

DRAFT

RESOLUTION NO. 2021-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FREMONT AMENDING ARTICLE II OF THE MASTER FEE
SCHEDULE (RESOLUTION NO. 8672) REGARDING FEES
FOR AFFORDABLE HOUSING AND MAKING FINDINGS OF
CEQA EXEMPTION**

WHEREAS, on March 1, 1994, the City Council adopted Resolution No. 8672, as amended from time to time, establishing the City’s Master Fee Schedule (the “Master Fee Schedule”), fixing and establishing fees, rates and charges for goods and services provided by the City of Fremont; and

WHEREAS, on December 2, 2014, the City Council adopted the Housing Element of the General Plan in compliance with State law, which includes the goal of encouraging the development of affordable housing to meet the City’s assigned share of the regional housing need and, to implement that goal, includes a policy to increase opportunities for housing developers to provide a greater number of housing units that are affordable to households with extremely low, very low and low incomes; and

WHEREAS, land prices are a key factor in preventing 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, the Draft Regional Housing Needs Allocation (RHNA) Plan prepared by the Association of Bay Area Governments (May, 2021) assigns Fremont an allocation of 12,897 total new housing units between 2023-2031, with 7732 of those units needing to be affordable to very low-, low-, or moderate-income residents. The draft allocation is more than double the City’s allocation for the 2014-22 time period; and

WHEREAS, in 2015 the California Supreme Court confirmed in California Building Industry Association v. City of San Jose that cities can impose inclusionary requirements on new for-sale housing and require that a portion of such housing be affordable; and

WHEREAS, AB 1505 (“The Palmer Fix”) that was signed into law in 2017 restored the authority of cities to require inclusionary housing in new rental housing projects, as long as cities also provided for an alternative means of compliance such as in-lieu fees; and

WHEREAS, the City hired economic consultants Keyser Marston Associates, Inc. to prepare an ”Affordable Housing Nexus Analysis,” and “Financial Feasibility Study” both dated October 2020, to inform the development of a revised Ordinance; and

WHEREAS, a Keyser Marston supplemental memorandum dated October 6, 2020 provided an update on residential market trends during the pandemic. The supplemental memorandum found that the home price and rent estimates used in the Nexus Analysis and Financial Feasibility Study continue to reflect the near-term development economics of residential development projects in Fremont and remain valid estimates for purposes of the two studies; and

WHEREAS, to implement the affordable housing goals, objectives, policies, and programs of the City's Housing Element, and to make progress toward the City's increased RHNA allocations, the City Council desires to adopt the Nexus Study and the Financial Feasibility Study and to update the Affordable Housing Ordinance; and

WHEREAS, the City Council has considered and introduced on this same date an updated affordable housing ordinance (Title 18, Chapter 18.155 of the Fremont Municipal Code) (the "Affordable Housing Ordinance") which among other things: 1) increases in-lieu fees for for-sale residential single-family and townhouse projects; 2) establishes a requirement of 15% inclusionary units in for-sale market rate projects with an underlying subdivision map; and 3) establishes a 10% inclusionary requirement in market rate rental projects; and

WHEREAS, the adopted Affordable Housing Fees are lower than the amount needed to fully mitigate the impacts of new market-rate units in for-sale and rental residential projects on the need for affordable housing, as shown in the Nexus Study; and

WHEREAS, in compliance with the Affordable Housing Ordinance, all Affordable Housing Fees collected shall be deposited into the City of Fremont Affordable Housing Development Fund to be used only for those purposes included in the Affordable Housing Ordinance; and

WHEREAS, at least ten days prior to the date of this resolution 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, the notice has been provided to persons who have requested notice of these fees in accordance with Government Code Section 66019; and

WHEREAS, notice of the hearing of the proposed fees was published twice in the manner set forth in Section 6062a as required by the Government Code Section 66018; and

WHEREAS, a public hearing was conducted by the City Council on October 12, 2021; and

WHEREAS, this action is exempt from the California Environmental Quality Act (CEQA) pursuant to, without limitation, each as a separate and independent basis, CEQA Guidelines Sections: (1) 15162 Subsequent EIRs; (2) 15183 Projects Consistent with a Community Plan or Zoning; (3) 15061(b)(3) General Rule Exemption; (4) 15378(b)(2), and/or (5), because, among other things, it is the creation of a government funding mechanism or other government fiscal activity, which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FREMONT
RESOLVES AS FOLLOWS:

Based on information set forth in the staff report to the City Council dated October 12, 2021, as well as any other information submitted to the City and/or considered by Council, including, without limitation, that considered during the public hearing and the Council's deliberations on this matter:

1. The Master Fee Schedule is amended as shown in Attachment A.
2. The Master Fee Schedule shall be kept on file in the office of the City Clerk
3. It is the intent of the City Council to review the production of affordable housing and the status of collection of Affordable Housing Fees along with the City Council's annual review of compliance with the City's Housing Element.
4. This resolution shall take effect 60 days after the adoption of the amendment to the Affordable Housing Ordinance which is scheduled for adoption on October __, 2021.

ADOPTED, _____, 2021 by the City Council of the City of Fremont by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

Senior Deputy City Attorney

ATTACHMENT “A” TO RESOLUTION 2021-XX

Affordable Housing Fees (Resolution 2021-XX)

Residential Project deemed complete for processing after <ordinance adoption date>:

1. For-Sale Housing Fees (In-Lieu Fee Due When No Inclusionary Units are Provided On-Site)

	Thru X-XX, 2021	X-XX, 2021 to Dec. 31, 2022	Jan 1, 2023 & Onward
For-Sale Units, Except Stacked Flats	\$26 Single Family \$27 Townhomes	\$35.00	\$44.00
Stacked Flats	\$27.00	\$27.00	\$27.00

2. For-Sale Housing Fees (In-Lieu Fee Due for Low Income Units When Required Moderate Income Units Are Provided On-Site)

	Thru X-XX, 2021	X-XX, 2021 to Dec. 31, 2022	Jan 1, 2023 & Onward
For-Sale Units, Except Stacked Flats	\$17.50 (Single Family) \$18.50 (Townhomes)	\$20.00	\$29.00
Stacked Flats	\$18.50	\$12.00	\$12.00

2. Rental Housing Fees (In-Lieu Fee Due When No Inclusionary Units are Provided On-Site)

	Thru X-XX, 2021	X-XX, 2021 to Dec. 31, 2022	Jan 1, 2023 & Onward
Rental Units Over 700 SF	\$17.50	\$17.50	\$17.50
Rental Units Up To 700 SF	\$8.75	\$8.75	\$8.75
With Underlying Subdivision Map	\$27	\$27	\$27

Residential For-Sale projects deemed complete for processing between 6/7/15 and <X-XX>:

	Thru X-XX, 2021 Fee per SF	X-XX, 2021 to Dec. 31, 2022	Jan 1, 2023 & Onward
Attached units	\$27.00	Rate Indexed ¹	Rate Indexed ¹
Detached units	\$26.00	Rate Indexed ¹	Rate Indexed ¹

¹ Fees adjusted annually on January 1 of each year for non-residential affordable housing fees and July 1 of each year for residential affordable housing fees to reflect annual changes in construction costs as measured by the Engineering News Record McGraw-Hill Construction Weekly Building Cost Index for San Francisco.