

TITLE 1

ADMINISTRATION AND PERSONNEL

This document provides the proposed amendments to TMC Title 1, which includes amendments within the following Chapters:

Chapters:

Chapter 1.37 Transfer of Development Rights Administrative Code

Chapter 1.39 Affordable Housing Incentives and Bonuses Administrative Code

Note: This document contains track changes. Proposed deletions are shown in ~~red-strike~~ font. Proposed additions are shown in blue underlined font.

CHAPTER 1.37

TRANSFER OF DEVELOPMENT RIGHTS PROGRAM ADMINISTRATIVE CODE

Sections:

- 1.37.010 Purpose.
- 1.37.020 Definitions.
- 1.37.030 Sending Areas.
- 1.37.040 Sending Area Development Limitations.
- 1.37.050 Sending Area TDR Allocation.
- 1.37.060 Receiving Area Baselines, Maximum Development and Exchange Ratios for Receiving Areas Where Bonus Development Is Allowed By TDR.
- 1.37.070 Sending Area Process / TDR Certification.
- 1.37.080 Receiving Area Process.
- 1.37.090 TDR Manager Responsibilities.

1.37.050 Sending Area TDR Allocation.

Upon recordation of a qualifying easement, TDRs shall be issued to the participating sending area property owners as follows:

- A. For sending areas situated in unincorporated Pierce County, Pierce County will establish the sending area allocation ratios for the TDRs that are consistent with Pierce County Code 18G.10.040, or any amendment thereof.
- B. For sending areas situated in unincorporated King County, King County will establish the sending area allocation ratios for the TDRs that are consistent with King County Code 21A.37.040, or any amendment thereof.
- C. For Tacoma Habitat sending areas:
 - 1. For residential zones: one TDR for each forgone parent lot allowed by the property's current zoning.
 - 2. For nonresidential or multifamily zones: one TDR for each 8,000 square feet of potential but forgone floor area allowed by the property's current zoning.
 - 3. In determining development potential for this purpose, the TDR Manager shall make a reasonable estimate of the number of dwelling units or square feet of floor area buildable on the sending area under its current zoning restrictions and all other applicable land use, development standards, and environmental controls (e.g. applicable setbacks, infrastructure requirements, or critical area regulations).
- D. For Tacoma Landmarks sending areas: the transferable floor area from Tacoma-designated landmarks shall be the maximum square feet of floor area achievable within the area's zoning and other applicable codes minus the floor area of the designated landmark.
 - 1. Designated Tacoma landmarks DCC-Downtown and DCC-City Hall: one TDR per 600 square feet of forgone or unused potential floor area allowed by the property's current zoning.
 - 2. Designated Tacoma Landmarks not within DCC-Downtown and DCC-City Hall: one TDR shall be allocated per 1,200 square feet of forgone or unused potential floor area allowed by the property's current zoning.

CHAPTER 1.39
AFFORDABLE HOUSING INCENTIVES AND BONUSES ADMINISTRATIVE CODE

Sections:

- 1.39.010 Purpose.
- 1.39.020 Definitions.
- 1.39.030 Applicability.
- 1.39.040 Program Requirements.
- 1.39.050 Financial Incentives.
- 1.39.060 Development Incentives.
- 1.39.070 Reserved
- 1.39.080 Incorporation of Affordable Housing Units.
- 1.39.090 Procedures.
- 1.39.100 Affordable Housing Inclusionary Development Requirements.

1.39.010 Purpose.

The purpose of this Chapter is to encourage the development of affordable housing for rental households earning 60 percent or less, and ownership households earning 80 to 100 percent or less of the Tacoma median household income, pursuant to the provisions of RCW 36.70A.540 and RCW 36.70A.635. The Growth Management Act (“GMA”) requires Tacoma to make adequate provisions for existing and projected housing needs of all economic segments of the community and mandates that cities offer affordability bonuses in residential zones. The City recognizes that the real estate market provides adequate housing for those households in the upper economic segments; however, a combination of financial and regulatory incentives will be necessary to adequately provide for the needs of households whose incomes are at or below the City's median household income. The City recognizes the public benefits affordable housing contributes to local communities and businesses.

1.39.020 Definitions.

A. Affordable Housing Incentives Program Covenant Agreement.

That document to be signed by the applicant and the City and representing a recorded agreement, lien and covenant running with the land, binding all the assigns, heirs and successors of the applicant securing affordability requirements and more fully described pursuant to TMC Section 1.39.030.G below.

B. Marketing Plan.

Document that will state the methods a property owner/manager will use to find eligible buyers or tenants for affordable housing units created through the utilization of an affordability incentive. Additionally, it should include specific measures that will be taken to reach prospective buyers or tenants who are least likely to hear about unit availability through traditional marketing methods.

C. Back-End Ratio.

Housing costs for homeownership projects calculated as the principal, interest, taxes and insurance plus recurring household expenses paid on a monthly basis divided by the household's gross monthly income.

D. Development Bonus.

Additional development capacity – such as additional dwellings, building scale increases, reduced parking requirements, and other allowances that facilitate development – in exchange for the affordable housing provisions proscribed in this Chapter as well as in TMC 13.06.

E. Essential utilities.

Electricity, gas, water, sewer, telephone/internet, and solid waste collection.

F. Front-End Ratio.

Housing costs for homeownership projects calculated as the principal, interest, taxes and insurance paid on a monthly basis by a household divided by the household's gross monthly income.

G. Household.

Household is defined as all persons living in the same household who are related or unrelated persons who reside in the same dwelling unit as their permanent residence. This does not include live-in aides and/or unrelated persons paying rent for a room.

H. Net Sales Proceeds

The amount of funds due to the seller after selling an asset, minus all costs and expenses that have been deducted from the gross proceeds.

I. Successor-in-Interest.

The household that buys the home from the most recent income qualified household selling the home. The Successor-in-Interest may or may not be income qualified.

J. Up-Front In-Lieu Fee.

The per unit in-lieu fee as described in TMC Section 1.39.080 multiplied by the additional units created.

1.39.030 Applicability.

A. The affordable housing incentives for low and moderately low-income households may be utilized within a range of zoning designations throughout the City. The incentives and bonuses offered through the provisions of this Chapter may be utilized to gain development bonuses pursuant to the provisions and ratios of the applicable provisions of Title 13 of the Tacoma Municipal Code (“TMC”), as specified in Chapters 13.06 and 13.18. Additional permitting incentives, including fee reductions and expedited City review, are also authorized through this Chapter. Finally, this Chapter lays out requirements to incorporate housing affordability.

Areas designated in TMC 13.18, Affordable Housing Inclusionary Development Areas, are subject to the requirements of Section 1.39.100 below, which modifies some of the general provisions of this Chapter.

B. At least once every three years, the City shall conduct a holistic review of implementation and outcomes of the Affordability Bonus Program in order to evaluate whether changes to requirements, incentives and/or procedures are warranted to better achieve the City’s housing goals, and the purpose of this section.

1.39.040 Program Requirements.

A. Duration of Affordability.

Affordable housing units created as a result of the provisions of this Chapter shall remain affordable for 50 years, unless an in lieu fee is paid pursuant to the requirements of this Chapter. A recorded agreement, lien and covenant running with the land, binding all the assigns, heirs and successors of the applicant shall secure the affordability requirements. The recorded covenant must provide that if the affected unit in the property is converted to a use other than for low or moderately low-income affordable housing as defined under this Chapter within the required affordability duration, the property owner must pay the applicable Affordable Housing in-lieu fees in effect at the time of conversion.

B. Affordable Housing units shall be rented or sold to income-qualified households. Maximum household income levels vary based on the zoning district where the development is proposed. These income levels were established based on an assessment of housing needs in Tacoma and are within the ranges authorized by state law. The establishment of rental levels and housing prices will be updated as needed to reflect changing household affordability needs in the community.

1. Urban Residential 1 (UR-1) and Urban Residential 2 (UR-2) Districts:

a. Tier 1 Bonus: Maximum rental household income shall be 80 percent or less; maximum ownership household income shall be 100 percent of Pierce County AMI, adjusted for household size.

b. Tier 2 Bonus: Maximum rental household income shall be 60 percent; maximum ownership household income shall be 80 percent of Pierce County AMI, adjusted for household size.

2. Urban Residential 3 (UR-3) Districts:

a. Tier 1 Bonus: Maximum rental household income shall be 70 percent; maximum ownership household income shall be 100 percent of Pierce County AMI, adjusted for household size.

b. Tier 2 Bonus: Maximum rental household income shall be 60 percent; maximum ownership household income shall be 80 percent of Pierce County AMI, adjusted for household size.

3. Other zoning districts where affordability bonuses are enacted (Downtown, Tacoma Mall, and Affordable Housing Inclusionary Development Areas): Maximum rental household income shall be 60 percent; maximum ownership household income shall be 80 percent of Pierce County AMI, adjusted for household size.

C. Maximum rent and purchase price for designated units.

1. Rental. The maximum cost of rent and essential utilities which may be charged for designated affordable units shall not exceed 30 percent of the tenant's monthly gross income.

2. Ownership. The maximum Front-End Ratio cost for purchase of for-sale units shall be 33 percent, and the maximum Back-End Ratio cost shall be 50 percent.

D. Construction of Affordable Housing Units.

If affordable housing units are constructed in phases or over a period of more than 12 months, a proportional amount of affordable housing units must be completed at or prior to the completion of related market rate housing units.

E. Size/Location/Appearance of Affordable Housing Units.

1. The affordable housing units shall be provided in a range of sizes comparable to the overall unit mix for the project. To the extent practicable, the number of bedrooms in low income units must be in the same proportion as the number of bedrooms in units throughout the entire development. Affordable housing units shall generally be distributed throughout the development and have substantially the same functionality and amenities as the market rate units in the development. The interior and exterior appearance of the affordable housing units shall be indistinguishable from the market rate housing units within the project in terms of finish materials and design vocabulary.

2. Every project using the affordability bonuses shall provide a minimum of one Type C (Visitable) housing unit per the standards of the American National Standards Institute (ANSI) section A117.1, as amended. The required Visitable unit may be either affordable or market rate. Projects meeting one of the following conditions are exempt from providing a Visitable unit:

a. Projects providing any number of Type A or Type B Accessible Dwelling units.

b. Projects where work is limited to within the footprint of existing buildings.

c. Projects where providing a compliant circulation path is demonstrated to the Building Official to be impractical due to unique site conditions.

F. Affordable Housing Incentives Program Covenant Agreement.

An application for a proposed project that incorporates any of the incentives in this Chapter shall not be deemed complete until the applicant has submitted a signed Affordable Housing Incentives Program Covenant Agreement as a component of the application package. The agreement shall include, but not be limited to:

1. The term of affordability;

2. Identification of all the development and financial incentives that the project proposes to incorporate;

3. Identification of the minimum number of affordable housing units required to be provided in the project to qualify for use of these provisions;

4. Binding language recorded on the title of the property that provides remedies for non-compliance with the requirements of any affordable housing incentives obtained through the platting or building permit process. Non-compliance remedies may include but are not limited to:

a. Payment of a prorated fee in lieu (affordability requirement on the out of compliance unit will cease). b. A one-time, or daily, or monthly penalty in the form of a fine/fee (affordability requirement on the out of compliance requirement will continue);

c. Enforcement will be subject to the process described in Title 1 Uniform Enforcement Code.

5. Affirmative marketing clause to be applicable when dwellings committed to affordability under this program are being marketed for rental or sale. The clause shall stipulate the requirement for a marketing plan that states how the units will be

marketed to prospective tenants or buyers that are least likely to hear about unit availability through traditional marketing methods.

6. A commitment to record the required low-income affordability provisions as specified in this Chapter prior to the approval of a final plat, building permit, or other development approval; and

7. Recognition of the potential need to modify the agreement if the submitted project requires alteration through the review and approval process.

G. Monitoring and Enforcement of Continued Affordability.

The Housing Division of the Community and Economic Development Department, or designee, shall monitor the continued affordability of both rental and owner-occupied housing units. The City reserves the right to establish fees for the ongoing cost of monitoring the affordable housing units. The purpose of any monitoring fee is for the review and processing of documents to maintain compliance with income and affordability restrictions of the Affordable Housing Incentives Program Covenant Agreement.

H. Resale of Affordable Homeownership Units.

Affordable Housing units provided for under this Chapter may be sold or resold to eligible low-income households or a nonprofit organization through the end of the required affordability duration. Any sale to a non-income eligible household would require the seller to forfeit the portion of net sales proceeds that is consistent with the seller's tenure of ownership relative to the in-lieu fee reduction schedule identified in the Affordable Housing Incentives Program Covenant Agreement.

1.39.050 Financial Incentives.

Financial incentives, including expedited permit processing and fee reductions, are intended to reduce the financial burden of carrying a loan through the review process and alleviate up-front financial costs to developers and builders associated with participating in this program. Financial incentives are authorized by this Chapter but are resource dependent.

A. Expedited Permit Processing.

The City will seek opportunities to expedite the review of development proposals incorporating affordable housing under the provisions of this Chapter.

B. Fee Reductions.

Permit fees applicable to development proposals which commit to incorporating affordable housing units under the provisions of this Chapter may be fully or partially paid by City funding allocated for the purpose of promoting affordable housing.

1.39.060 Development Incentives.

Development incentives are voluntary options intended to promote the incorporation of affordable housing units within private developments by offering sufficient value to offset the cost of the reduced revenue from rents or purchase prices, in order to promote a range of housing unit costs integrated within for-profit housing developments and thus promote a distribution of affordable housing throughout the neighborhoods of the City.

A. Downtown Tacoma.

Per the provisions of TMC 13.06.050.F, development proposals within Downtown zoning districts seeking to gain additional Floor Area Ratio may choose from a list of public benefit features including the provision of affordable housing pursuant to the requirements of this Chapter.

B. Mixed-use Centers.

Per the provisions of TMC 13.06.040.G District Height Bonuses, development proposals within certain mixed-use center zoning districts seeking to gain additional height may choose from a list of public benefit features, including a contribution to the City of Tacoma's Affordable Housing Trust Fund.

C. Affordable Housing Inclusionary Development Areas.

Areas designated in TMC 13.18 as Affordable Housing Inclusionary Development Areas have been granted increased development capacity at the time of their designation to offset the cost of providing affordable housing. In addition, such areas are eligible for incentives in exchange for incorporation of affordable housing, pursuant to Section 1.39.100, below.

D. Urban Residential Districts.

Per the provisions of TMC 13.06.020.F.2, areas zoned Urban Residential are eligible for two tiers of bonuses in exchange for the provision of affordable housing or payment of a fee in lieu, or for other public benefits identified in that section.

E. Residential Upzones. The grant of a change in zoning designation to a zone that allows higher development capacity increases the value of the land. This provision creates the mechanism for some of that increase in value to be allocated to the provision of affordable housing. Per TMC 13.05.030, privately-initiated upzone requests shall be conditioned to provide for the incorporation of affordable housing units per the provisions of this Chapter. City-initiated upzones shall also be evaluated for housing affordability needs and may also result in a determination that housing units shall be incorporated under the provisions of this Chapter.

1.39.070 Reserved.

1.39.080 Incorporation of Affordable Housing Units or Payment of Fee In Lieu.

To obtain the Financial and Development Incentives offered, to gain approval of a residential upzone, or to meet inclusionary housing requirements, the following provisions must be met. These include the incorporation of affordable housing units within the project or the payment of an in-lieu fee to the City to be utilized for the creation of housing affordability.

A. Incorporation of Affordable Units.

1. Downtown Tacoma.

If the affordable housing option is utilized, for every two additional market-rate dwelling units facilitated through the Floor Area Ratio increase, one affordable unit shall be included. The additional dwellings shall be calculated as the additional square footage permitted through the FAR bonus divided by the average dwelling unit size within the development.

2. Mixed-Use Centers.

Not applicable—the Height Bonus Palette does not include affordable units per the provisions of this Chapter, but does include the Multifamily Property Tax Incentive program affordable option, and contributions to the Affordable Housing Trust Fund.

3. Affordable Housing Inclusionary Development Areas. See TMC 1.39.100, below.

4. Urban Residential Districts.

a. UR-1 and UR-2 Districts: If the affordability bonus is utilized, 2 units or 20% of the total units in the project (whichever is greater) under Tier 1 and 100% of units under Tier 2 shall be affordable per the requirements of this Chapter.

b. UR-3 District: If the affordability bonus is utilized, 2 units or 20% of the total units in the project (whichever is greater) shall be affordable per the requirements of this Chapter.

5. Residential Upzones.

For every two additional market-rate dwelling units allowed through a privately initiated upzone, an additional affordable unit shall be included per the provisions of this Chapter. The additional dwellings shall be calculated as the additional square footage permitted through the FAR bonus divided by the average dwelling unit size within the development.

For density bonuses and upzones which grant additional height or Floor Area Ratio, the additional dwellings shall be calculated as the additional square footage permitted through the density bonus divided by the average dwelling unit size within the development.

B. In-lieu Fee option.

As an alternative to incorporation of affordable housing units within the development, the project proponent may choose to pay an in-lieu fee as a contribution to the City's Housing Trust Fund. This fee is based on the increased residual land value as a function of the development bonuses offered, and has been calibrated to provide a comparable affordable housing benefit to the community as compared to the incorporation of affordable housing units within the development. The fee in lieu authorized in this section does not pertain to affordability provisions enacted under Chapter 6A.110 Property Tax Exemptions for Multi-Family Housing.

1. Fee in lieu amount, as of EFFECTIVE DATE OF ADOPTING ORDINANCE and reviewed for adjustments every three years using the Consumer Price Index for All Urban Consumers, Seattle metro area, or other method adopted by the City that

incorporates market conditions. Adjustments may be made more or less frequently at the City’s discretion based on market conditions:

- a. Downtown Tacoma: \$72,000 per affordable unit.
- b. Mixed-Use Centers: \$72,000 per affordable unit.
- c. Affordable Housing Inclusionary Development Areas: \$72,000 per affordable unit.
- d. Urban Residential Districts: \$62,000 per affordable unit in UR-1 and UR-2 Districts; \$72,000 per affordable unit in UR-3.
- e. Residential Upzones. \$72,000 per affordable unit.

2. In lieu fee payment Timing.

The project proponent or subsequent property owner can choose to pay the in-lieu fee at any point during the 50-year required period of affordability.

- a. Up-front In-Lieu fee—Must be paid prior to issuance of the building permit: The per unit in-lieu fee described in B.1 above multiplied by the additional units created through the Development Bonus.
- b. Voluntary Subsequent In-Lieu fee—If paid after issuance of the Certificate of Occupancy, the in-lieu fee shall be paid as follows:

- a. Rental units.

The Up Front In-Lieu Fee is multiplied by two percent multiplied by the number of years remaining in the affordability period per the Affordable Housing Incentives Program Covenant Agreement.

- b. Homeownership units.

If the home is resold to a non-income qualified Successor-in-Interest during the period of affordability, the following formulas will be used to calculate the in lieu amount due relative to the year of affordability the home is being sold in:

- (1) Years 1-10: in-lieu fee = Net Sales Proceeds multiplied by the percentage the homes value has increased since the initial sale
- (2) Years 11-20: in-lieu fee = Net Sales Proceeds multiplied by (the percentage the home’s value has increased since the initial sale minus 2.5%)
- (3) Years 21-30: in-lieu fee = Net Sales Proceeds multiplied by (the percentage the home’s value has increased since the initial sale minus 5%)
- (4) Years 31-40: in-lieu fee = Net Sales Proceeds multiplied by (the percentage the home’s value has increased since the initial sale minus 10%)
- (5) Years 41-50: in-lieu fee = Net Sales Proceeds multiplied by (the percentage the home’s value has increased since the initial sale minus 15%)

If net sales proceeds are zero no in-lieu fee is due. When a unit is sold to an income qualifying individual, there shall be no fee due, and the affordability period will continue.

3. Use of in lieu fee funds.

Funds paid pursuant to the in-lieu fee option into the Housing Trust Fund shall be utilized by the City for the creation of housing affordability pursuant to the strategies identified through the City of Tacoma’s Consolidated Plan and other related City of Tacoma affordable housing policy documents. Up to 15 percent of the total in lieu fee may be used for administrative and staff costs for the ongoing monitoring and compliance requirements for projects utilizing affordable housing incentive programs.

1.39.090 Procedures.

A. Predevelopment Meeting.

A meeting shall be required prior to submittal of any development permit application that incorporates any of the provisions of this Chapter.

B. Affordable Housing Incentives Program Covenant Agreement.

An application for a proposed project that incorporates any of the provisions of this Chapter shall not be deemed complete until the applicant has submitted a signed Affordable Housing Incentives Program Covenant Agreement as set forth in this Chapter, as a component of the application package.

C. Development Review.

The Planning and Development Services Department shall integrate additional density or other bonuses resulting from the incorporation of affordable housing units into a development proposal under the provisions of this Chapter into their review and approvals for the proposal.

D. Required Documentation.

Prior to the final approval of any land use application or building permit that incorporates any incentives provided for within this Chapter, the owner of the property shall provide a signed and recorded Affordable Housing Incentives Program Covenant Agreement which will serve as a recorded agreement, lien and covenant running with the land, binding all the assigns, heirs and successors of the applicant to secure the affordability requirements as stated under this Chapter. The recorded Affordable Housing Incentives Program Covenant Agreement must provide that if the property is converted to a use other than for low-income affordable housing as defined under this Chapter within the required affordability duration, the property owner must pay the applicable in lieu fees in effect at the time of conversion.

1.39.100 Affordable Housing Inclusionary Development Requirements.

A. Purpose.

This section is intended to address housing needs in priority areas, to reduce involuntary displacement, to meet the City's housing choice and affordability goals, and to support the achievement of the City's Comprehensive Plan and housing policies. This section integrates and modifies the general standards of Chapter 1.39, as specified below.

B. Definitions. The definitions of Section 1.39.020 apply.

C. Applicability. This section applies to areas designated in TMC 13.18, Affordable Housing Inclusionary Development Areas.

D. Program Requirements. The Program Requirements of Section 1.39.040 apply, except as follows, regarding the number of units.

1. Number of units – 15 or more. Developments including 15 units or more shall provide a minimum of 10 percent of the total units in the development as affordable, pursuant to the provisions of this Chapter.

E. Financial Incentives. The provisions of Section 1.39.050 apply, and are modified as follows:

1. Fee reductions. In order to promote and offset the cost of creating affordable housing, developments subject to these requirements shall be eligible for permit fee reductions. The permit fee reductions shall be proportionate to the percentage of affordable units provided through the development. If the fee in-lieu approach is used, the project will not be eligible for this option. Fee reductions will be resource dependent.

F. Development Incentives.

The designation of Affordable Housing Inclusionary Development Areas is accompanied by an increase in maximum building height, maximum density, or other regulatory change that increases development capacity and creates an incentive to provide affordable housing.

G. Incorporation of Affordable Housing Units. The provisions of Section 1.39.080 apply, with the following modifications:

1. Developments subject to these provisions shall incorporate at least 10 percent affordable units, per the provisions of this Chapter.

2. As an alternative to incorporation of affordable housing units within the development, the project proponent may choose to pay an in-lieu fee as a contribution to the City's Housing Trust Fund..

H. Procedures. The provisions of Section 1.39.090 apply.