

**RESOLUTION 21-50**

**CITY OF MILLBRAE, COUNTY OF SAN MATEO  
STATE OF CALIFORNIA**

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**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILLBRAE  
ESTABLISHING AFFORDABLE HOUSING IN-LIEU FEES FOR  
RESIDENTIAL DEVELOPMENT PROJECTS AND COMMERCIAL LINKAGE  
IMPACT FEES FOR COMMERCIAL DEVELOPMENT PROJECTS**

**WHEREAS**, the State of California requires local governments to plan to meet the housing needs of all income groups. Specifically, “local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community” pursuant to the State Government Code Section 65580; and

**WHEREAS**, there is a demand for affordable housing designed for very low, low, and moderate income households in the City of Millbrae as documented in the City of Millbrae Housing Element; and

**WHEREAS**, the City Council finds that the high cost of newly constructed housing in Millbrae does not provide housing affordable to very low, low, and moderate income households; and

**WHEREAS**, Housing Element Program HIP-29 provides that the City will adopt an inclusionary housing ordinance and affordable housing impact fee that requires developers to provide below market rate housing or pay a fee, and Housing Element Program HIP-33 provides that the City will study the possibility of adopting a commercial linkage fee to help fund affordable housing; and

**WHEREAS**, commercial development in the City of Millbrae brings additional employees to the City of Millbrae and therefore contributes to the demand for affordable housing; and

**WHEREAS**, as provided in the Housing Element, Harris & Associates has prepared reports dated May 2021 and entitled “Affordable Housing Fractional In-Lieu Fee Nexus Study” and “Commercial Linkage Fee Nexus Study” (collectively, the “Harris and Associates Reports”), which examine the nexus between commercial and residential development and the need for affordable housing and the financial feasibility of proposed fees; and

**WHEREAS**, based on the Harris and Associates Reports, the City has adopted Ordinance No. 787, adding Articles XXXIII and XXXIV to Millbrae Municipal Code, Title 10 Planning and Zoning, Chapter 10.05, Zoning, which provide that the City Council may by resolution establish fractional affordable housing in-lieu fees and commercial linkage fees; and

**WHEREAS**, to ensure that the affordable housing in-lieu fees and commercial linkage impact fees recommended by this resolution do not exceed the actual affordable housing impacts attributable to the development projects on which the fee is imposed, the City Council has considered the Harris and Associates Reports; and

**WHEREAS**, the Harris and Associates Reports used widely used, appropriate methodology to determine the maximum amount needed to fully mitigate the burdens created by residential and commercial development and demonstrate that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the Harris and Associates Reports for which the corresponding fee is charged, and that there is also a reasonable relationship between the fee's use and the type of development for which the fee is charged; and

**WHEREAS**, the Harris and Associates Reports include an economic feasibility analysis that determined the fees as recommended would be feasible; and

**WHEREAS**, the fees imposed will be placed in the Affordable Housing Fund established by Millbrae Municipal Code Articles XXXIII and XXXIV and shall be used to provide housing affordable to extremely low income, very low income, low income, and moderate income households in the City and related housing or homeless programs, consistent with the City's Housing Element goals and policies, and for administration of the program; and

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

**WHEREAS**, at least fourteen days prior to the date this Resolution is being heard, notice was provided to any persons or organizations who had requested notice, in accordance with Government Code Section 66019; and

**WHEREAS**, notice of the hearing on the proposed fees were published twice in the manner set forth in Government Code Section 6062a as required by Government Code Sections 66004 and 66018; and

**WHEREAS**, the City Council has reviewed the information contained in this Resolution and the accompanying staff report and any attachments at a duly and properly noticed public hearing held on July 13, 2021.

**NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF  
THE CITY OF MILLBRAE**

1. The foregoing recitals are true and correct and incorporated into this Resolution by this reference.
2. The findings of the Harris and Associates Reports have been considered and are hereby incorporated into this Resolution by this reference.
3. The facts and substantial evidence in the record establish that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the Harris and Associates Reports for which the corresponding fee is charged, and that there is also a reasonable relationship between the use of the affordable housing impact fee and the type of development for which the fee is charged, as is described in more detail in the Harris and Associates Reports.
4. The Harris and Associates Reports sets forth cost estimates, in 2021 dollars, that are reasonable for constructing affordable housing, and the fees expected to be generated by new development will not exceed these costs.
5. The City Council hereby adopts those Affordable Housing In-Lieu Fees for Residential Development Projects shown on Exhibit "A", attached hereto and incorporated by reference herein.
6. The City Council hereby adopts those Affordable Housing Commercial Linkage Impact Fees for Commercial Development Projects shown on Exhibit "B", attached hereto and incorporated by reference herein.
7. All affordable housing in-lieu fees and commercial linkage impact fees collected shall be deposited into the City's Affordable Housing Fund to be used to increase and preserve the supply of housing affordable to households of extremely low, very low, low, and moderate incomes and related programs in the City (including necessary administrative costs).
8. Adoption of this Resolution is exempt from the California Environmental Quality Act because the adoption of this resolution is not a project, in that a project does not include the creation of a governmental funding mechanism that does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)), and the adoption of affordable housing in lieu fees and commercial linkage impact fees commits no fees to any specific project, and because it can be seen with certainty that there is no possibility that the fees may have a significant effect on the environment, in that this resolution contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures (CEQA Guidelines Section 15061(b)(3)).

9. The fees provided in this Resolution shall go into full force and effect on September 11, 2021, sixty (60) days after the adoption of this Resolution, provided that Ordinance No. 787 is effective by that date.

**REGULARLY PASSED AND ADOPTED** this 13<sup>th</sup> day of July, 2021.

Ann Schneider  
Mayor

ATTEST:

Ed P 7/21/2021  
City Clerk

Resolution No. 21-50

I do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Millbrae this 13<sup>th</sup> day of July 2021, by the following vote:

AYES: COUNCILMEMBERS: Schneider, Oliva, Papan, Fung and Holober  
NOES: COUNCILMEMBERS: None  
ABSENT: COUNCILMEMBERS: None  
ABSTAIN: COUNCILMEMBERS: None  
EXCUSED: COUNCILMEMBERS: None

 7/21/2021  
CITY CLERK

**EXHIBIT A****Affordable Housing In-Lieu Fees for Residential Development Projects**

In the following situations an affordable housing in-lieu fee shall be imposed as shown below in lieu of on-site construction of an affordable housing unit:

1. For residential development projects consisting of four (4) to nine (9) units; or
2. When the calculation of the required inclusionary units in residential development projects of ten (10) or more units or parcels results in a fractional unit less than 0.5.

In either case, the applicant may elect to provide one additional on-site inclusionary unit instead of paying the fee.

**Table 1: In-Lieu Fees for Residential Development Projects with Four (4) to Nine (9) Units**

<b>Project Type and Size</b>	<b>In-Lieu Fee</b>
<i>Rental Projects</i>	
4 Unit Project	\$216,990.60
5 Unit Project	\$271,238.25
6 Unit Project	\$325,485.90
7 Unit Project	\$379,733.55
8 Unit Project	\$433,981.20
9 Unit Project	\$488,228.85
<i>Ownership Projects</i>	
4 Unit Project	\$171,164.27
5 Unit Project	\$213,955.34
6 Unit Project	\$256,746.41
7 Unit Project	\$299,537.48
8 Unit Project	\$342,328.55
9 Unit Project	\$385,119.62

**Table 2: Affordable Housing In-Lieu Fee for Residential Development Projects with 10 or More Units**

<b>Fractional Unit Requirement</b>		<b>Affordability Gap<sup>1</sup></b>		<b>In-Lieu Fee</b>
<i><b>Very Low-Income</b></i>				
0.05 Unit	\$	376,440	\$	18,822
0.10 Unit	\$	376,440	\$	37,644
0.15 Unit	\$	376,440	\$	56,466
0.20 Unit	\$	376,440	\$	75,288
0.25 Unit	\$	376,440	\$	94,110
0.30 Unit	\$	376,440	\$	112,932
0.35 Unit	\$	376,440	\$	131,754
0.40 Unit	\$	376,440	\$	150,576
0.45 Unit	\$	376,440	\$	169,398
<i><b>Low-Income</b></i>				
0.05 Unit	\$	332,073	\$	16,604
0.10 Unit	\$	332,073	\$	33,207
0.15 Unit	\$	332,073	\$	49,811
0.20 Unit	\$	332,073	\$	66,415
0.25 Unit	\$	332,073	\$	83,018
0.30 Unit	\$	332,073	\$	99,622
0.35 Unit	\$	332,073	\$	116,226
0.40 Unit	\$	332,073	\$	132,829
0.45 Unit	\$	332,073	\$	149,433
<i><b>Moderate-Income</b></i>				
0.05 Unit	\$	285,274	\$	14,264
0.10 Unit	\$	285,274	\$	28,527
0.15 Unit	\$	285,274	\$	42,791
0.20 Unit	\$	285,274	\$	57,055
0.25 Unit	\$	285,274	\$	71,318
0.30 Unit	\$	285,274	\$	85,582
0.35 Unit	\$	285,274	\$	99,846
0.40 Unit	\$	285,274	\$	114,110
0.45 Unit	\$	285,274	\$	128,373

On July 1st of each year after the enactment of the Affordable Housing In-Lieu Fee, the fees shall be automatically adjusted in accordance with the change in the Engineering Construction Cost Index for San Francisco, California, as most recently published by Engineering News-Record, for the elapsed time period from the previous July 1st.

## EXHIBIT B

**Table 1: Affordable Housing Commercial Linkage Impact Fees for Commercial Development Projects**

<b>Commercial Land Use<sup>1</sup></b>	<b>Fee per Square Foot of Net New Gross Floor Area<sup>2</sup> or Per Hotel Room</b>
Visitor Accommodations	\$3,868.00 per hotel room
Retail Sales, Eating and Drinking, Entertainment, Personal Services, Pet-Related Services, Vehicle Related	\$5.80 per gross square foot
Offices	\$12.86 per gross square foot

1. “Commercial” includes non-residential or non-public or non-quasi-public uses including but not limited to:

- a) Hotel Uses includes full-service hotels, limited-service hotels, motels, and other short-term lodging designed for stays of under 30 days.
- b) Retail, Restaurants and Service Uses including but not limited to retail stores, commercial recreation and entertainment uses, eating and drinking establishments, personal services such as nail salons and dry cleaners, fitness facilities, gyms, service stations, auto sales, and other stores.
- c) Office Uses including but not limited to a range of offices including general offices, and those specialized for accounting, medical, legal, life sciences, laboratory, technology, biotechnology, or research and development uses.
- d) Other commercial uses determined to be sufficiently similar by the Community Development Director pursuant to Section 10.50.0400.

2. All commercial linkage fees shall be calculated using the gross floor area of net new commercial space based on the Gross Floor Area definition in Millbrae Municipal Code Section 10.05.0200, excluding structured or below ground parking, and non-habitable accessory structures. Net new commercial space is calculated based on subtracting existing building floor area for the same use.

On July 1st of each year after the enactment of the Affordable Housing Commercial Linkage Impact Fee, the fees shall be automatically adjusted in accordance with the change in the Engineering Construction Cost Index for San Francisco, California, as most recently published by Engineering News-Record, for the elapsed time period from the previous July 1st.