

City Council NZO Adoption Hearing (12/3/19)

NZO Section	Revision Description
Large Residential Care Facilities Table 17.07.020	Remove "CU" (Major Conditional Use Permit) from both the "RS" (Single Family Residential) and the "RP" (Planned Residential) zones and replace with a "-" in order to note that these facilities are not permitted within these lower-density zone districts.
Inclusionary Housing Chapter 17.28	See revisions to entire Chapter included as Attachment 1 to this document. The revisions add rental units to the inclusionary housing affordability requirements.
"Good Cause" time extensions §17.28.110	Delete the entire Section titled "Performance Security for Inclusionary Housing Units" and renumber the following Section "Enforcement" appropriately.
Public Notification §17.52.050	Edits to subsection (C)(3)(c) to include a trigger for larger on-site noticing, as follows: Size. On-site posted notice signs for all new Development Plans, Amendments and Significant Changes to Development Plans, new Conditional Use Permits, and Amendments and Significant Changes to Conditional Use Permits shall be: i. Residential Districts. Eight square feet. ii. Non-Residential Districts. 32 square feet.
Public Notification §17.52.050	Edits to subsection (C)(6) to include interim story pole guidelines while formal guidelines are developed as a separate work program, as follows: <u>"Story Poles. All development over 20 feet in height, except for single-unit dwellings, shall require story poles that accurately depict the proposed structure(s). When required, story poles must convey size, bulk, and scale and must be installed consistent with the following provisions:</u> i. <u>The story poles must be satisfactorily installed at least 14 days before the first scheduled public hearing date, unless an earlier date is deemed necessary by the Director.</u> ii. <u>The story poles must remain in place until the expiration of the project's local Appeal period and must be removed within ten calendar days afterwards.</u> iii. <u>Story poles shall depict a three-dimensional, full-scale silhouette that outlines major wall planes, gables, and ridges.</u> iv. <u>Installation of story poles must be certified by a licensed land surveyor as to their accuracy. Any deviations from proposed heights stated on plan sheets and what is depicted by the story poles must be calculated and disclosed.</u> v. <u>Story poles must be of sturdy construction and braced or reinforced for safety purposes.</u> vi. <u>Installed story poles and associated flagging and/or netting shall be of materials and method of installation to withstand reasonably foreseeable weather or other site factors for the required duration of display.</u> vii. <u>If at any time the story poles become unsafe or shift location, they shall be repaired and reset.</u>

City Council NZO Adoption Hearing (12/3/19)

ATTACHMENT 1

17.28.010 Purpose and Intent

The purpose of this Chapter is to:

- A. Implement Statewide policies to make available an adequate supply of housing for persons and households from all economic sectors of the community because persons with low and moderate incomes who work and/or live within the City are unable to locate housing at prices they can afford and are increasingly excluded from living in the City;
- B. Support General Plan policies intended to promote and maintain balanced and economically diverse community with a mix of workplaces and residential uses that offer a variety of housing types to meet the needs of an economically diverse work force, thereby reducing both adverse impacts on air quality and energy consumed by commuting;
- C. Avoid the depletion of limited land resources needed to accommodate the demand for housing that is affordable to low- and moderate-income households by requiring the development of affordable housing when market-rate units are constructed, which is a more efficient use of land;
- D. Construct new affordable units on the same site as new market-rate construction and only when this is infeasible, provide comparable new or substantially rehabilitated affordable units at another site or similar neighborhood character;
- E. Establish standards and procedures to implement the inclusionary housing requirements in a streamlined manner that complies with federal and State law; and
- F. Provide additional incentives for the development of affordable housing units that exceed those to which developers are entitled under State law.

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 to the City or a City-approved affordable housing specialist or an in-lieu payment to the City. This Chapter may be implemented by way of a resolution adopted by the City Council.

17.28.020 Applicability

- A. Applicability. The requirements of this Chapter apply to every ~~for-sale~~ residential development project that includes two or more housing units, unless exempt by subsection (B), below.
 1. Compliance before Approvals, Issuances, Granting of Maps, Permits, Entitlements. Developers must comply with this Chapter before the City grants any ministerial or discretionary land use approvals for a Project.
 2. Verification of Compliance. The Director cannot find a development application to be complete until the developer provides a written proposal demonstrating how the requirements of this Chapter will be met.
 3. Sales 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. ~~One for sale single~~ Single-unit dwellings;
 2. Projects that are developed pursuant to the terms of a Development Agreement executed prior to the effective date of this Title, provided that such residential developments must comply with any affordable housing requirements included in the Development Agreement or any predecessor Title in effect on the date the development agreement was executed;

City Council NZO Adoption Hearing (12/3/19)

3. An affordable, multiple-unit rental housing project that will be developed by a nonprofit housing provider receiving financial assistance from the City, so long as the project is maintained as an affordable project subject to an affordable housing agreement with the City;
4. ~~A project proposing rental dwelling units that cannot be separately owned or conveyed under the Subdivision Map Act; Projects processed pursuant to Section 17.41.030, Accessory Dwelling Units;~~
5. Residential building additions, repairs, or remodels, provided that the work does not increase the number of existing units by more than one unit;
6. Projects consisting of 100 percent affordable units in which rents are controlled or regulated by a government unit, agency, or authority, excepting those unsubsidized and/or unassisted units that are insured by the United States Department of Housing and Urban Development (HUD);
7. 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 more than one unit;~~ and
8. Units above the allowed density of a Zone ~~and~~ District granted through a Density Bonus Agreement pursuant to Chapter 17.27, Density Bonus and Other Incentives.

17.28.030 Income Levels

For the purpose of determining the income levels for potentially eligible households under this Chapter, the City shall 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 California Department of Housing and Community Development (HCD), or other income limits adopted by the City Council, if HCD fails to provide regular updates.

17.28.040 Inclusionary Housing Unit Affordability

- A. Base Requirement. Multiple-unit project developers proposing ~~ownership~~ projects of five or more units must provide 20 percent affordable units of the total number of ~~for sale~~ units.
 1. Affordability Levels. Projects qualifying for a 20 percent affordability level must provide:
 - a. 2.5 percent of the total number of ~~for sale~~ units at prices affordable to extremely low-income households;
 - b. 2.5 percent affordable to very low-income households;
 - c. Five percent affordable to low-income households;
 - d. Five percent affordable to moderate-income households; and
 - e. Five percent affordable to above moderate-income households earning 120 to 200 percent of the median income in the County.
- B. Reduced Requirement. The Review Authority may reduce the 20 percent affordability level to 15 percent upon making the required finding that a developer will provide a public benefit exceeding the requirements of this Title, including, without limitation, a new on-site or nearby public park or open space facilities exceeding the park and recreation dedication requirements established in Chapter 16.14 of Title 16, Subdivisions of the Goleta Municipal Code.
 1. Affordability Levels. If the Review Authority reduces the affordability level in accordance with this Section, the Projects must provide:
 - a. One percent of the total number of units as affordable housing to extremely low-income households;
 - b. One percent of units to very low-income households,
 - c. Five percent of units to low-income households,
 - d. Four percent of units to moderate-income households, and

City Council NZO Adoption Hearing (12/3/19)

- e. Four percent of units to above moderate-income households earning 120 to 200 percent of median income in the County.

17.28.050 Inclusionary Housing Requirements

The number of inclusionary housing units that a developer must construct in accordance with this Chapter is subject to the following:

- A. **Applicability.** The percentage of inclusionary housing units required by this Chapter is applied to the total number of dwelling units proposed for a Project.
- B. **Fractional Units.** In the event the calculation for the number of inclusionary units in any income category results in a fraction, the developer must account for inclusionary units as follows:
 - 1. For projects of two to four units, the developer must make an in-lieu payment in an amount equal to the percentage represented by the fractional unit (out to two decimal places) for each income category multiplied by the applicable in-lieu payment amount for a full unit at that income level.
 - 2. For projects of five or more units, in the event the calculation for the number of inclusionary units in any income category results in a fraction of an inclusionary unit, the developer has the option of either: (1) providing a full inclusionary unit within the residential development at the specific income level; or (2) combining fractional units at various income levels to sum a whole unit or units and build that unit or units at the low- income level. Any remaining fraction must be accounted for through an in-lieu payment in an amount equal to the percentage represented by the fractional unit multiplied by the applicable in-lieu payment amount. The amount of the in-lieu payment will be in direct proportion to the fractional unit out to two decimal places.
- C. **Length of Term.** The term of affordability restrictions must be based on applicable federal laws and financing mechanisms, generally 45 to 55 years but not less than 30 years, and must provide for monitoring and reporting in a manner acceptable to the City.
 - 1. **Required Finding.** If proposing an affordability restriction term of less than 45 years, the following finding must be made by the City Council:
 - a. The term of affordability of less than 45 years better serves the City's goals for affordable housing.
- D. **Compliance Hierarchy and Findings.** Pursuant to subsection (B)(2) above, compliance with the requirement for inclusionary units must adhere to the following:
 - 1. **On-Site.** Developers must provide affordable units on-site unless otherwise compliant with the findings in this Chapter.
 - 2. **Off-Site or Land Dedication.** Developers may propose to provide affordable units on another site or meet the requirements of this Chapter by dedicating land for the construction of affordable housing.
 - a. **Off-site Development.** Off-site development must comply with the following requirements:
 - i. If units will be provided through partnership with a nonprofit housing agency, the partner must agree to all the provisions of this Chapter and be a signatory to the Inclusionary Housing Agreement and Affordability Control Covenants, as required by this Chapter.
 - ii. Inclusionary units must be regulated by a recorded agreement that requires maintenance of affordable housing units and an affordability covenant or deed restriction. The term of affordability restrictions must consistent with the length of term consistent with this Chapter.

City Council NZO Adoption Hearing (12/3/19)

- b. Land Dedication. Land dedication must comply with each of the following:
 - i. The developer donates and transfers the land prior to recordation of the final subdivision map, or parcel map;
 - ii. The developable acreage and zoning classification of the land being transferred are sufficient to make the development of the affordable units feasible, as determined by the Director;
 - iii. The transferred land and the affordable units will be subject to a deed restriction in a form approved by the City Attorney ensuring continued affordability of the units;
 - iv. The land is transferred to the City or to an owner specializing in affordable housing construction approved by the City;
 - v. The transferred land is within the City; and
 - vi. A proposed source of funding for development of the affordable units is identified by the date of approval of the final subdivision map, or parcel map, as required by the Director.
- c. Required Findings. If proposing either off-site development or a land dedication to meet the requirements of this Chapter, each of the following findings must be made by the City Council:
 - i. The development of on-site affordable units is infeasible.
 - ii. The off-site location is comparable in character and location to the market-rate development location.
- 3. Other Alternatives. If unable to provide the required affordable housing pursuant to this Chapter on-site, off-site, or through a land dedication, the developer may propose meeting this Section's affordable housing obligations by paying an inclusionary housing in-lieu payment, acquisition or rehabilitation of existing units, or other alternatives of equal value to the development of affordable units on site.
 - a. In-Lieu Payment. If providing an in-lieu payment, the developer must pay the amount in accordance with the following requirements:
 - i. Amount. The amount of the in-lieu payment must of equal value to the provision of the affordable units on site.
 - ii. Payment Due Before Occupancy Permit. The inclusionary housing in-lieu payment must be paid in full to the City prior to the City granting any approval for occupancy of the project, but no earlier than the issuance of the building permit.
 - iii. Density Bonus Eligibility. The payment of an inclusionary housing in-lieu payment pursuant to this Chapter is not considered a provision of an affordable housing unit for purposes of determining eligibility for a Density Bonus pursuant to Chapter 17.27, Density Bonuses and Other Incentives, or California Government Code, Section 65915 et seq.
 - b. Acquisition and Rehabilitation. If acquiring and rehabilitating existing units, the following requirements must be met:
 - i. The value of the rehabilitation work is 25 percent or more than the value of the dwelling unit prior to rehabilitation, inclusive of land value.
 - ii. The site is zoned for residential units at a density to accommodate the number of rehabilitated units.
 - iii. The rehabilitated dwelling units must comply with all applicable building codes.
 - iv. The acquisition and rehabilitation are included in the project description for the market-rate unit project and is included in environmental review.

City Council NZO Adoption Hearing (12/3/19)

- v. The rehabilitation of dwelling units must be completed prior to or concurrently with the market-rate units.
 - vi. The developer of the market-rate units must provide all costs of notice and relocation of existing residence in the residential units to be rehabilitated.
 - vii. Except as otherwise provided in this Chapter or specified in an inclusionary housing agreement, inclusionary units must contain, on average, the same number of bedrooms, bathrooms, and square footage as the non-inclusionary units proposed. The units must be compatible with the market-rate units proposed with regard to appearance, materials, and exterior design.
- c. Required Findings. If proposing an inclusionary housing in-lieu payment, acquisition or rehabilitation of existing units, or other alternatives of equal value to the development of affordable units on site dedication to meet the requirements of this Chapter, each of the following findings must be made by the City Council:
- i. The development of on-site affordable units is infeasible.
 - ii. The developer demonstrates that the in-lieu payment, acquisition and rehabilitation of existing units, or other alternative is of equal value to the provision of the affordable units on site.
- E. Tradeoffs. The Review Authority may approve tradeoffs of extremely low- and very low-income units for low- or moderate-income units.
- 1. Required Findings. If proposing tradeoffs pursuant to this Chapter, each of the following findings must be made by the City Council:
 - a. The development of on-site extremely low- and very low- income units is infeasible.
 - b. The developer provides substantial evidence to demonstrate that the City's housing goals can be more effectively achieved through the proposed tradeoffs.

17.28.060 Inclusionary Housing Plan and Agreement

Each residential development that is subject to this Chapter that will construct or acquire and rehabilitate affordable units must provide an Inclusionary Housing Plan in compliance with this Section.

- A. Inclusionary Housing Plan. No development application will be deemed complete until an Inclusionary Housing Plan containing all of the following elements has been submitted in a form meeting the approval of the Director:
- 1. For each construction phase, the Affordable Housing Plan must specify, at the same level of detail as the application for the residential development: the inclusionary housing option selected; the number, unit type, tenure, number of bedrooms and baths, approximate location, size, and design; construction and completion schedule of all inclusionary units; phasing of inclusionary units in relation to market-rate units, and general outline of the marketing plan.
 - 2. Identification of the affordable income level for the proposed inclusionary units.
 - 3. Calculation of the proposed number of inclusionary units consistent with this Chapter.
 - 4. A written explanation of the method for restricting the units for the required term at the affordable income levels.
 - 5. If on-site development of affordable units is not proposed, supporting evidence demonstrating on-site development is infeasible.
 - 6. If the developer proposes meeting this Section's affordable housing obligations by paying an inclusionary housing in-lieu payment, acquisition or rehabilitation of existing units, or other alternatives of equal value to the development of affordable units on-site pursuant to Section 17.28.050, Inclusionary Housing Requirements, supporting evidence demonstrating that the in-

City Council NZO Adoption Hearing (12/3/19)

lieu payment, acquisition and rehabilitation of existing units, or other alternative is of equal value to the provision of the affordable units on site.

7. If the developer proposed tradeoffs of extremely low- and very low-income units for low- or moderate-income units, supporting evidence demonstrating that the development of on-site extremely low- and very low- income units is infeasible and that the City's housing goals can be more effectively achieved through the proposed tradeoffs.
 8. Description of the methods to be used to verify tenant incomes and to maintain the affordability of the inclusionary units and must specify a financing mechanism for the ongoing administration and monitoring of the inclusionary units.
 9. 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.
- B. Inclusionary Housing Agreement and Affordability Control Covenants. Before the City issues a building permit or approves a final map, whichever occurs first, the developer must record an Inclusionary Housing Agreement that conforms to the requirements of Section 17.28.050, Inclusionary Housing Requirements, and a separate Affordability Control Covenant in a form approved by the City Attorney that complies with this Chapter.
- C. Owner-Occupancy Required. All inclusionary units sold or rented to eligible households are subject to the following regulations. Compliance reporting shall be the responsibility of the property owner or affordable housing management entity in the case of rental units.
1. Principal Residence. The owner/renter must use and occupy the inclusionary unit as ~~owner's~~ their principal place of residence.
 2. No Rental of For-Sale Units. The owner is expressly prohibited from leasing or renting the inclusionary unit, unless the City has given its prior written consent to such lease or rental on the basis of a demonstrated hardship by the owner.
 3. No Subleasing of Rental Units. An eligible renter is expressly prohibited from subleasing the inclusionary unit, unless the City has given its prior written consent to such sublease on the basis of a demonstrated hardship by the renter.
 4. Reporting. The Director may require certification of continuing occupancy of the inclusionary unit by ~~the eligible owner households,~~ which must be verified ~~by owner~~ to the reasonable satisfaction of Director by means of a written report ~~by the owner~~ to the Director, setting forth the income and family size of the occupants of the inclusionary unit. The property owner or housing management entity will be deemed in default of the Inclusionary Housing Agreement if the owner fails-failing to deliver such annual report within 30 days after receipt ~~by owner~~ of written notice from the Director requesting such report and subject to enforcement pursuant to Section 17.28.120, Inclusionary Housing – Enforcement. The Director will have the option of establishing the type of form to be used for the report.

17.28.070 Eligibility and Selection for Inclusionary Units

- A. General Eligibility. No household may purchase, rent, or occupy an inclusionary unit unless the City or City's designee has approved the household's eligibility based on income and affordability levels, as defined in California Health and Safety Code, Section 50105 and California Code of Regulations, Section 6932, and the household and City have executed and recorded an affordability housing covenant in the chain of title of the inclusionary unit.
- B. Owner Occupancy. A household that purchases or rents 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 Director.

City Council NZO Adoption Hearing (12/3/19)

- C. Ineligibility. The following individuals, by virtue of their position or relationship, are ineligible to occupy an affordable housing unit created pursuant to this Section:
 - 1. All employees and officials of the City or its agencies, authorities, or commissions who have, by the authority of their position, policy-making authority or influence over the implementation of this Chapter and the immediate family of such City employees and officials.
 - 2. The immediate relatives of the developer or owner who sells or rents the home(s) for initial sale or rental to the first set of income eligible ~~buyers~~ households.
- D. Selection. The procedure for selection of eligible households for individual inclusionary units shall be determined by the City.

17.28.080 For-Sale Inclusionary Unit Restrictions

The following restrictions apply only to for-sale inclusionary housing units:

- A. Initial Sales Price or Rent. The initial sales price or rent of an inclusionary unit will be set in compliance with any affordable housing policy or resolution adopted by the City Council and/or an inclusionary housing agreement entered into with the City. The sales price of each inclusionary unit is determined by the household income of the eligible household meeting the target income requirements specified in this Chapter that offers to purchase that unit.
- B. Transfers and Conveyances. A new affordability housing 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. Resale Price. The maximum sales price and qualifications of purchasers permitted on resale of an inclusionary unit must be specified in an affordability housing covenant to be approved by the City Attorney. The maximum sales price permitted on resale of an inclusionary unit intended for owner-occupancy shall not exceed the seller's purchase price, adjusted for the percentage increase in median income since the seller's purchase, plus the value of substantial structural or permanent fixed improvements to the property.

17.28.090 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 contain, on average, the same number of bedrooms, bathrooms, and square footage as the non-inclusionary units in the development. The units must be compatible with market-rate units with regard to appearance, 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. Utilities. Inclusionary units made available for purchase must include space and connections for a clothes washer and dryer within the unit. Inclusionary units made available for rent must include either connections for a clothes washer and dryer within the inclusionary unit or sufficient on-site, self-serve laundry facilities to meet the needs of all tenants without laundry connections in their units.
- C. Location. All for-sale inclusionary units must be reasonably dispersed throughout the development and not clustered together or segregated in any way from market-rate units. For-rent inclusionary units may be clustered to facility third-party management.
- D. 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

City Council NZO Adoption Hearing (12/3/19)

constructed and occupied in proportion to the number of units in each phase of the residential development.

17.28.100 Adjustments and Waivers

- A. Application for Adjustments or Waiver. The requirements of this Chapter may be modified or waived if the developer demonstrates to the City that application of this Chapter would constitute a taking of property in violation of the United States or California Constitutions.
- B. Developer Bears Burden to Present Evidence. Any developer requesting an adjustment or waiver must submit documentation at the same time the developer files the project application presenting substantial evidence to support the request. The application must set forth in detail the factual and legal basis for any claim.
- C. Written Decision. Before or in conjunction with its decision on the project, the City must render a written decision including findings within 90 days from the date the complete application is filed. The decision may be appealed to the City Council in the manner provided in Chapter 17.52, Common Procedures. The City Council's decision is the City's final decision. A developer may appeal the decision to a court of competent jurisdiction within 90 days after the decision in accordance with Code of Civil Procedure, Section 1094.6.

~~17.28.110 Performance Security for Inclusionary Housing Units~~

~~Upon application by a developer and for good cause shown, the Director may, but is not required to, allow a developer to delay construction of inclusionary housing units.~~

- ~~A. Performance Security. Any such approval is conditioned upon the developer providing sufficient security, in a form approved by the City Attorney, to insure performance under this Chapter.~~
- ~~B. Good Cause. Without limitation, good cause may include funding restrictions for projects involving nonprofit corporations or use of Public Agency monies.~~
- ~~C. Time Limits. Any delay approved by the Director is limited to a maximum of two years with one additional time extension allowance of up to two years.~~

~~17.28.120 Enforcement~~

- A. Enforcement Action. In addition to the general remedies provided by this Title and other applicable law, the Director and City Attorney are authorized to take any appropriate enforcement action to ensure compliance with this Chapter, including, without limitation:
 - 1. Actions to revoke, deny or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval.
 - 2. Actions to recover civil fines, restitution to prevent unjust enrichment from a violation of this Chapter, and/or enforcement costs, including attorney's fees.
 - 3. Eviction or foreclosure.
 - 4. Any other appropriate action for injunctive relief or damages.
- B. Compliance. Failure of any public official, employee, or agent to fulfill the requirements of this Chapter does not excuse any person, owner, household, or other party from complying with the requirements of this Chapter.