

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
CONDITION OF APPROVAL LANGUAGE TO REQUIRE AFFORDABLE HOUSING IN ALL
NEW RESIDENTIAL DEVELOPMENTS**

WHEREAS, there is a significant shortage of affordable housing in the City of Milpitas and the problem continues to increase with the rapid development of market-rate housing; and

WHEREAS, the City of Milpitas Regional Housing Needs Allocation (RHNA) from the Association of Bay Area government (ABAG) for the reporting period from 2015-2023 totals 3,290 housing units as follows:

	Very Low (0%-50% *)	Low (51%-80%*)	Moderate (81%-120%*)	Above Moderate (121%+ *)	Total
City of Milpitas	1,004	570	565	1,151	3,290
Percentage Distribution	30.5%	17.3%	17.25%	35.0%	100%

WHEREAS, the City Council has directed City staff to begin the process of completing a nexus study for an affordable housing program that includes inclusionary housing and impact fees for City Council review and consideration; and

WHEREAS, on June 2, 2015, the City Council discussed and considered options to require affordable housing units in current and future development projects prior to completion of a nexus-study; and

WHEREAS, the City Council directed the City Attorney to draft condition of approval language for City Council review and consideration based on the following criteria:

1. Affordable housing requirements shall apply to all completely new residential development applications submitted to the City after June 16, 2015. “Completely new residential development applications” shall mean any residential development project for which no written application of any sort has been previously submitted to the City; and
2. All completely new residential development applications with five (5) or more residential units submitted to the City after June 16, 2015, shall provide five percent (5%) of very low or low-income residential units as determined by City; and
3. Applicant may satisfy the five percent (5%) affordability requirement by (i) providing affordable units and recording a covenant restricting the units to very low-income or low-income for a minimum period of fifty-five (55) years; (ii) contributing an amount to the City equivalent to five percent (5%) of the construction value as determined by the Building Department to be paid at time of building permit issuance; or (iii) a combination thereof.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby approves the following Condition of Approval language to be included in the entitlements for all development projects meeting the criteria set forth above:

Affordable Housing/Inclusionary/Impact Fee

In recognition of the need for affordable housing within the City and as further described in Resolution No. XXX adopted by the City Council on June 16, 2015, Permittee shall participate in an inclusionary affordable housing plan, or similar fair and appropriate mechanism, to support affordable housing, if established by the City Council in the future, by: (1) providing five percent (5%) of all newly-constructed dwelling units in the residential development as very low-income or low-income to be developed and offered as affordable housing to very low-income and low-income households; or (2) prior to building permit issuance, pay a fee in lieu of all or some of the inclusionary units, should such an inclusionary housing plan, or similar fair and appropriate mechanism, be established by the City Council.

The amount of in-lieu fee to be paid shall be the lesser amount of (i) the amount in effect pursuant to the implementing City Council ordinance or resolution at the time full payment is made to the City at the time of building permit issuance, or (ii) the amount equivalent to five percent (5%) of the construction value as determined by the Building Department. In the event the nexus study initiated by the City supports less than five percent (5%) levels of affordable housing, this condition shall only require affordable housing commitment at rates supported by the nexus study on and after such time as that study is completed and adopted by the City Council.

PASSED AND ADOPTED this _____ day of _____ 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney