



TO: Planning Commission Chair and Members

FROM: Anne Wells, Advance Planning Manager
John Douglas, J.H.Douglas and Associates

SUBJECT: Public Workshop: Housing Element - Related Regulations

RECOMMENDED ACTION:

Receive staff presentation, conduct a public workshop and provide direction to staff.

BACKGROUND:

State law requires all California cities to adopt regulations to facilitate the provision of housing affordable to households at all economic levels and persons with special needs. Specific topics that must be addressed include density bonus, emergency shelters, transitional and supportive housing, farmworker housing, and reasonable accommodation for persons with disabilities. The related issue of inclusionary housing is also addressed in the policies and programs of the City's current Housing Element, and implementing regulations are appropriate to be detailed in the Zoning Ordinance.

The statutory due date for adoption of the 2015-2023 Housing Element is February 15, 2015. The State Department of Housing and Community Development (HCD) requires that zoning regulations for density bonus and special needs housing be consistent with State law before certification of the Housing Element is granted. Since adoption of the new Zoning Ordinance is expected to occur after the Housing Element deadline, it is necessary to move forward with these housing-related zoning regulations in advance of the comprehensive Zoning Ordinance to ensure timely certification of the Housing Element.

Following this public workshop, staff will incorporate public comments and Planning Commission recommendations into the proposed zoning regulations and bring a revised draft back to the Commission for review and recommendation to the City Council.

DISCUSSION:

Attached for review by the Planning Commission and the public are draft chapters of the Zoning Ordinance related to density bonus, inclusionary housing, emergency shelters, transitional and supportive housing, farmworker housing, reasonable accommodation for persons with disabilities, and related definitions (Attachment 1).

Attachment 2 provides a summary of State requirements and the proposed zoning regulations for each of these topics.

Some of the proposed regulations simply codify existing State law, while other sections address issues where the City has substantial discretion to establish requirements. Those areas where the City has little or no discretion include density bonus, transitional and supportive housing, farmworker housing, reasonable accommodation, small state-licensed care facilities, and definitions related to persons with special needs. City discretion regarding emergency shelters is limited to designation of appropriate zoning district(s) where shelters may be located and some development standards. The City retains broad discretion to establish inclusionary requirements, within the parameters of Housing Element law regarding how such regulations may act as a constraint to the cost and supply of housing.

NEXT STEPS:

In order to facilitate timely certification of the 2015-2023 Housing Element, staff recommends that these zoning regulations move forward for adoption by the City Council this year, in advance of the remainder of the Zoning Ordinance.

CEQA REVIEW:

It is anticipated that the proposed zoning regulations and the 2015-2023 Housing Element update will be covered by an Addendum to the Final Program Environmental Impact Report for the City's General Plan/Coastal Land Use Plan.

Approved By:

Prepared By:

Jennifer Carman
Planning Commission Secretary

Anne Wells
Advance Planning Manager

Attachment 1: Draft Housing Element-Related Regulations

Attachment 2: Summary of State Requirements and Proposed Regulations

Attachment 1

Draft Housing Element-Related Regulations

CITY OF

Goleta

HOUSING ELEMENT-RELATED ZONING CODE PROVISIONS

DRAFT
FOR PLANNING
COMMISSION REVIEW

Prepared for
CITY OF GOLETA by:
DYETT & BHATIA
Urban and Regional Planners

JULY 21, 2014

CITY OF

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HOUSING ELEMENT-RELATED ZONING CODE PROVISIONS

Prepared for
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JULY 21, 2014

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Chapter 17.29 Density Bonuses and Other Incentives

Sections:

17.29.010	Purpose and Applicability
17.29.020	General Provisions
17.29.030	Density Bonus Calculation for Projects Providing Affordable or Senior Housing
17.29.040	Childcare Facility Density Bonus
17.29.050	Density Bonuses for Housing Developments Accompanied by Land Donation
17.29.060	Affordable Housing Concessions and Incentives
17.29.070	Administration

17.29.010 Purpose and Applicability

The purposes of this Chapter are to:

- A. Implement the policies of the General Plan’s Housing Element for encouraging and expanding housing opportunities for households with very-low and lower incomes, seniors, disabled, and other persons with special housing needs.
- B. Allow for density bonuses and additional incentives, consistent with Government Code Section 65915 and the General Plan’s Housing Element, for affordable housing, housing developed for seniors and disabled persons, and development that includes a childcare facility.
- C. Provide additional incentives for affordable housing containing three or more bedrooms to meet the needs of large families.
- D. Require resale and rental controls on affordable housing and ensure that lower income rental units remain affordable for at least 30 years or such other term approved by the City, consistent with State law.

17.29.020 General Provisions

- A. **State Law Governs.** The provisions of this Chapter are governed by the requirements of State Density Bonus Law (Government Code Section 65915 et seq.) as may be amended from time-to-time. Where conflict occurs between the provisions of this Chapter and State law, the State law provisions will govern, unless otherwise specified.

- B. **Density Bonus.** As used in this Chapter, “density bonus” means a density increase over the otherwise maximum allowable residential density as of the date of filing of a complete application. The applicant may elect to accept a lesser percentage of density bonus.
- C. **Incentives or Concessions.** As used in this Chapter, “incentive” or “concession” means a waiver or reduction in a development standard or fee, modification of a zoning requirement or architectural design requirement that exceeds minimum building code standards, approval of mixed use zoning, or a direct financial contribution to the development.
- D. **Eligible Projects.** “Housing development” as used in this Chapter, means a residential project of five or more units, or a senior housing project of 35 or more units.
- E. **Target Units.** As used in this Chapter, “Target Units” means deed restricted affordable housing units provided in exchange for the granting of a density bonus or other incentive.
- F. **Compatibility.** All affordable housing units must be dispersed within market-rate projects whenever feasible. Affordable housing units within market-rate projects must be comparable with the design and use of market-rate units in appearance, use of materials, and finished quality. The design and appearance of the affordable housing units must be compatible with the design of the total housing project and consistent with the surrounding neighborhood. Forms, materials and proportions that are compatible with the character of the surroundings must be used.
- G. **Availability.** All affordable housing units must be constructed concurrently with, and made available for qualified occupants at the same time as, the market-rate housing units within the same project unless both the City and the developer agree in the Density Bonus Agreement to an alternative schedule for development.
- H. **Density Bonus Agreement.** A Density Bonus Agreement will be made a condition of the discretionary planning permits for all projects granted a density bonus, pursuant to this Chapter. The Agreement will be recorded as a restriction on the parcel or parcels on which the affordable housing units will be constructed. The Agreement must be consistent with Section 17.29.060(D) of this Chapter.
- I. **Income Levels.** For the purpose of determining the income levels for Households under this Chapter, the City will use the Santa Barbara County income limits found in Title 25, Section 6932 of the California Code of Regulations, and regularly updated and published by the State Department of Housing and Community Development, or other income limits adopted by the City Council if the State Department of Housing and Community Development fails to provide regular updates.

- J. **Effect of Granting Density Bonus.** The granting of a density bonus will not, in and of itself, be interpreted to require a General Plan amendment, Zoning Text or Map change, or other discretionary approval.

17.29.030 Density Bonus Calculation for Projects Providing Affordable or Senior Housing

- A. If an applicant agrees to construct a housing development providing affordable units or senior housing the City will grant a density bonus in the following amounts over the otherwise allowable maximum residential density permitted by this Ordinance and the General Plan, and one or more of the Incentives set forth in Section 17.29.060 below. When calculating the number of density bonus units, all fractional units will be rounded to the next whole number. The density bonus units will not be included when determining the required number of target units to be provided.

1. ***Projects Providing Affordable Housing.***

- a. *Lower Income Units.* A density bonus of 20 percent if 10 percent of the total units of a housing development are Target Units affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code. For each additional one percent increase above 10 percent units affordable to lower income households, the density bonus will be increased by 1.5 percent up to a maximum of 35 percent of the maximum allowable residential density for the site.
- b. *Very Low Income Units.* A density bonus of 20 percent, if five percent of the total units of a housing development as Target Units affordable to very low income households, as defined in Section 50105 of the Health and Safety Code. For each additional one percent increase above five percent in the proportion of units affordable to very low income households, the density bonus will be increased by 2.5 percent up to a maximum of 35 percent of the maximum allowable residential density for the site.
- c. *Moderate Income Units in Condominium and Planned Use Developments.* A density bonus of five percent if 10 percent of the total dwelling units in a condominium project, as defined in subdivision (f) of Section 1351 of the Civil Code, or in a Planned Development, as defined in subdivision (k) of Section 1351 of the Civil Code, as Target Units affordable to persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code. For each additional one percent increase above 10 percent units affordable to moderate income households, the density bonus will be increased by one percent up to a maximum of 35 percent of the maximum allowable residential density for the site.

d. *Low- or Moderate-Income Units in a Condominium Conversion Development.* A density bonus of 25 percent when an applicant to convert apartments to condominiums agrees to provide 33 percent of units for low- or moderate-income households, or 15 percent of units for lower-income households. Such condominium conversions may receive either a density bonus or one incentive or concession, but not both. Apartment projects for which a density bonus or other incentive was previously granted will be ineligible for a density bonus or incentive under this section.

2. *Senior Citizen Housing Developments.* A density bonus of 20 percent, if a housing development of 35 units or more qualifies as a Senior Citizen Housing Development, as defined in Section 51.3 of the Civil Code.

<i>Target Unit Category</i>	<i>Minimum % of Units</i>	<i>Density Bonus Granted</i>	<i>Additional Density Bonus for Each 1% Increase in Affordable Units</i>	<i>% of Affordable Units Required to Achieve Maximum 35% Density Bonus</i>
Very Low Income (%)	5	20	2.5	11
Lower Income (%)	10	20	1.5	20
Moderate Income (%)	10	5	1	40

B. A smaller density bonus than specified in this Section will be granted if the Applicant so requests.

17.29.040 Childcare Facility Density Bonus

A. **Density Bonus.** When an applicant proposes to construct a housing development that conforms to the requirements of Section 17.29.030(A), Density Bonus, and includes a childcare facility other than a Family Day Care Facility that will be located on the premises of, as part of, or adjacent to, the project, the City will grant either of the following:

1. *Additional Density Bonus.* A density bonus of additional residential units equal in square footage to the amount of square feet of the childcare facility; or.
2. *Additional Concession or Incentive.* An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

B. **Conditions of Approval.** The City will require, as a condition of approving the housing development, that the following occur:

1. *Length of Operation.* The childcare facility remains in operation for a period of time that is as long as, or longer than the length of time during which

Section 17.29.060(B) requires that the affordable housing units remain affordable.

2. **Attending Children.** The percentage of children of very low, low or moderate income households who attend the childcare facility must be the same or greater than the percentage of dwelling units in the project that are required for households at each income level, pursuant to Section 17.29.030(A).
- C. **Exceptions.** The City will not be required to provide a density bonus or concession for a childcare facility if it finds that, based upon substantial evidence, the community has adequate childcare facilities.

17.29.050 Density Bonuses for Housing Developments Accompanied by Land Donation

- A. The City must grant a density bonus pursuant to Section 17.29.030 to a housing development if the applicant agrees to donate land to the City and the applicant satisfies all of the following requirements:
1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application;
 2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development. For each additional one percent increase above the minimum 10 percent land donation, the density bonus will be increased by one percent, up to a maximum of 35 percent of the maximum allowable residential density for the site;
 3. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure, as determined by the Director;
 4. The transferred land has appropriate zoning and development standards to make the development of the affordable units feasible, as determined by the Director;
 5. Prior to the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land has all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review if the design is not reviewed by the City prior to the time of transfer;

6. The transferred land and the affordable units will be subject to a deed restriction ensuring continued affordability of the units meeting the requirements of a Density Bonus agreement as set forth in Section 17.29.070(C);
7. The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer; and
8. The transferred land is within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

17.29.060 Affordable Housing Concessions and Incentives

- A. **Number of Incentives or Concessions.** An applicant is entitled to receive incentives or concessions as follows:
1. One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least five percent for very low income households, or at least 10 percent for persons and families of moderate income in a condominium or planned development; or
 2. One incentive or concession for senior citizen housing developments; or
 3. Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a condominium or planned development; or
 4. Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a condominium or planned development.

TABLE 17.29.B INCENTIVES OR CONCESSIONS	
<i>Number of Incentives</i>	<i>Affordability Level or Other Benefit</i>
1	5% very-low-income units 10% lower-income units 10% moderate-income units in a common interest development 15% lower-income units or 33% low- or moderate-income units in a condominium conversion project(1) Provision of a child care facility(1)
2	10% very-low-income units 20% lower-income units 20% moderate-income units in a common interest development
3	15% very-low-income units

	30% lower-income units 30% moderate-income units in a common interest development
*Condominium conversion projects and projects providing a child care facility may receive either a density bonus or one incentive, but not both	

- B. **Proposal of Incentives and Findings.** An applicant may propose specific incentives or concessions that would contribute significantly to the economic feasibility of providing affordable units pursuant to this Chapter and State law. The request must be accompanied by financial information in a form acceptable to the Director providing justification for the proposed incentives or concessions. In addition to any increase in density to which an applicant is entitled, the City must grant one or more incentives or concessions that an applicant requests, up to the maximum number of incentives and concessions required pursuant to Subsection A, unless the City makes a written finding that either:
1. The concession or incentive is not necessary in order to provide the proposed targeted units; or
 2. The concession or incentive would have a specific adverse impact on public health and safety or the physical environment or on any property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households; or
 3. The concession or incentive would be contrary to state or federal law.
- C. **Types of Affordable Housing Incentives.** Affordable housing incentives may consist of any combination of the items listed below. In addition to the incentives listed, the City may allow for fast track and priority processing for project with affordable housing.
1. **Modification of Development Standards.** Up to 20 percent in modification of site development standards or Zoning Ordinance requirements that exceed minimum Building Code standards and Fire Code standards, including, but not limited to:
 - a. Reduced minimum lot sizes and/or dimensions;
 - b. Reduced minimum building setbacks and building separation requirements;
 - c. Reduced minimum outdoor and/or private outdoor living area requirements;
 - d. Increased maximum lot coverage; and

- e. Increased maximum building height.
- 2. **Reduced Parking.**
 - a. Upon the applicant's request, the City must allow a reduction in parking, excluding disabled parking spaces. Notwithstanding the foregoing, the parking must satisfy at least the following minimum ratios:
 - (1) One on-site space for zero to one bedroom units;
 - (2) Two on-site spaces for two to three bedrooms; or
 - (3) Two and a half spaces for four or more bedrooms.
 - b. If the total number of parking spaces required for a development is other than a whole number, the number will be rounded up to the next whole number.
 - c. At the applicant's request, tandem and uncovered parking may be counted toward meeting these parking requirements.
- 3. **Mixed Use Zoning.** Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development and such uses are compatible with the housing project and the surrounding area.
- 4. **Other Incentives.** Other regulatory incentives or concessions proposed by the developer or the City that result in identifiable cost reductions or avoidance.

17.29.070 Administration

- A. **Application and Review Process.** A preliminary review of development projects pursuant to this Chapter is encouraged pursuant to Section 17.46.030 (Preliminary Review Process), to identify potential application issues, including proposed modifications to development standards. The applicant must request in the application the incentives or concessions the applicant wishes to obtain together with financial data showing how the incentives are necessary to make the affordable units feasible. Applications will be reviewed and processed according to the provisions of Chapter 17.46 (Common Procedures).
- B. **Density Bonus Agreement Required.** All affordable housing projects will be subject to the approval of a Density Bonus Agreement conforming to the provisions of Title 7, Division 1, Chapter 4, Article 2.5 of the Government Code, which will be recorded as a covenant on the title to the Property. Agreements must be approved by the decision-making body for the project as part of the application review process. The agreement will include, but is not limited to, the following:

1. **Number of Units.** The total number of units approved for the projects, including the number of affordable housing units.
2. **Target Units.** The location, unit sizes (in square feet) and number of bedrooms of the affordable housing units.
3. **Household Income Group.** A description of the household income groups to be accommodated by the project and a calculation of the Affordable Rent or Sales Price.
4. **Certification Procedures.** The party responsible for certifying rents or sales prices of units, and the process that will be used to certify renters or purchasers of such units throughout the term of the agreement.
5. **Schedule.** A schedule for the completion and occupancy of the affordable housing units.
6. **Remedies for Breach.** A description of the remedies for breach of the Agreement by either party.
7. **Required Term of Affordability.** The minimum duration of affordability of the housing units will be as provided by Government Code 65915(c)(1). Provisions must cover resale control and deed restrictions on targeted housing units that are binding on the property upon sale or transfer.
8. **Expiration of Agreement.** Provisions covering the expiration of the agreement, including notice prior to conversion to market rate units and right of first refusal option for the City and/or the distribution of accrued equity for for-sale units.
9. **Other Provisions.** Other provisions to ensure implementation and compliance with this Chapter.
10. **Condominium and Planned Use Developments.** In the case of condominium and planned developments, the Agreement must provide for the following conditions governing the initial resale and use of affordable housing units:
 - a. Target Units must, upon initial sale, be sold to qualified purchasers at an Affordable Sales Price as defined by this Chapter.
 - b. Upon resale, the seller of a Target Unit will retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City will recapture its proportionate share of appreciation, which will be used to promote home ownership opportunities. The City's proportionate share will be equal to the percentage by which the initial sale price to the targeted household

was less than the fair market value of the dwelling unit at the time of initial sale.

- c. Affordable units may not be rented unless a hardship waiver is granted by the Director.

11. **Rental Housing Developments.** In the case of rental housing developments, the Density Bonus Agreement must provide for the following conditions governing the use of Target Units during the use restriction period:

- a. The rules and procedures for qualifying tenants, establishing affordable rent rates, filling vacancies, and maintaining Target Units for qualified tenants;
- b. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter; and
- c. Provisions requiring owners to submit an annual report to the City, which includes the name, address, and income of each person occupying Target Units, and which identifies the bedroom size and monthly rent or cost of each Target Unit.

C. **Notice of Conversions.** Notice of conversions of affordable units to market-rate units must be provided pursuant to the following requirements:

- 1. **General.** At least one year notice must be required prior to the conversion of any rental units for affordable households to market-rate.
- 2. **Required Notice.** Notice must be given to the following:
 - a. The City;
 - b. The State Housing and Community Development Department (HCD);
 - c. The Housing Authority of the County of Santa Barbara;
 - d. The residents of the affordable housing units proposed to be converted; and
 - e. Any other person deemed appropriate by the City.

D. **Conversion of Affordable Rental Units.** If an owner of a housing development issues a notice-of-intent to convert affordable housing rental units to market-rate housing, the City will consider taking one or more of the following actions:

- 1. Meet with the owner to determine the owner's financial objectives.

2. Determine whether financial assistance to the current owner will maintain the affordability of the rental housing development or whether acquisition by another owner dedicated to maintaining the affordability of the development would be feasible.
 3. If necessary to maintain the affordability of the housing unit or facilitate sale of the rental development, consider the use of affordable housing trust funds or assistance in accessing state or federal funding.
- E. **Processing Fee.** The applicant must reimburse the City for its reasonable costs of processing a Density Bonus Agreement.

Chapter 17.30 Inclusionary Housing Program

Sections:

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17.30.020	Applicability
17.30.030	Affordable Housing Trust Fund
17.30.040	Inclusionary Housing Requirements
17.30.050	Required Affordability Levels
17.30.060	In Lieu Payments
17.30.070	Incentives for Inclusionary Units
17.30.080	Inclusionary Housing Plan and Housing Agreement
17.30.090	Eligibility for Inclusionary Units
17.30.100	Inclusionary Unit Restrictions
17.30.110	Construction Standards for On-Site Inclusionary Units
17.30.120	Adjustments and Waivers

17.30.010 Purpose

The purposes of this Chapter are to:

- A. Require the development and availability of affordable housing by ensuring the addition of affordable housing units to the City's housing stock in proportion with the overall increase in new housing units.
- B. Establish standards and procedures to implement the inclusionary housing requirements.
- C. Provide incentives for the development of affordable housing units.

17.30.020 Applicability

- A. **Applicability.** The requirements of this Chapter apply to residential development projects of two or more housing units, except as noted in Subsection (B), below.
 1. **Compliance Before Approvals, Issuances, Granting of Maps, Permits, Entitlements.** Compliance with the provisions of this Chapter is required before the approval of a final subdivision map, issuance of a Building Permit or granting of any other land use entitlement for a residential development subject to the requirements of this Chapter.
 2. **Verification of Compliance.** Compliance with the requirements of this Chapter will be verified by the review authority prior to, or as part of, the approval of the housing development, as applicable.

3. ***Sales and Rentals of Inclusionary Dwelling Units.*** Each inclusionary dwelling unit required by this Chapter must be sold or rented in compliance with this Chapter and all applicable conditions of approval.
- B. **Exempt Projects.** The following types of residential projects are exempt from the requirements of this Chapter:
1. A project proposing rental dwelling units that may not be separately owned or conveyed under the State Subdivision Map Act;
 2. Residential building additions, repairs or remodels, provided that the work does not increase the number of existing units by two or more units;
 3. Projects consisting of 100 percent affordable units in which rents are controlled or regulated by any government unit, agency or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development; and
 4. Projects that replace or restore residential units damaged or destroyed by fire, flood, earthquake or other disaster, provided that the replacement or restoration does not increase the number of existing units by two or more units.

17.30.030 Affordable Housing Trust Fund

- A. **Affordable Housing Trust Fund.** There is hereby established the City of Goleta Affordable Housing Trust Fund. Monies from different programs must be accounted for in separate accounts within this fund.
- B. **Use of Funds.** The Affordable Housing Trust Fund must be used exclusively for the provision of affordable housing and for reasonable costs associated with the development, maintenance, improvement and oversight of affordable housing. The fund includes in lieu payments as well as other funds available to the City for exclusive use for the provision of affordable housing.

17.30.040 Inclusionary Housing Requirements

- A. Projects consisting of two to four for-sale units must pay an inclusionary housing in-lieu payment pursuant to Section 17.30.060.
- B. Projects of five or more for-sale units will be required to construct the applicable number of units, except that the City, at its sole discretion, may allow the inclusionary requirement for these projects to be satisfied by alternative means. The applicability of these requirements, while at the sole discretion of the City, will be determined by the Director early in the application process.

- C. The primary intent of the inclusionary requirement is to achieve the construction of new affordable units on site. A second priority is construction of affordable units off site or the transfer of sufficient land and/or cash to the City or a nonprofit housing organization to develop the required number of affordable units. If these options are determined to be infeasible by the City, other alternatives of equal value, such as, but not limited to, payment of an inclusionary housing in-lieu payment or acquisition and rehabilitation of existing units, may be considered at the sole discretion of the City.
- D. It is the City's intent to achieve the greatest percentage of affordable units possible. Creative ways to meet the City's inclusionary requirement to help achieve City housing goals are encouraged, especially for extremely low-, very low-, and low-income housing, such as through partnership with a nonprofit housing agency. In addition, tradeoffs of extremely low- and very low-income units for low- or moderate-income units may be considered if it can be demonstrated that the City's housing goals can be more effectively achieved. Such tradeoffs may incorporate a unit equivalency based on a financial pro forma provided by the applicant. The applicability of these requirements, while at the sole discretion of the City will be determined by the Director early in the application process.
- E. Inclusionary units will be subject to recordation of a regulatory agreement to provide affordable housing units and an affordability covenant or deed restriction. The term of affordability restrictions will be as required by applicable federal laws and financing mechanisms or 45 years, whichever is longer, and must provide for monitoring and reporting in a manner acceptable to the City.
- F. In instances where a developer of a 5-acre or larger site designated as Medium-Density Residential by the General Plan Land Use Plan Map (Figure 2-1) agrees to construct affordable inclusionary units rather than pay an inclusionary housing in-lieu payment, the allowable Lot Coverage Ratio standard set forth in the Land Use Element will be increased from 0.3 to 0.4 in addition to any other incentives or concessions offered.

17.30.050 Required Affordability Levels

- A. Except for the designated Affordable Housing Opportunity sites described in Subsection (B), projects must provide affordable units as follows:
 - 1. Proposed projects including for-sale units, including subdivisions for purposes of condominium conversions, must provide either 15 percent or 20 percent affordable units of the total number of for-sale units, subject to the Director's direction and City Council's approval. The 15 percent affordability requirement must be provided to those applicants where the community services, such as new onsite or nearby park/open space facilities, resulting from the project exceed normal expectations.
 - 2. Proposed projects including for-sale units qualifying for a 15 percent affordability level must provide 2 percent of the total number of for-sale units at prices affordable to extremely low- and very low-income households, 5

percent affordable to low-income households, 4 percent affordable to moderate-income households, and 4 percent affordable to above moderate-income households earning 120 to 200 percent of the median income.

3. Proposed projects including for-sale units qualifying for a 20 percent affordability level must provide 5 percent of the total number of for-sale units at prices affordable to extremely low- and very low-income households, 5 percent affordable to low-income households, 5 percent affordable to moderate-income households, and 5 percent affordable to above moderate-income households earning 120 to 200 percent of the median income.
 4. Requirements for provision of inclusionary units in projects including for-sale units for extremely low-, very low-, and low-income households may be satisfied by providing the same number of rental units to these households.
- B. Projects including for-sale units on sites designated on the Zoning Map as Affordable Housing Opportunity Sites must provide affordable units as follows:
1. 5 percent of the total number of for-sale units within the project must be provided at prices affordable to extremely low- and very low-income households.
 2. 5 percent of the total number of for-sale units within the project must be provided at prices affordable to low-income households.
 3. 5 percent of the total number of for-sale units within the project must be provided at prices affordable to moderate-income households.
 4. 5 percent of the total number of for-sale units within the project must be provided at prices affordable to above moderate-income households earning 120 to 200 percent of the median income.
 5. Requirements for provision of inclusionary units in projects including for-sale units for extremely low-, very low-, and low-income households may be satisfied by providing the same number of rental units to these households. Participation by nonprofit housing organizations is encouraged.

17.30.060 In Lieu Payments

- A. **In Lieu Payment.** When permitted by this Chapter, an applicant may make a payment in-lieu of providing affordable units. The amount of the in lieu payment will be as provided in this Section and deposited into the Affordable Housing Trust Fund established in compliance with Section 17.30.030 (Affordable Housing Trust Fund).

- B. **Calculation of In Lieu Payment.** The required in lieu payment will be set by Resolution of the City Council based on an inclusionary housing requirement of the required number of affordable units of the on-site market-rate units.
- C. **Calculation for Projects with both Single-Family Detached Units and Condominium Units.** If a proposed residential project includes single-family detached units and condominium units, the in lieu payment will be calculated based on the required number of affordable units of each proposed unit type. The in lieu payment amount for a proposed housing development will be set as of the date of Building Permit issuance for the first residential unit within the development.
- D. **Calculation for Condominium Projects.**
1. The in lieu payment will be sufficient to make up the monetary difference between the following:
 - a. The median sales price of a comparable new condominium unit in the City; and
 - b. The sales price of a condominium unit affordable to a household earning 121 percent of the area median income for Santa Barbara County as published by the California Department of Housing and Community Development pursuant to California Code Sections 50079.5, 50105 and 50106 and updated annually.
- E. **Calculation for Single-Family Detached Projects.**
1. The in lieu payment will be sufficient to make up the monetary difference between the following:
 - a. The median sales price of a comparable new single-family detached residence in the City, and
 - b. The sales price of a single-family residence affordable to a household earning 121 percent of the area median income for Santa Barbara County as published by the California Department of Housing and Community Development pursuant to California Code Sections 50079.5, 50105 and 50106 and updated annually.
- F. **Fee Reduction for Small Units.** For residential developments where the interior dwelling size of at least two-thirds of the market-rate units is 1,200 square feet or less, the in lieu fee amount will be reduced by 20 percent.
- G. **Timing of In Lieu Payments.** In lieu payments must be paid before issuance of a Building Permit for the first dwelling within a residential development. For residential subdivisions to be built in phases, the developer must pay the pro rata portion of the payment before the issuance of a Building Permit for the first dwelling unit within

each respective phase of a residential development. In the event that the developer intends to pay the in lieu payment from proceeds of a bank construction loan, and the bank requires the issuance of a Building Permit before funding the construction loan, the developer may request that the Director issue the Building Permit before payment. The Director may approve the request provided the developer agrees in writing that the payment will be paid within 10 calendar days after the issuance of the Building Permit and further agrees that the Building Permit will be deemed revoked by the City and work undertaken in compliance with the Building Permit stopped if the in lieu payment is not paid within the 10-day period.

17.30.070 Incentives for Inclusionary Units

- A. **One Incentive.** A developer may request and the City may approve one incentive to facilitate the construction of inclusionary units if the applicant provides financial information acceptable to the approving authority demonstrating that the modification is necessary to provide for affordable housing as defined in this Chapter.
- B. **Incentives for Condominium Projects.** Incentives for condominium projects may include one of the following:
1. An encroachment into the side setback of up to three feet from the property line, provided any structure on the adjacent lot is set back a minimum of five feet from the side property line;
 2. A modification to the requirements for covered parking spaces in Chapter 17.39 (Parking and Loading);
 3. Site coverage exceeding the base Zoning District standards;
 4. A modification to standards for separation between structures on the same lot, consistent with building code requirements;
 5. A modification to reduce the private or common open space to an amount not less than 25 percent of gross lot area; or
 6. A modification to any other development standard that is mutually agreed to by the City and the applicant that can be demonstrated to provide for affordable housing as defined in this Chapter.
- C. **Incentives for Single Family Detached Residential Projects.** Incentives for single family detached residential projects may include one of the following:
1. An encroachment into the required side setback up to three feet from the property line, provided any structure on the adjacent lot is set back a minimum of five feet from the side property line;
 2. Site coverage exceeding the base Zoning District standards;

3. Tandem parking in garages or driveways;
 4. Modification to the minimum lot size requirement; or
 5. A modification to any other development standard that is mutually agreed to by the City and the applicant that can be demonstrated to provide for affordable housing as defined in this Chapter.
- D. **Denial of Requested Incentive.** The City may deny the requested incentive if one of the following findings is made:
1. The incentive requested by the developer is not required to provide for affordable housing that meets the target income levels; or
 2. The incentive requested by the developer would have a specific, adverse impact upon the public health or safety, or the physical environment, or on real property that is listed in a State or Federal Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- E. **Compliance with State Law and Local Coastal Program.** No development incentive or concession will be granted in compliance with this Chapter if the incentive or concession is inconsistent with or violates the California Coastal Act and those policies and regulations of the City's Local Coastal Program established to protect coastal resources.

17.30.080 Inclusionary Housing Plan and Agreement

- A. Each residential development that is subject to this Chapter must provide an Inclusionary Housing Plan in compliance with this Section; or a letter from the applicant indicating commitment to make an in lieu payment in compliance with Section 17.30.060 (In Lieu Payments).
- B. **Inclusionary Housing Plan.** No application for residential development that is subject to this Chapter will be deemed complete until an Inclusionary Housing Plan containing the following elements has been submitted in a form meeting the approval of the Director:
1. A site plan depicting the location of proposed inclusionary units;
 2. A floor plan and elevations of the proposed inclusionary units;
 3. Identification of the targeted income level for the proposed inclusionary units;
 4. Calculation of the proposed number of inclusionary units consistent with this Chapter;

5. A written explanation of the method for restricting the units for the required term at the targeted income level;
 6. A description of any incentive requested in compliance with Section 17.30.070 (Incentives for Inclusionary Units) and supporting evidence for the request;
 7. Description of the method by which affordability requirements will be monitored and enforced; and
 8. Any other information that may be requested by the Director to aid in the evaluation of the sufficiency of the plan under the requirements of this Chapter.
- C. **Inclusionary Housing Agreement and Affordability Control Covenants.** Before issuance of a Building Permit, an Inclusionary Housing Agreement must be executed and Affordability Control Covenants must be approved and executed by the Director and the developer and recorded against the title of each inclusionary unit. Agreements and covenants must be in a form approved by the City Attorney. If subdivision into individual lots has not been finalized at the time of issuance of a Grading Permit or Building Permit, an overall interim Affordability Control Covenant must be recorded against the residential development and will be replaced by separate recorded Affordability Control Covenants for each affordable housing unit before issuance of a Certificate of Occupancy by the City for those units.

17.30.090 Eligibility for Inclusionary Units

- A. **General Eligibility.** No household may purchase or occupy an inclusionary unit unless the City, or City's designee, has approved the household's eligibility and the household and City have executed and recorded an Affordability Control Covenant in the chain of title of the inclusionary unit.
- B. **Owner Occupancy.** A household that purchases an inclusionary unit must occupy that unit as a principal residence as that term is defined for federal tax purposes by the United States Internal Revenue Code, unless a hardship exception is approved by the review authority.

17.30.100 Inclusionary Unit Restrictions

- A. **Initial Sales Price or Rent.** The initial sales price or rent of an inclusionary unit will be set in compliance with the Inclusionary Housing Plan and Agreement using the target income requirements specified in this Chapter.
- B. **Transfers and Conveyances.** A new Affordability Control Covenant will be entered into upon each change of ownership of an inclusionary unit and upon any transfer or conveyance (whether voluntarily or by operation of law) of an owner-occupied inclusionary unit.

- C. **Foreclosure.** Affordability restrictions in any Affordability Control Covenant will survive foreclosure.
- D. **Resale Price.** The maximum sales price and qualifications of purchasers permitted on resale of an inclusionary unit must be specified in the Affordability Control Covenant.

17.30.110 Construction Standards for Inclusionary Units

Inclusionary housing units built under the provisions of this Chapter must conform to the following standards:

- A. **Design.** Except as otherwise provided in this Chapter or specified in an Inclusionary Housing Agreement, inclusionary units must be configured in a manner acceptable to the City. The units must utilize the infrastructure installed for the residential development and must be compatible with market-rate units with regard to materials and exterior design. The façades of inclusionary units must be constructed of the same materials as the market-rate units in the same development;
- B. **Location.** Affordable housing units must be mixed with, and not clustered together or segregated in any way from, market-rate units; and
- C. **Timing.** All inclusionary units must be constructed and occupied concurrently with or before the construction and occupancy of market-rate units. In phased developments, inclusionary units may be constructed and occupied in proportion to the number of units in each phase of the residential development.

17.30.120 Adjustments and Waivers

- A. **Adjustments and Waivers.** The requirements of this Chapter may be adjusted to propose an alternative method of compliance or waived (in whole or in part) by the City if the developer demonstrates that applying the requirements of this Chapter would be contrary to the requirements of the laws or constitutions of the United States or California. Any applicant requesting an adjustment or waiver based on the contention that the uses permitted through strict application of the Chapter will not provide an economically viable use of his or her property must provide to the City all information deemed necessary by the City to make an economic viability determination. The obligation to provide the information will be a continual obligation for so long as the application is subject to City review. The applicant will be responsible for all costs related to the City's review and determination of the project's economic viability under this Section, including any costs or fees incurred by the City.
- B. **Timing of Waiver Request.** To receive an adjustment or waiver, the developer must make an initial request for an adjustment or waiver and demonstrate the appropriateness of the adjustment or waiver upon application to the City for the review and approval of the proposed development.

- C. **Waiver and Adjustment Considerations.** In making a determination on an application to adjust or waive the requirements of this Chapter, the review authority must consider each of the following:
1. The developer is subject to the inclusionary housing requirement; and
 2. The extent to which the developer will benefit from inclusionary incentives.
- D. **Written Decision.** Before or in conjunction with its decision on the project, the review authority will issue written findings on the developer's adjustment or waiver request.

Chapter 17.43 Standards for Specific Uses and Activities

Sections:

- 17.43.170 Emergency Shelters
- 17.43.190 Farmworker Housing

17.43.170 Emergency Shelters

The purpose of these standards is to ensure that Emergency Shelters do not adversely impact adjacent parcels or the surrounding neighborhood, and will be developed in a manner that protects the health, safety, and general welfare of the nearby residents and businesses while providing for the housing needs of a needy segment of the community. Review and approval of emergency shelters will not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Emergency Shelters must be located, developed, and operated in compliance with the following standards.

- A. **Number of Residents/Beds.** Each shelter will contain a maximum of 50 beds and serve no more than 50 homeless persons.
- B. **Separation.** No emergency shelter can be located less than 300 feet from another emergency shelter, measured from the nearest property lines.
- C. **Length of Occupancy.** Occupancy by an individual or family may not exceed 180 consecutive days unless a management plan provides for longer residency by those enrolled and regularly participating in a training or rehabilitation program.
- D. **Hours of Operation.** To limit outdoor waiting, the facility must be open each day for at least eight of the hours between 7:00 a.m. and 7:00 p.m.
- E. **Lighting.** Adequate external lighting must be provided for security purposes. Lighting must comply with Chapter 17.37, Lighting.
- F. **Parking.** Off-street parking must be provided at the rate of one space per four beds plus one space for each employee on duty on the largest shift.

- G. **Common Facilities.** The shelter may provide one or more of the following common facilities for the exclusive use of the residents and staff:
1. Laundry facilities;
 2. Central cooking and dining room(s);
 3. Recreation room;
 4. Counseling center;
 5. Child care facilities; and
 6. Other support services.
- H. **Outdoor Activities.** All functions associated with the shelter, except for children's play areas, outdoor recreation areas, parking, and outdoor waiting must take place within a building. Outdoor waiting for clients, if any, must be physically separated from the public right-of-way, and must be large enough to accommodate the expected number of clients.
- I. **On-Site Management and Security.** The agency or organization operating the shelter must submit a management plan to the Director demonstrating compliance with the following requirements:
1. Staff and services must be provided on-site to assist residents to obtain permanent shelter and income. Such services must be available at no cost to all residents of a provider's shelter or shelters.
 2. The provider must not discriminate in any services provided.
 3. The provider must not require participation by residents in any religious or philosophical ritual, service, meeting or rite as a condition of eligibility.
 4. The management plan must include provisions for staff training, neighborhood outreach, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.
 5. On-Site Security must be provided as follows:
 - a. Security guards must be provided at a ratio of a least one guard for every 25 shelter beds.
 - b. Security guards must be employed by a Private Patrol Operator (Security Company) that is currently licensed with the California Department of Consumer Affairs. The following information must be provided to the City: the name of the security company; proof of its

liability insurance, including a copy of all exceptions; its State license number; and the guard registration numbers for all employed guards.

- c. Digital security cameras must be installed and capture the activities of the shelter's waiting and intake area, as well as the entrance and exit from the shelter and the shelter parking lot. If the shelter includes a child care area as a common facility, then the child care area must also be monitored via a digital camera system. Recordings from digital security cameras must be maintained for no less than 14 days

17.43.190 Farmworker Housing

- A. All farmworker housing must comply, where applicable, with the California Health and Safety Code and any related regulations.
- B. Farmworker housing may be developed and/or maintained for the purposes of providing temporary, seasonal, or permanent housing for farmworkers.
- C. Prior to issuance of a building permit, the applicant must demonstrate that a permit to operate has been obtained from the California Department of Housing and Community Development.
- D. **Development Standards.**
 1. **Setbacks.** Notwithstanding any setback standards otherwise applicable in the underlying Zoning District, all farmworker housing must be located at a minimum of 75 feet from any barn, pen, or other structure that housing livestock or poultry, and a minimum of 50 feet from any other agricultural use.
 2. **Floor Area.** Notwithstanding any setback standards otherwise applicable in the underlying Zoning District, farmworker housing complexes that consist of group living quarters, such as barracks or a bunkhouse, must have a minimum floor area of 50 square feet per occupant for sleeping purposes.
 3. **Maximum Number of Beds.** A farmworker housing complex that consists of any group living quarters may contain no more than 36 beds.

Chapter 17.58 Reasonable Accommodation for Persons with Disabilities

Sections:

17.58.010	Purpose
17.58.020	Definitions
17.58.030	Notice
17.58.040	Process for Requesting a Reasonable Accommodation
17.58.050	Review and Decision
17.58.060	Appeals
17.58.070	Final Determination
17.58.080	Revocation

17.58.010 Purpose

This chapter is adopted in accordance with the city's police powers and as required by the Fair Housing Law. It is intended to provide equal access to residential housing throughout the city's jurisdiction regardless of an individual's physical or mental disabilities.

17.58.020 Definitions

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter. Words and phrases not defined by this chapter have the meanings stated in the Fair Housing Law and any successor statutes or regulations.

- A. **Disabled Person.** Means an individual who has a physical or mental impairment that limits one or more of that person's major life activities; anyone who is regarded as having such impairment; or anyone who has a medical record of having such impairment. A disabled person does not include individuals currently using controlled substances as defined by federal law.
- B. **Fair Housing Law.** Means existing law affecting reasonable accommodation in housing including, without limitation, the reasonable accommodation required by 42

USC § 3604(f)(3)(B) and reasonable accommodation required by Cal. Gov't Code §§ 12927(c)(1) and 12955(l).

- C. **Reasonable Accommodation.** Means any request by, or on behalf of, a disabled person for a reasonable deviation from the city's strict application of its land use or building regulations as set forth in this Code, or as adopted by reference in this Code, in order for such disabled person to use and enjoy a dwelling.

17.58.030 Notice

The City must post notice in the same manner as it posts meeting agendas advising disabled persons regarding the reasonable accommodation that may be provided in accordance with this chapter.

17.58.040 Process for Requesting Reasonable Accommodation

- A. A disabled person or disabled person's representative may request reasonable accommodation pursuant to this Section.
- B. The Director, or designee, must provide reasonable assistance to disabled persons, or their representatives, to seek reasonable accommodation. Such assistance must occur during any part of a request including, without limitation, the initial application and any appeal.
- C. A request for reasonable accommodation must be filed on a form provided by the Director, which must include the following:
1. Evidence of the property owner's consent, usually in the form of the owner's signature on the application;
 2. A description of how the property will be used by the disabled individual(s), e.g., for residential habitation, the specific reason that reasonable accommodation is requested, and the length of time the requested modification is necessary;
 3. A site plan or illustrative drawing showing the proposed accommodation;
 4. Evidence of the applicant's disability as reasonably determined by the Director including, without limitation, an individual's medical record; correspondence from a currently licensed healthcare professional; or documentation from the California Department of Motor Vehicles demonstrating that the individual qualifies for disabled parking;
 5. Verification by the applicant that the property is the primary residence of the person for whom reasonable accommodation is requested;
 6. Any other information required to make the findings required by Section 17.46.020 consistent with Fair Housing Laws as determined by the Director.

- D. No fee is required for filing an original application. However, a fee may be established for appealing decisions pursuant to City Council resolution.

17.58.050 Review and Decision

- A. Unless a request for reasonable accommodation is submitted concurrently with another application requiring discretionary review, approving a reasonable accommodation is an administrative determination by the Director without the need for a public hearing.
- B. Upon accepting a reasonable accommodation request application as complete, the Director must review the application for conformance with the provisions of this Chapter. Based on this review, the Director must act to approve, conditionally approve, or deny the application.
- C. Within 30 days of receiving a completed application, the Director must issue a written statement of decisions and findings. A copy of the written statement must be forwarded to the applicant following the date of final decision and made available, at cost, to any person desiring a copy of such statement. The statement must recite, among other things, the facts and reasons for granting or denying the application. The Director may take one of the following actions:
1. **Approval.** There are no conditions or requirements other than those specified by the application. After the date of final determination, the proposed project may be developed in compliance with the reasonable accommodation approved by the Director.
 2. **Disapproval.** When a reasonable accommodation application is disapproved, an application for the same project or a similar use on the same property cannot thereafter be accepted for a period of one year from the date of final determination, except that the Director may specify that, if the action is due to details or technical issues, or if a substantial change has occurred in the nature of the applicant's disability, this time limit does not apply.
 3. **Conditional Approval.** Any application may be approved subject to conditions the Director deems necessary for compliance with city, state and federal regulations related to the protection of general health, safety and welfare of the surrounding area. After the date of final determination, the proposed project may be developed in compliance with the reasonable accommodation approved by the Director along with applicable conditions of approval.
 4. **Withdrawal.** With the concurrence of or at the request of the applicant, any a permit application may be withdrawn. When an application is withdrawn, such action is effective immediately and is not subject to appeal. Thereafter, such application is null and void and the property must have the same status as if no application had been filed.

- D. **Findings.** The following findings must be made in order to approve a request for reasonable accommodation:
1. The parcel and/or housing, which is the subject of the request for reasonable accommodation, will be occupied as the primary residence by an individual protected under the Fair Housing Laws.
 2. The request for reasonable accommodation is necessary to make specific housing available to one or more individuals protected under the Fair Housing Laws.
 3. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City.
 4. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or other procedures of the City.
- E. **Conditions - Generally.** A reasonable accommodation granted under this Chapter is subject to the following general conditions:
1. The reasonable accommodation applies only to the specific disabled person;
 2. Changes in use or circumstances that negates the basis for the reasonable accommodation renders it void; and
 3. Except as otherwise specifically accommodated pursuant to this chapter, the approved reasonable accommodation is subject to all uniform building codes as adopted by this Code.
- F. **Conditions - Special.** In addition to the general conditions, the Director may impose the following conditions:
1. Reasonable accommodations affecting an exterior physical improvement must be designed to be substantially similar to the architectural character, colors, and texture of materials of its surrounding dwelling units; and
 2. Such additional conditions that the Director in good faith believes are required to reconcile the approved reasonable accommodation with other requirements of this Code while still implementing the purpose of this Chapter.
- G. **Applicability.** Approval of a request for reasonable accommodation does not run with the land; it applies to a specific disabled person and may be revoked or rendered void in accordance with this section.

17.58.060 Appeals

A reasonable accommodation request may be appealed pursuant to Section 17.46.130 of this Code. Disabled persons may request reasonable accommodation in the procedure by which

an appeal will be conducted including, without limitation, extension of time periods in order to accommodate the individual's disability.

17.58.070 Final Determination

The determination of the Director is effective 15 days after the date the decision is made and after all appeals, if any, are resolved.

17.58.080 Revocation

- A. A reasonable accommodation will be revoked if the disabled person for whom the reasonable accommodation was initially approved vacates the residence, or if the justification for the reasonable accommodation no longer exists. Within 60 days of revocation, the property owner must restore the property to its prior condition unless the Director determines that:
 - 1. The modification is physically integrated into a structure or property and cannot reasonably be removed or altered to comply with applicable standards;
 - 2. Removal of the modification would create an unreasonable financial burden on the owner; or
 - 3. The accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling. The Director may request the applicant or his or her successor-in-interest to the property to provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within 10 days of the date of a request by the Director will constitute grounds for revocation by the City of a previously approved reasonable accommodation.

Housing Element-Related Definitions

Disabled Person. A person who: (1) has a physical or mental impairment which substantially limits one (1) or more of such person's major life activities; (2) has a record of having such an impairment; or (3) is regarded as having such an impairment. However, "disabled" does not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 United States Code 802]).

Dwelling Unit. One or more rooms designed, occupied or intended for occupancy as separate living quarters, with full cooking, sleeping and bathroom facilities for the exclusive use of a single household.

Emergency Shelters and Facilities. Emergency shelter means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Family. One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food; who share living expenses, including rent or mortgage payments, food costs and utilities; and who maintain a single mortgage, lease, or rental agreement for all members of the household.

Farmworker. An employee engaged in agriculture, which includes farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. This classification includes clean and sober facilities, rooming and boarding houses, dormitories and other types of organizational housing, private residential clubs, and extended stay hotels intended for long-term occupancy (30 days or more) but excludes Hotels and Motels and Residential Care Facilities.

Mobile Home Parks. A development designed and occupied by mobile homes, including facilities and amenities used in common by occupants who rent, lease, or own spaces for mobile homes through a subdivision, cooperative, condominium or other form of resident ownership.

Reasonable Accommodation. Any deviation requested and/or granted from the strict application of the City’s zoning and land use laws, rules, policies, practices and/or procedures.

Residential Housing Types:

Single Unit Dwelling, Detached. A dwelling unit that is designed for occupancy by one household, located on a separate lot from any other dwelling unit (except a second dwelling unit where permitted), and not attached to another dwelling unit on an abutting lot. This classification includes individual manufactured housing units.

Single Unit Dwelling, Attached. A dwelling unit that is designed for occupancy by one household located on a separate lot from any other unit (except a second dwelling unit, where permitted), and is attached through common vertical walls to one or more dwellings on abutting lots. An attached single-unit dwelling is sometimes called a “townhouse” or a “duplex” if there are only two units.

Duplex. A single building on a lot that contains two dwelling units, each designed for occupancy by one household.

Multiple Unit Dwelling. Three or more dwelling units within a single building or within two or more buildings on a site or lot. Types of multiple-unit dwellings include garden apartments, senior housing developments, and multi-story apartment buildings. This classification includes transitional housing in a multiple-unit format. The classification is distinguished from and excludes Group Residential Facilities.

Secondary Living Unit. An attached or detached unit with kitchen, sleeping, and bathroom facilities located on a lot with one single-family dwelling, where one of the units is owner occupied.

Residential Care Facilities. Facilities that are licensed by the State of California to provide permanent living accommodations and 24-hour primarily non-medical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug additions. This use classification excludes Transitional Housing and Social Service Facilities.

Large. A facility providing care for more than six persons.

Small. A facility providing care for six or fewer persons.

Supportive Housing. Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. “Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people. Supportive housing is a residential use subject only to those standards and procedures as apply to other residential uses of the same type in the same zone.

Transitional Housing. Buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that will be no less than six months from the beginning of the assistance. Transitional housing is a residential use subject only to those standards and procedures as apply to other residential uses of the same type in the same zone.

Attachment 2

Summary of State Requirements and Proposed Regulations

Attachment 2: Summary of State Requirements and Proposed Zoning Regulations

Issue	State Requirements	Proposed Zoning Regulations
Density bonus	<p>State law has included density bonus requirements since 1979. In 2004 the law was amended (SB 1818) to require local governments to allow a density increase of up to 35% above the maximum density specified in the General Plan and zoning when a developer agrees to provide affordable housing or donate land suitable for lower-income housing. The allowable density bonus is determined on a sliding scale based on the percentage and affordability level of units provided. The law also allows a density bonus when qualifying child care facilities are provided.</p> <p>In addition to a density increase, cities are required to offer incentives such as modified development standards or reductions in fees when necessary to make affordable housing feasible.</p> <p>The granting of a density bonus is not considered a discretionary act and is processed concurrently with a development application.</p>	<p>State law leaves little discretion for cities in the implementation of density bonus law. The proposed regulations conform to state requirements. Requests for density bonus or incentives would be processed as part of a development application and approved by the designated approval authority for the requested action or permit.</p>
Inclusionary housing	<p>"Inclusionary housing" refers to a requirement that new residential developments set aside a portion of the units at prices or rents that are affordable to households at specified income levels. State housing element law neither requires nor prohibits inclusionary requirements. However, the recent <i>Palmer</i> court decision determined that imposition of inclusionary requirements on rental housing projects conflicts with state rent control law unless incentives or subsidies are provided. As a result, inclusionary requirements may only be imposed on for-sale developments or rental developments that request a density bonus or other incentives.</p> <p>HCD has taken a neutral position on local inclusionary policies, but requires cities that have adopted inclusionary requirements to analyze them in their housing elements to determine whether they are excessive and act as a constraint on the cost and supply of housing (see attached HCD letter of 8/26/2009). HCD has not issued definitive limits on the</p>	<p>The proposed regulations reflect current City policy as stated in the Housing Element.</p> <p>The following are exempt from inclusionary requirements:</p> <ul style="list-style-type: none"> • Rental housing units that may not be sold individually • Individual single-family homes • Second units • Additions and remodels that do not result in an increase of 2 or more units • Replacement of units destroyed or damaged unless the project results in a net increase of 2 or more units <p>Developments with 2 to 4 units are required to pay an in-lieu payment.</p> <p>Developments with 5+ units are required to provide the number of affordable units noted below unless the City</p>

Attachment 2: Summary of State Requirements and Proposed Zoning Regulations

Issue	State Requirements	Proposed Zoning Regulations
	<p>specific inclusionary requirements or percentages that are considered acceptable, but some guidance can be found in HCD's reviews of housing elements for jurisdictions with inclusionary requirements.</p>	<p>agrees to an alternative such as an in-lieu payment or acquisition/rehabilitation of existing units.</p> <p><u>Affordable Housing Opportunity (AHO) Sites</u> 5% extremely-low or very-low 5% low 5% moderate 5% workforce (120-200% AMI)</p> <p><u>Non-AHO Sites Where Community Services Exceed Normal Expectations</u> 2% extremely-low or very-low 5% low 4% moderate 4% workforce (120-200% AMI)</p> <p><u>Non-AHO Sites Where Community Services Do Not Exceed Normal Expectations</u> 5% extremely-low or very-low 5% low 5% moderate 5% workforce (120-200% AMI)</p> <p>Inclusionary units at the lower-income levels may be satisfied by rental units while moderate and workforce units must be for-sale units.</p> <p>Inclusionary units require long-term affordability covenants of 45 years or as required by financing terms, whichever is longer.</p> <p>Inclusionary units must be dispersed through the project and compatible to market-rate units in design and materials.</p> <p>Modified development standards may be granted when financial information demonstrates that the modification is necessary to provide for affordable housing.</p>

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		<p>The required in lieu payment will be set by Resolution of the City Council based on an inclusionary housing requirement of 12% of the on-site market-rate units.</p>
<p>Emergency shelters</p>	<p>Effective January 1, 2008 state law was amended (SB 2) to require all cities to allow permanent emergency shelters by-right in at least one zone, subject to a limited range of objective standards. In the context of SB 2, <i>emergency shelter</i> refers to a permanent facility that provides temporary shelter to homeless persons, as opposed to a temporary facility established after a natural disaster. "By-right" means the approval process must not be discretionary, such as a conditional use permit.</p> <p>Cities are given discretion as to the appropriate zoning district where shelters should be permitted, as long as the district provides reasonable opportunities for new shelters commensurate with the identified need. State law does not specify the minimum or maximum size of shelters, but the allowable size should accommodate the identified need.</p>	<p>Emergency shelters would be permitted by-right in the General Commercial (C-3) and Light Industrial (M-1) zones subject to the following standards:</p> <ul style="list-style-type: none"> • Maximum of 50 beds • Minimum 300 ft. separation between shelters • Maximum occupancy of 180 consecutive days or as provided in the management plan • Open at least 8 hours between 7 am and 7 pm • Lighting in compliance with Code requirements • Parking at the rate of 1 space per 4 beds plus staff • On-site management and security <p>Shelters would also be allowed in the Retail Commercial (C-2) district with a Minor Conditional Use Permit.</p>
<p>Transitional & supportive housing</p>	<p>SB 2 also requires that cities allow transitional and supportive housing as residential uses subject only to the same standards and procedures as apply to other residential uses of the same type in the same zone.</p> <p><i>Transitional housing</i> means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.</p> <p><i>Supportive housing</i> means housing with no limit on length of stay, that is occupied by the <i>target population</i>, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her</p>	<p>The definitions for transitional and supportive housing state that these are residential uses that are permitted according to the same standards and procedures as for other residential uses of the same type in the same zone.</p>

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	<p>ability to live and, when possible, work in the community.</p> <p><i>Target population</i> means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.</p> <p>There is as yet no judicial opinion clarifying the regulatory framework for transitional and supportive housing, and these facilities can take different forms. A common approach is to use similar standards as apply to group homes and care facilities; i.e., if a transitional or supportive facility is occupied by one family (or housekeeping unit), it must be permitted under exactly the same standards and procedures as a conventional residence. If the facility operates like a group home, then the applicable group home standards apply.</p>	
Farmworker housing	<p>Under state law, group housing for up to 6 farmworkers must be treated the same as a conventional family housing unit (as opposed to a boarding house). This requirement is similar to state law regarding state-licensed care facilities for 6 or fewer persons.</p> <p>State law also requires that small agricultural employee housing complexes with up to 12 units or 36 beds in group quarters be considered an agricultural use in any zone where agriculture is permitted.</p> <p>Employee housing facilities must obtain a permit to operate from the state Department of Housing and Community Development, therefore conventional housing cannot be</p>	Agricultural activities are permitted in the A zone, therefore small employee housing complexes with up to 12 units or 36 beds would also be allowed in this zone subject to the same review procedures.

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	<p>developed under the guise of employee housing. This law was intended to address farmworker housing needs in the major agricultural areas of the state such as the Central Valley and the Coachella Valley, but all cities must adopt enabling ordinances even if they do not have significant areas of agricultural production.</p>	
<p>Reasonable accommodation</p>	<p>State and federal fair housing laws require cities to make reasonable accommodation (i.e., modifications and exceptions) in their zoning laws and other land use practices when they may be necessary to afford a disabled person a reasonable opportunity to use and enjoy a dwelling. This is a <i>procedural</i> requirement, and does not specify any particular modifications or waivers that must be allowed.</p>	<p>The proposed regulations would establish procedures for review and approval of requests for reasonable accommodation by persons with disabilities. Requests would be reviewed and approved administratively by the Director, or by the decision-making authority if the request is combined with a development application.</p> <p>The City may require that exterior modifications be compatible with the existing architectural character, and may deny a request if it would result in a fundamental alteration of zoning or building standards. Approval of a reasonable accommodation does not run with the land – if the modification is no longer necessary the owner would be required to restore the property to its original condition unless specific conditions are met.</p>
<p>Residential care facilities (6 or fewer clients)</p>	<p>State law requires small state-licensed care facilities (6 or fewer clients) to be treated as single-family residential uses and must be allowed subject to the same standards and procedures as apply to conventional housing.</p> <p>State law allows cities to require a CUP and limit larger care facilities to certain zoning districts, which may be non-residential in nature. A city may not exclude large care facilities entirely.</p>	<p>The proposed definitions are consistent with these requirements.</p>