continue to implement the required 15 percent affordable housing requirement on all projects over 5 units in size in Alameda. Consider modifications to the ordinance to lessen or eliminate the 7% moderate income units and increase the 4% requirement for low- income units and 4% very low income units, or alter the percentages for each level or required units in some other way, given the larger need for lower income units.

The City fully intends to comply with State law and the TOC program guidance in order to advance affordable housing in Alameda and to qualify for future funding opportunities. The ordinance would be enforced through conditions of approval on development applications and in housing agreements entered into with the City's Housing and Human Services Division.

The following is a summary of the recommendations.

- 1. Rental Inclusionary.** Require inclusionary rental units at a rate of 15% of base project units to be affordable to Low-Income households, or an equivalent ratio of units affordable to Low and Very-Low Income households, as shown in Table 1. Other alternative ratios could be proposed by a developer, e.g. 4% VLI and 6% LI, based on a cost / subsidy model demonstrating rough equivalence to the basic requirement.

**Table 1 – Income Mix Options for Rental Units.**

	<b>VLI (50% AMI)</b>	<b>LI (80% AMI)</b>	<b>MOD (120% AMI)</b>	<b>TOTAL</b>
<b><i>Option 1 (Existing)</i></b>	4%	4%	7%	15%
<b>Option 2 (All LI)</b>	0%	15%	0%	15%
<b>Option 3 (Mix)</b>	5%	5%	0%	10%
<b>Option 4 (All VLI)</b>	8%	0%	0%	8%

- 2. Ownership Inclusionary.** Require inclusionary ownership units at a rate of 15% of base project units to be affordable to Moderate Income households, or an equivalent as described above.

**Table 2 – Income Mix Options for Ownership Units.**

	<b>VLI (50% AMI)</b>	<b>LI (80% AMI)</b>	<b>MOD (120% AMI)</b>	<b>TOTAL</b>
<b><i>Option 1 (Existing)</i></b>	4%	4%	7%	15%
<b>Option 2 (All MOD)</b>	0%	0%	15%	15%
<b>Option 3 (Mix)</b>	0%	6%	6%	12%
<b>Option 4 (All LI)</b>	0%	10%	0%	10%

- 3. Clustered Development / Land Dedication.** Staff recommends that the ordinance be amended to allow the provision of units in a separate building, either on-site or off-site, i.e. “clustered”, subject to approval by the Planning Board in consultation with Housing and Human Services and Alameda Housing Authority. The City Council may also approve an alternative site as part of a Development Plan or Development Agreement.

Findings should be required to support the selection of appropriate sites:

- The off-site units will support the equitable distribution of affordable housing because the units will be located where there is a shortage of affordable housing and lower household incomes compared to the project area.
- The off-site units will be located in transit-rich, high-opportunity neighborhoods that provide integrated access to jobs, transit, schools, and services to advance geographic equity.

A developer could also provide suitable land and adequate financial support to construct the required affordable units in cooperation with a non-profit or public housing developer.

Additional criteria for land dedication should include:

- Consider the likely competitiveness of the clustered project to secure State and federal funding, including the pipeline of proposed affordable housing projects in the City that are currently planning to pursue these funding sources.
- Require the combined value of donated land and cash contribution be equivalent in value to the in-lieu fee that would otherwise be required.
- Ensure that an equal or greater number of affordable units are feasible on the site.

**4. Term of Affordability.** Extend the period during which BMR units must remain affordable from 59 to 99 years, consistent with best practice.

**5. In-Lieu Fees.** Further study is necessary to determine an appropriate level of in-lieu fees. A nexus study and feasibility study is recommended to meet the various legal standards and ensure that fee collection is enforceable.

Existing fees that are collected from small projects are subject to the following provisions, which would likely carry forward to any future fee:

In-Lieu Fees collected under this section shall be used in accordance with and in support of affordable housing as determined by the City Manager. Expenditures of In-Lieu Fees shall be limited to direct expenditures for capital projects or incidental non-capital expenditures related to capital projects, including but not limited to pre-development expenses, land acquisition, construction, rehabilitation, subsidization, counseling or assistance to other governmental entities, private organizations or individuals to expand affordable housing opportunities to very low-, low- and moderate-income households. Authorized expenditures also include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, predevelopment loan funds, participation leases,

loans or other public/private partnership arrangements to develop affordable housing or other public/private partnership arrangements. The In-Lieu Fees may be expended for the benefit of either rental or owner-occupied housing. The In-Lieu Fees may not be used to support operations or on-going housing services not directly related to the construction, acquisition, rehabilitation or preservation of affordable housing units.

**6. Acutely Low Income.** State law has begun to also regulate “Acutely Low Income” defined as 15 percent of Area Median Income. Currently State law does not include Acutely Low Income in its RHNA requirements. However, in anticipation of further State regulation, staff has also included this income category in the current updates.

Conclusion

The following table summarizes the recommendations for modification to the Inclusionary Housing Ordinance.

**Table 3 – Summary of Staff Recommendations**

	<b>Rental</b>	<b>Ownership</b>
<b>On-Site Inclusionary Units</b>	See Table 1	See Table 2
<b>Clustered Option</b>	Establish standard procedures. Require approval by the Planning Board with input from HHS and AHA, or City Council if part of a Development Plan or Development Agreement. Consider competitiveness for leveraged dollars. Require equivalency (land plus cash or equivalent) and potential for equal number / affordability of units. Locate projects in high-resource areas.	
<b>Period of Affordability</b>	99 years.	
<b>In-Lieu Fee</b>	Further Study Required	

It should be noted that the ordinance also provides flexibility for developments that are approved as part of a Master Development Plan or enter into a Development Agreement with the City, both of which provide an opportunity for the Board and Council to negotiate a package of community benefits that may offer equal or better results over time.

ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA), this action is categorically exempt from further environmental review pursuant to CEQA Guidelines section 15061(b)(3) (“Common sense exemption”) because CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Requiring affordable housing to be included, funded, or otherwise supported does not modify generally applicable development regulations or environmental review requirements.

### RECOMMENDATION

Conduct a public hearing and adopt a resolution making a recommendation to the City Council to adopt amendments to the Inclusionary Housing Ordinance.

Prepared By,  
Steven Buckley, Planning Services Manager

#### Exhibits:

1. Existing Inclusionary Housing Ordinance
2. Comparison Of Existing and Proposed Ordinances
3. Draft Amended Inclusionary Housing Ordinance
4. Staff Report to City Council, December 2, 2025
5. Supplemental Memo to City Council re: Planning Board Workshop