



Agenda Item No: 7.a

Meeting Date: September 2, 2025

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community & Economic Development

Prepared by: Alexis Captanian,
Housing Manager

City Manager Approval: _____

TOPIC: AFFORDABLE HOUSING REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT PROJECTS

SUBJECT: RESOLUTION AMENDING RESOLUTION 14890, "GUIDELINES FOR THE ADMINISTRATION OF THE AFFORDABLE HOUSING REQUIREMENT PROGRAM" TO CLARIFY EXISTING POLICY AND PRACTICE

RECOMMENDATION:

Staff recommends that the City Council adopt the resolution amending Resolution 14890, "Guidelines for the Administration of the Affordable Housing Requirement Program," to clarify existing practices.

BACKGROUND:

[Section 14.16.030](#) of the San Rafael Municipal Code (SRMC) requires residential development projects within the City to contribute to the attainment of affordable housing goals and requirements by promoting and increasing the development of housing for very low, low, and moderate income households. In connection with SRMC Section 14.16.030, the San Rafael City Council adopted [Resolution 14890](#) establishing Guidelines for the Administration of the Affordable Housing Requirement Program ("Guidelines"). Residential development projects can satisfy the City's affordable housing requirements by providing a percentage of the project's proposed units as affordable to moderate and/or lower income households, depending upon the size of the proposed project. Section C of the Guidelines describes several distinct requirements related to the dispersal of affordable units throughout the project and comparability of unit size, type, and quality between affordable and market-rate units in a proposed project.

The requirements set forth in Section C of the Guidelines promote several important public policies. The requirements ensure that affordable units are interspersed with market-rate housing, aligning with policies identified by the U.S. Department of Housing and Urban Development and California's Affirmatively Furthering Fair Housing goals. The requirements also safeguard the quality and longevity of affordable units by mandating that affordable units meet the same design standards, amenities, and finishes as market-rate units, thereby preventing the deterioration that can occur in substandard developments. Additionally, by requiring proportionality in size and bedroom count of affordable housing units, these

FOR CITY CLERK ONLY

Meeting Date:

Disposition:

requirements directly address one of the most acute shortages in California's housing market — family-sized rentals. According to the California Housing Partnership, fewer than one in five affordable rental units statewide have three or more bedrooms, leaving many low-income households overcrowded or forced into unstable living situations. [San Rafael's Housing Element](#) highlights large families as part of the City's Housing Needs Assessment and includes Program 35: Affordable Housing for Large Families to help address this need. Providing these larger units not only meets a critical housing need but can also support child well-being and enable long-term housing stability.

Recently, a number of housing developers have questioned whether the various dispersal and comparability requirements set forth in Section C of the Guidelines include separate standalone requirements or whether Section C sets forth a singular standard that certain housing development projects may waive out of, pursuant to State Density Bonus Laws ("SDBL").¹ The proposed modifications to the Resolution are reiterative of existing policy and practice; that is, Section C of the Guidelines has always, and continues to be interpreted by the City as setting forth separate and distinct standards for affordable housing units required pursuant to the City's inclusionary housing requirements and/or the SDBL.

ANALYSIS:

At this time, staff recommends clarifying the multiple, discrete requirements currently set forth in the City's Guidelines and the required affordability level pursuant to State law. The proposed amendments to the resolution language do not represent a change in current City policy or practice related to the affordable housing requirement but are reiterative of existing policy and practice.

Staff recommend articulating the following discrete requirements for characteristics of Affordable Housing Units:

- **Location.** Affordable housing units shall be dispersed throughout the residential development project. Units may be clustered within the residential project when the city determines that such clustering furthers affordable housing opportunities and where such clustering is consistent with Federal and State fair housing laws.
- **Size.** The affordable housing units shall be comparable in size to the market-rate units within the residential development project, as measured by net habitable square footage. For purposes of this provision, "comparable size" means having habitable square footage proportionate to the range of unit sizes provided for market-rate units in the project.
- **Type.** The affordable housing units shall possess a distribution of bedroom counts proportionate to that of the market-rate units within the residential development project.
- **Design and Materials.** The exterior and interior design of the affordable housing units shall be of the same design, materials, amenities, quality of finish, and appearance as the other developed units.
- **Access.** The affordable housing units shall have access to the same amenities and common spaces as the market rate units.
- **Tenure.** The affordable housing units shall have the same tenure mix (e.g., rental or ownership) as the residential development project as a whole. If the Developer offers some or all market-rate units for sale, an equivalent proportion of affordable housing units shall also be offered for sale.

¹ Pursuant to the SDBL, developers are entitled to one incentive/concession for projects that include at least 10 percent of the total units for lower income households. Given the City's inclusionary housing requirements, most housing development projects in the City (for projects that do not invoke other State housing streamlining laws) are entitled to one incentive/concession.

Staff also recommends highlighting in the Resolution, for the benefit of developers that may be unaware of State laws, the State laws regarding maximum rent levels for lower income units in SDBL projects and projects for which State assistance is provided. Specifically, the maximum rent for affordable housing units shall not exceed “affordable rent” as that term is set forth in and defined by Section 50053 of the Health and Safety Code. Pursuant to Government Code section 65915(c)(1)(B) (as that section of the State Density Bonus Laws may be amended), the maximum rent for any lower income density bonus units shall not exceed the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. Again, these modifications are reiterative of existing City policy and practice.

These amendments are meant to immediately clarify existing City policy for residential developers. Staff plan to present an evaluation of the City’s inclusionary housing policy to the City Council in the first quarter of 2026.

FISCAL IMPACT:

The proposed changes to the guidelines do not have a fiscal impact on the City.

OPTIONS:

The City Council has the following options to consider on each of the resolutions:

1. Adopt the resolution as presented.
2. Adopt the resolution with modifications.
3. Direct City staff to return to the City Council with more information.
4. Take no action.

RECOMMENDED ACTION:

Staff recommends that the City Council adopt the resolution amending Resolution 14890, “Guidelines for the Administration of the Affordable Housing Requirement Program,” to clarify existing practices.

ATTACHMENTS:

1. Resolution

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AMENDING RESOLUTION 14890, “GUIDELINES FOR THE ADMINISTRATION OF THE AFFORDABLE HOUSING REQUIREMENT PROGRAM”

WHEREAS, Section 14.16.030 of the San Rafael Municipal Code (SRMC) requires residential development projects within the city to enhance the public welfare and contribute to the attainment of affordable housing goals and requirements by promoting and increasing, through actual construction and/or alternative equivalent actions, the development of rental and ownership housing units for very low, low and moderate income households (“affordable housing units”); and

WHEREAS, Pursuant to SRMC Title 14, the San Rafael City Council adopted Resolution 14890 on February 16, 2021, to establish priorities, criteria, and processes for administration of the Affordable Housing Requirement program; and

WHEREAS, the City Council wishes to amend the language in the Guidelines for the Administration of the Affordable Housing Requirement Program to clarify for the benefit of housing developers, existing requirements of affordable housing units, including requirements regarding location, size, bedroom count, design and materials, tenure, and maximum rent for affordable housing units.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael hereby amends the “Guidelines for the Administration of the Affordable Housing Trust Fund” as set forth below (additions in underline, deletions in ~~striketrough~~):

The purpose of these Guidelines is to enhance the public welfare and ensure that further residential development projects within the city contribute to the attainment of affordable housing goals and requirements by promoting and increasing, through actual construction and/or alternative equivalent actions as provided for in this section, the development of rental and ownership housing units for very low, low and moderate income households.

A. Definitions. Please refer to SRMC Section 14.03.030.

B. Affordable Housing Requirements. Residential development projects between two (2) and fifteen (15) units shall meet only the Primary Requirement as set forth in this section. Residential development projects greater than fifteen (15) units shall meet both the Primary Requirement and Secondary Requirement as set forth in this section. Primary and Secondary Requirements are described below:

1. Primary Requirement. All Residential development projects shall provide affordable housing units as follows:

Project Size	Percentage of Affordable Housing Units
2—15 Housing Units*	10% of the proposed units (excluding density bonus units) must be affordable to and occupied by a low-income household
15 or more Housing Units*	5% of the proposed units (excluding density bonus units) must be affordable to and occupied by a low-income household

* See exemptions listed in SRMC 14.16.030 subsection (B)(1).

2. **Secondary Requirement.** Residential development projects greater than fifteen (15) units shall satisfy the Secondary Requirement through any of the following alternate means:

- a. **Additional On-Site Affordable Units.** A developer may comply with this section through one of the following alternate means:
 - i. 5% of the proposed units (not including density bonus units), in addition to units provided through Section B.1 of this document, must be affordable to and occupied by a low-income household;
 - ii. 10% of the proposed units (not including density bonus units), in addition to units provided through Section B.1 of this document, must be affordable to and occupied by a moderate-income household.
- b. **In-Lieu Fees for Residential Development.** A developer may comply with this section by paying an in-lieu fee equivalent to five percent (5%) of the total proposed units (not including density bonus units).

The amounts and calculation of the housing in-lieu fee shall be established by resolution of the city council as amended from time to time. Unless otherwise preempted by law or as otherwise approved by the planning commission or city council, the in-lieu fee shall be paid prior to the issuance of a building permit for the proposed project.

- c. **Off-Site Affordable Units.** Provision of affordable units off-site must be approved by the decision-making body reviewing and taking action on the project, and shall meet all of the following criteria:
 - i. Off-site affordable units must be provided within ½ mile of the market-rate project.
 - ii. Partnership with an experienced affordable housing developer.
 - iii. The off-site affordable units must provide at least the level of public benefit (number of affordable units (rounded up to the next whole unit); comparable or larger unit bedroom sizes; income levels served; term of affordability) as would have been provided through on-site compliance described in Section B.2.a of this document;

- iv. The developer must make a meaningful contribution to the offsite affordable units.
 - v. The developer provides the City with a cash deposit or equivalent guarantee of the amount the project would be required to contribute through a cash in-lieu fees contribution as described in Section B.2.b of this document until there is a construction financing closing on the off-site units.
- d. Donation of Land to the City. The City may choose to accept the donation of land to the City as a means of alternative compliance with this policy if, after appropriate due diligence, the City determines that the land is desirable for the production of affordable housing and all of the following criteria, as determined by the Community Development Director, are met:
- i. The land is appraised by the City at a value equal to or greater than the in-lieu fee parameters in effect at the date of land use application. If the appraised value is less than the in-lieu fee, developers may contribute the remaining requirement in a cash fee.
 - ii. The land is located in an area where there is a high need for sites for affordable housing. (i.e., areas where the City does not control sufficient development sites)
 - iii. The land is reasonably developable for affordable housing (including zoned for residential development).
3. Fractional Units. Where the required percentage of affordable housing units results in a fractional unit, or a combination of affordable housing units and fractional units, the developer shall provide the following:
- a. Pay an in-lieu fee for the fractional unit below 0.5 unit;
 - b. Construct the next higher whole number of affordable housing units for a fractional unit of 0.5 and above;

C. CharacteristicsLocation and Type of Affordable Housing Units. Affordable Housing Units shall meet each of the following criteria:

- 1. **Location.** Affordable housing units shall be dispersed throughout the residential development project. Units may be clustered within the residential project when the city determines that such clustering furthers affordable housing opportunities and where such clustering is consistent with Federal and State fair housing laws.
- 2. **Size.** The affordable housing units shall be comparable in size to the market-rate units within the residential development project, as measured by net habitable square footage. For purposes of this provision, "comparable size" means having habitable square footage proportionate to the range of unit sizes provided for market-rate units in the project.
- 3. ~~The same or substantially similar mix of unit size (e.g., number of bedrooms, square footage);~~ **Type.** The affordable housing units shall possess a distribution of bedroom counts proportionate to that of the market-rate units within the residential development project.
- 4. **Design and Materials.** The exterior and interior design of the affordable housing units shall be of the same ~~Compatibility with the design,~~ materials, amenities, quality of finish, and appearance of the other developed units.

5. **Access.** The affordable housing units shall have access to the same amenities and common spaces as the market rate units.
 6. **Tenure.** The affordable housing units shall have the same tenure mix (e.g., rental or ownership) as the residential development project as a whole. If the Developer offers some or all market-rate units for sale, an equivalent proportion of affordable housing units shall also be offered for sale.
- D. **Rent Limits.** The maximum rent for affordable housing units shall not exceed “affordable rent” as that term is set forth in and defined by section 50053 of the Health and Safety Code. Pursuant to Government Code section 65915(c)(1)(B) (as that section of the State Density Bonus Laws may be amended), the maximum rent for any lower income density bonus units shall not exceed the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit.
- E. ~~D.~~ **Timing of Construction.** All affordable housing units shall be constructed prior to or concurrent with the construction of market-rate housing units unless the city council, in its sole discretion, determines that an alternative construction schedule will further the goal of affordable housing in the city.
- F. ~~E.~~ **Initial Occupancy, Control of Resale and Continued Affordability of Affordable Housing Units in Residential Development Projects.** Prior to the issuance of certificates of occupancy or the final inspection for any units in a qualifying project, all regulatory agreements and, if the affordable housing units are owner-occupied, resale restrictions, deeds of trust, and/or other documents as may be required and approved by the city council, shall be recorded by the city, or its agent, against all parcels having such affordable housing units and shall be effective in perpetuity; except that, in its sole discretion and upon a finding of financial need or infeasibility, the city council may reduce the affordability time frame to not less than forty (40) years.
1. **Ownership Units.** Notwithstanding any other provision of this section, the following conditions and/or restrictions shall apply to housing units developed for ownership:
 - a. The maximum sales price permitted for resale of an affordable housing unit intended for owner-occupancy shall be limited to the amount provided in the resale restrictions and option to purchase agreement between the owner of the affordable unit and the city or its designee, entered into prior to issuance of any building permits for the project.
 - b. The city shall have the first right to purchase, or assign its right to purchase, such affordable unit(s) at the maximum price that could be charged to an eligible household, as set forth in the resale restrictions and option to purchase agreement between the owner and the city or its designee.

No purchase and/or sale transaction(s) for owner-occupied affordable housing units shall be permitted without express approval by the city or its designee of the purchasing household's eligibility. Nothing in this section shall prohibit the sale and/or purchase of an owner-occupied affordable housing unit if the city fails to make a determination of household eligibility within the time or other limits provided by the regulatory agreements or resale restrictions.

2. Rental Units. The owner of a property developed for rental occupancy under the provisions of this section ("the property owner"), or the property owner's designee, shall be responsible for selecting qualified tenants pursuant to the regulatory agreement entered into by and between the property owner and the city. The property owner or the designee shall provide annual reports to the city or its designee containing information on the rent charged for the affordable unit and the tenant eligibility as set forth in the regulatory agreement.

G. ~~F.~~ Administration.

1. Annual Reporting. The Community Development Department shall make available to the City Council an annual report on the Affordable Housing Requirements, which measures the effectiveness of the program. These effectiveness metrics may include, but are not limited to:
 - a. Units in the housing ~~developing~~ development pipeline and project status;
 - b. Number of units built for low-income and moderate-income households;
 - c. In-lieu fees revenues collected into the housing trust fund;
 - d. Units funded through the housing trust fund.
2. Program Review: The Director will provide the City Council with a comprehensive review of the Affordable Housing Requirements and whether any changes should be considered within 18 months of its effective date and every 3-5 years thereafter.

BE IT FURTHER RESOLVED that any and all amendments to these Guidelines as deemed necessary from time to time shall be adopted by resolution of the City Council.

I, LINDSAY LARA, Clerk of the City of San Rafael, California, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of the City of San Rafael held on the 18th day of August 2025, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk



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Matthew S. Gray

August 18, 2025

VIA EMAIL

City Council of the City of San Rafael
San Rafael City Hall
1400 Fifth Avenue, Room 203
San Rafael, CA 94901

Re: Agenda Item 6.a - Affordable Housing Requirements for Residential Development Projects (August 18, 2025, Regular Meeting)

Dear Mayor Kate Colin and Honorable Councilmembers,

Our office represents Merlone Geier Partners, owners of Northgate Mall and applicant for the Northgate Town Square redevelopment project.

This evening, the City Council is scheduled to consider amendments to the City's *Guidelines for the Administration of the Affordable Housing Requirement Program*. We write to offer context for your deliberations.

As the Council is aware, the State Density Bonus Law and the Housing Element Law establish important requirements intended to remove barriers to housing production, and cities must ensure their local programs remain consistent with these state housing laws. By requiring projects to obtain more Density Bonus Law incentives/concessions than needed under the City's current guidelines, the proposed amendments are inconsistent with these state laws. In this context, we respectfully suggest that the proposed modifications are not necessary and should not be adopted.

We appreciate your consideration of these broader implications of the proposed action, and we look forward to continuing to work collaboratively with the City as it advances its housing goals.

August 18, 2025

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Sincerely,

A handwritten signature in black ink that reads "Matt Gray". The signature is written in a cursive, flowing style.

Matthew S. Gray

cc: Jamas Gwilliam, Merlone Geier Partners
Dave Geiser, Merlone Geier Partners
Alan Murphy, Perkins Coie LLP