

Additions are shown in **bold underline** and deletions are shown as ~~**bold strikeout**~~.

Chapter 17.324 INCLUSIONARY HOUSING

17.324.020 Applicability

- A. Inclusionary housing shall be required in the following residential developments:
1. **Residential Developments Outside the Old Town Redevelopment Project, Amendment No. 2 Area.** Residential developments of 10 units or more that are not exempt pursuant to Subsection B, **and that are outside of the Old Town Redevelopment Project, Amendment No. 2 Area,** shall be required to comply with inclusionary housing requirements in compliance with ~~the options identified in~~ Section 17.324.030.**A (Inclusionary Requirements)**, unless an alternative method of compliance, per Section 17.324.040 (Alternative Methods of Compliance), is approved by the review authority.
 2. **Residential Developments Within the Old Town Redevelopment Project, Amendment No. 2 Area.** Within the Old Town Redevelopment Project, Amendment No. 2 Area, residential developments shall be required to comply with inclusionary housing requirements in compliance with Section 17.324.030.B, **unless an alternative method of compliance, per Section 17.324.040 (Alternative Methods of Compliance), is approved by the review authority.**
- B. **Exemptions.** The following developments are exempt from the inclusionary housing requirement of this Chapter:
1. Live/work units.
 2. Accessory dwelling units.
 3. Mobile homes.
 4. Emergency shelters and any development operated by a non-profit or social services organization to provide food storage, meal service, and/or temporary shelter to the homeless.
 5. Residential care homes.
 6. Transitional housing.
 7. Supportive housing.

17.324.040 Alternative Methods of Compliance

A. Where it is not feasible or desirable for an applicant to meet the inclusionary housing requirements ~~for residential developments located outside of the Old Town Redevelopment Project, Amendment No. 2 area~~, alternative compliance methods may be considered by the review authority, including, but not limited to:

1. **Housing in-lieu fee.** Residential developments may choose to satisfy the inclusionary requirement by payment of a housing in-lieu fee. The housing in-lieu fee may be used to satisfy the entire inclusionary requirement or a portion of the inclusionary requirement with the remainder of the portion satisfied by providing on-site affordable units.

a. Single-family for sale developments.

(i) Calculation of housing in-lieu fee.

(a) The housing in-lieu fees shall be calculated in its entirety at the time of issuance of the first Building Permit for construction of the first dwelling unit in the residential development. Said fee shall be calculated on the basis of the difference between the estimated total construction cost of a market rate single-family unit and the affordable purchase price of a unit for which a low-income household unit can qualify, see Table 17.324.040.A.

Table 17.324.040.A: Per Unit Housing In-Lieu Fee Calculation

| Housing In-Lieu Fee Calculation (per unit) |
|---|
| Single-Family Unit Total Construction Cost - Affordable Purchase Price = Housing In-Lieu Fee (per unit) |

(b) **Total housing in-lieu fee calculation.** The total housing in-lieu fee shall be calculated by multiplying the required number of inclusionary units by the per-unit housing in-lieu fee, see Table 17.324.040.B.

Table 17.324.040.B: Total Housing In-Lieu Fee Calculation

| Total Housing In-Lieu Fee Calculation |
|--|
| Per Unit Housing In-Lieu Fee x Required Number of Inclusionary Units = Total Housing In-Lieu Fee |

(ii) **Payment of housing in-lieu fee.** The housing in-lieu fee shall be paid in one of the following manners:

(a) As a lump sum prior to the issuance of the first Building Permit for construction of the first dwelling unit in the residential development;

(b) Total housing in-lieu fee calculated and divided equally among the total number of units in the residential development and collected as a fee prior to issuance of each Building Permit;

(c) On a pro rata basis proportionally on a 10:1 ratio **(or a 6:1 ratio for developments in the Old Town Redevelopment Project, Amendment No. 2 Area)**, payment of in-lieu fees equal to one inclusionary unit shall be paid prior to issuance of Building Permit for next unit. The project conditions of approval shall specify the payment schedule of in-lieu fees based on the prorated computation (e.g., for a 100-unit residential development, the first in-lieu fee payment would be due prior to issuance of the Building Permit for the eleventh unit, the second in-lieu fee payment would be due prior to issuance of the Building Permit for the 21st unit, etc.; **and for a development in the Old Town Redevelopment Project, Amendment No. 2 Area, the first in-lieu fee payment would be due prior to issuance of the Building Permit for the seventh unit, the second in-lieu fee payment would be due prior to issuance of the Building Permit for the thirteenth unit, etc.)**); or

(d) The review authority may defer the in-lieu fee payment to prior to certificate of occupancy when all of the payment options listed above would cause an undue burden on the applicant as supported by substantial evidence.

b. Non-single-family-for-sale developments.

Residential developments other than single-family for sale developments shall have the option to pay an in-lieu fee if such fee or fee calculation is established by Council prior to Building Permit issuance, **or if no such fee has been established, residential developments other than single-family for sale developments may pay the in-lieu fee established for single-family for sale developments.**

2. **Off-site construction.** Off-site affordable housing units may be proposed within the City limits to satisfy the inclusionary requirement for the development. Off-site housing units may include any combination of new units, new units created in existing structures, or acquisition and conversion of existing market-rate units to units that are affordable to target income groups. Off-site units shall meet the same requirements as if they were inclusionary (on-site) units (e.g., number, unit type and size, etc.).

3. **Conveyance of land.**

a. **Criteria for conveyance of land.** The dedication of land may be proposed to satisfy the housing mitigation requirement, if it can be determined by the City that all the following criteria have been met:

(i) Marketable title to the site is transferred to the City, or an affordable housing developer or non-profit approved by the City, no later than the approval of a final map or issuance of first Building Permit, in compliance with an agreement between the market-rate project developer and the City, and such agreement is in the best interest of the City.

(ii) The site has General Plan and zoning designations that authorize residential uses.

(iii) Infrastructure to serve the dedicated site, including, but not limited to, streets and public utilities, must be available at the property line, or will be made available prior to issuance of certification of occupancy.

(iv) Environmental review of the proposed site has been completed to allow full disclosure for the conveyance of the proposed site, including, but not limited to, an analysis of the site for the presence of hazardous materials; cultural and historical resources; and geological hazards and that such resources or hazards are or will be mitigated to the satisfaction of the City prior to acceptance of the site by the City.

(v) The value of the site upon the date of conveyance is equal to or greater than the applicable housing fee for the market-rate development. Fair market value shall be determined preliminarily at the time and market-rate development is submitted to the City for review. Final determination of fair market value shall be made by a licensed California appraiser prior to Building Permit issuance and shall be net of any real estate commission for the conveyance of the land.

(vi) If the value of the site upon the date of conveyance exceeds the amount of the applicable housing in-lieu fee in compliance with Subsection A.1 of this section, the developer shall be assigned housing migration credit for the different in the value of the site conveyance and the applicable housing in-lieu fee, consistent with these requirements for conveyance of land.

b. **Disposition of land by the City.** The City shall not be required to construct inclusionary units on the site dedicated to the City, but may sell, transfer, lease, or otherwise dispose of the dedicated site in order to facilitate the construction of those units and only when a clearly demonstrable greater housing benefit would be achieved as determined by Council. Any funds collected as a result of sale, transfer, lease, or other disposition of sites dedicated to the City shall be deposited in the Affordable Housing Trust Fund and the funds and interests accrued shall remain in the fund and shall be used in compliance with Section 17.324.060 (Affordable Housing Trust Fund).

c. **Conveyance of development-ready lots within the project site.** The builder or developer may dedicate development-ready lots within the project site in compliance with Section 17.324.030 (Inclusionary Requirements). All conveyance lots shall be part of an approved final subdivision map and have completed utility connections and roadway improvements at the time of conveyance so as to be development ready. Such conveyance shall be subject to the criteria in Subsection A.3.a.

4. **Combination.** The review authority may approve any combination of on-site construction, off-site construction, housing in-lieu fees, and land dedication that is at least equal to the inclusionary requirement.

B. **Findings.** The review authority may approve, conditionally approve or deny any alternative proposed by an applicant as part of a project application. Any approval or conditional approval shall be based on a finding that the purpose of this Chapter would be better served by implementation of the proposed alternative(s). In determining whether the purpose of this Chapter would be better served under the proposed alternative, the review authority shall make the following findings:

1. Implementation of the proposed alternative shall not overly concentrate inclusionary units within any specific area, unless the undesirable concentration of inclusionary units is offset by other identified benefits that result from implementation of the alternative.
2. When compared to the prompt construction of the inclusionary units on-site, implementation of the proposed alternatives will significantly reduce costs and delays relating to appraisal, site design, zoning, infrastructure, clear title, grading, and environmental review.