



Planning & Building Department
3675 Mt. Diablo Blvd, Suite 210
Lafayette, CA 94549
Tel. (925) 284-1976
<http://www.ci.lafayette.ca.us>

INCLUSIONARY HOUSING

Chapter 37 "Inclusionary Housing"

Sections:

- 6-3701 Purpose.
- 6-3702 Definitions.
- 6-3703 Basic Provisions.
- 6-3704 Inclusionary Percentage.
- 6-3705 Calculation of Inclusionary Units.
- 6-3706 Fractional Units.
- 6-3707 In-Lieu Fee.
- 6-3708 Segmentation.
- 6-3709 Term of affordability.
- 6-3710 Design.
- 6-3711 Timing.
- 6-3712 Alternatives.
- 6-3713 Inclusionary Housing Agreement.
- 6-3714 Allowances.
- 6-3715 Reductions, Adjustments, or Waivers.

6-3701 Purpose.

The purpose of this chapter is to facilitate the development and availability of housing affordable to a broad range of households of various income levels and sizes in Lafayette. This chapter is intended to:

- (a) Implement State policy that declares local governments have a responsibility to facilitate development to provide for the housing needs of all economic segments of the community;
- (b) Implement the Housing Element of the General Plan, which calls for the adoption of an inclusionary housing program;
- (c) Facilitate the development of affordable housing units within a project; and
- (d) Assist in the dispersal of affordable housing units throughout the downtown.

6-3702 Definitions.

In this chapter, unless the context requires otherwise:

- (a) "Affordable sales price" means a sales price that results in monthly housing costs, including mortgage (principle and interest), property taxes, utilities, property insurance and homeowner association fees, that collectively do not exceed the following:
 - (1) For a very low income household, one-twelfth of the product of 35% times 50% of the area median income adjusted for family size appropriate for the unit.
 - (2) For a low income household, one-twelfth of the product of 35% times 80% of the area median income adjusted for family size appropriate for the unit.
 - (3) For a moderate income household, one-twelfth of the product of 35% times 110% of the area median income adjusted for family size appropriate for the unit.
- (b) "Area median income" means the combined salaries, wages or other sources of income of a single household, based upon household size, for Contra Costa County as published annually by the State of California Department of Housing and Community Development.
- (c) "Downtown" means the area within the boundaries of the Downtown Specific Plan map.
- (d) "Inclusionary housing agreement" means a document that has been reviewed and approved by the Planning & Building Director that delineates the exact requirements that a developer shall meet to fulfill the requirements under this chapter.
- (e) "Inclusionary unit" means a dwelling unit that has an affordable sales price for a household at the applicable income level under the requirements of this chapter.
- (f) "Low income household" means a household whose annual income does not exceed 80% of Area Median Income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County
- (g) "Moderate income household" means a household whose annual income does not exceed 110% of Area Median Income, adjusted for household size as published by the

State of California Department of Housing and Community Development for Contra Costa County.

- (h) "Project" means a residential or mixed-use development creating a net increase of two or more for sale dwelling units. This excludes a legal second unit unless that unit is built to satisfy the requirements of this chapter.
- (i) "Very low income household" means a household whose annual income does not exceed 50% of Area Median Income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County

6-3703 Basic Provisions.

- (a) Geographic area. The provisions of this chapter apply to the Downtown.
- (b) Development size threshold. The provisions of this chapter apply to all projects creating a net increase of 2 or more for-sale residential units.

6-3704 Inclusionary Percentage.

- (a) Single-Family. For projects in the Downtown creating single family dwellings, 15% of the units must be inclusionary units sold at an affordable sales price to moderate income households.
- (b) Multi-Family. For projects in the Downtown creating multiple family dwellings, 15% of the total units must be inclusionary units, with 9% sold at an affordable sales price to low or moderate income households and 6% sold at an affordable sales price to very low income households.

6-3705 Calculation of Inclusionary Units.

- (a) To calculate the number of inclusionary units required, multiply 15% with the total number of units in the project.
- (b) When 6% and 9% are multiplied with the total units to determine the number for each respective income category and the result is less than one unit for each income category, then the total combined percentage may be affordable to low or moderate income households.
- (c) Notwithstanding (a) and (b) above, a project with 2-6 units may elect to pay the applicable in-lieu fees and is not required to build inclusionary units.
- (d) Notwithstanding (a) and (b) above, a project with 7-20 units may elect to make all of the inclusionary units affordable at moderate-income.

6-3706 Fractional Units.

If multiplying the required 15% with the total number of units results in other than a whole number, a result equal to or greater than .5 shall be rounded up to the next whole unit. An in-lieu fee shall be paid for a result less than .5.

6-3707 In-Lieu Fee.

This chapter establishes provisions under which an in-lieu fee is collected for inclusionary units. The City Council shall establish the amount based on an appropriate fee study and shall update the fee over time. The in-lieu fee requirements of this chapter shall be effective only after the City Council has adopted or updated the fee by resolution.

6-3708 Segmentation.

Segmentation of a project in order to avoid the requirements of this chapter is not permitted. Construction of proximate dwelling units within any five year period for which there is evidence of common ownership, control or interest, and whether or not covered by the same land use entitlements, shall be subject to the regulations of this chapter. However, nothing herein shall prohibit the phased development of a project, as approved by the City.

6-3709 Term of affordability.

- (a) Inclusionary units shall be restricted to the applicable income level for a period not less than 45 years.
- (b) The term of affordability resets upon sale of the unit(s).

6-3710 Design.

Inclusionary units must be dispersed throughout the project and be comparable in terms of bedroom count and exterior design to the market rate units. The inclusionary units must have access to all amenities available to the market rate units.

6-3711 Timing.

Inclusionary units must be constructed prior to or concurrently with the construction of the market rate units. The developer shall complete construction of all inclusionary units prior to final inspection of the final market rate unit. In phased developments, inclusionary units may be constructed and occupied in proportion to the number of units in each phase.

6-3712 Alternatives.

Instead of providing inclusionary units on-site to satisfy the requirements of this chapter, a developer may propose providing inclusionary units off-site. In order to approve such a proposal, the City Council must find that on-site production is infeasible or that greater public benefit will result from the units being off-site. The City Council may require the provision of two off-site units for every unit not provided on-site. All other provisions of this chapter apply, whether the units are produced on-site or off-site.

6-3713 Inclusionary Housing Agreement.

- (a) An inclusionary housing agreement between the developer and the City shall be required for any project subject to the provisions of this chapter in a form approved by the Planning & Building Director. The agreement shall be executed prior to issuance of a building permit.

- (b) The inclusionary housing agreement shall contain the following information:
 - (1) the calculations used to determine the number of inclusionary units;
 - (2) a floor plan or site plan depicting the location of the inclusionary units;
 - (3) the affordability level for each inclusionary unit;
 - (4) the term of affordability;
 - (5) a phasing plan for phased developments;
 - (6) a description and details of any requested incentives, waivers or exemptions;
 - (7) the process by which eligibility of qualified households will be reviewed and selected to purchase affordable units;
 - (8) an annual reporting schedule and requirements;
 - (9) priority to first time home buyers and/or large families; and
 - (10) additional information as requested by the Planning & Building Director.

6-3714 Allowances.

In approving an inclusionary housing agreement, the City may, at its sole discretion, include one or more of the following allowances:

- (a) Unit size reduction. The size of the required inclusionary units may be smaller than the market rate units, consistent with all other provisions herein.
- (b) Interior finishes. Inclusionary units may have different interior finishes than market rate units so long as the interior features are durable, of good quality and consistent with current State building code standards for new housing.

6-3715 Reductions, Adjustments, or Waivers.

- (a) A developer of a project subject to the requirements in this chapter may petition the City Council for a reduction, adjustment, or waiver of these requirements based upon substantial evidence showing the absence of any reasonable relationship or nexus between the impact of the development and the inclusionary requirements.
- (b) A project subject to the requirements of this chapter and which has received approval for a tentative subdivision or parcel map, use permit or other discretionary approval and submits a new or revised application for the same property may petition for a reduction, adjustment or waiver of the requirements with respect to the number of lots or square footage of construction previously approved.
- (c) Any such petition shall be made in writing and filed with the Planning & Building Department, along with the required fee established by City Council resolution, not later than ten days before the first public hearing on any discretionary approval or permit for the development, or if no such discretionary approval or permit is required, or if the developer is protesting an action taken pursuant to this ordinance after the first public hearing on such permit or approval, then the petition shall be filed within ten days after the date of the action objected to by the developer. The petition shall set forth in detail the factual and legal basis for the

claim of waiver, reduction, or adjustment.

- (d) The City Council shall consider the petition at the public hearing on the permit application or at a separate hearing within sixty days after the filing of the petition, the appellant shall bear the burden of presenting substantial evidence to support the petition including comparable technical information to support petitioner's position.
- (e) No waiver shall be granted by the City Council for a new project where a prior project was approved within the last three years unless the City Council finds that:
 - (1) The new project is superior to the approved project both in its design and its mitigation of environmental impacts, or.
 - (2) Adequate affordable housing already exists in that the aggregate of new or substantially rehabilitated dwelling units within the downtown makes available more than 15 percent of such units at affordable housing cost to, and occupied by, persons and families of low and moderate income, and of such 15 percent, not less than 40 percent thereof is available at affordable housing cost to, and occupied by, very low income households, or
 - (3) Exceptions to the affordable housing requirements will result in a better project that better meets the City's housing goals.
- (f) The decision of the City Council shall be final. If a reduction, adjustment, or waiver is granted, any change in the project shall invalidate the waiver, adjustment, or inclusionary requirements unless such change is approved by the City in advance.



Calculation Worksheet for Inclusionary Units
Recommended by staff for CC 2016-05-23

| Total Units | MR (85%) | BMR (15%) | MR + BMR | VLI (6%) | LI/Mod (9%) | TOTAL | Breakdown |
|-------------|----------|-----------|----------|----------|-------------|-------|--------------------------------------------|
| 1 | 0.85 | 0.15 | 1.00 | 0.06 | 0.09 | 0.15 | Ordinance N/A |
| 2 | 1.70 | 0.30 | 2.00 | 0.12 | 0.18 | 0.30 | In-lieu only |
| 3 | 2.55 | 0.45 | 3.00 | 0.18 | 0.27 | 0.45 | In-lieu only |
| 4 | 3.40 | 0.60 | 4.00 | 0.24 | 0.36 | 0.60 | 1 LI/MOD In-lieu only |
| 5 | 4.25 | 0.75 | 5.00 | 0.30 | 0.45 | 0.75 | 1 LI/MOD In-lieu only |
| 6 | 5.10 | 0.90 | 6.00 | 0.36 | 0.54 | 0.90 | 1 LI/MOD In-lieu only |
| 7 | 5.95 | 1.05 | 7.00 | 0.42 | 0.63 | 1.05 | 1 LI/MOD |
| 8 | 6.80 | 1.20 | 8.00 | 0.48 | 0.72 | 1.20 | 1 LI/MOD |
| 9 | 7.65 | 1.35 | 9.00 | 0.54 | 0.81 | 1.35 | 1 LI/MOD |
| 10 | 8.50 | 1.50 | 10.00 | 0.60 | 0.90 | 1.50 | 1 VLI, 1 2 LI/MOD |
| 11 | 9.35 | 1.65 | 11.00 | 0.66 | 0.99 | 1.65 | 1 VLI, 1 2 LI/MOD |
| 12 | 10.20 | 1.80 | 12.00 | 0.72 | 1.08 | 1.80 | 1 VLI, 1 2 LI/MOD |
| 13 | 11.05 | 1.95 | 13.00 | 0.78 | 1.17 | 1.95 | 1 VLI, 1 2 LI/MOD |
| 14 | 11.90 | 2.10 | 14.00 | 0.84 | 1.26 | 2.10 | 1 VLI, 1 2 LI/MOD, 0.10 in-lieu |
| 15 | 12.75 | 2.25 | 15.00 | 0.90 | 1.35 | 2.25 | 1 VLI, 1 2 LI/MOD, 0.25 in-lieu |
| 16 | 13.60 | 2.40 | 16.00 | 0.96 | 1.44 | 2.40 | 1 VLI, 1 2 LI/MOD, 0.40 in-lieu |
| 17 | 14.45 | 2.55 | 17.00 | 1.02 | 1.53 | 2.55 | 1 VLI, 2 3 LI/MOD |
| 18 | 15.30 | 2.70 | 18.00 | 1.08 | 1.62 | 2.70 | 1 VLI, 2 3 LI/MOD |
| 19 | 16.15 | 2.85 | 19.00 | 1.14 | 1.71 | 2.85 | 1 VLI, 2 3 LI/MOD |
| 20 | 17.00 | 3.00 | 20.00 | 1.20 | 1.80 | 3.00 | 1 VLI, 2 3 LI/MOD |
| 21 | 17.85 | 3.15 | 21.00 | 1.26 | 1.89 | 3.15 | 1 VLI, 2 LI/MOD, 0.15 in-lieu |
| 22 | 18.70 | 3.30 | 22.00 | 1.32 | 1.98 | 3.30 | 1 VLI, 2 LI/MOD, 0.30 in-lieu |
| 23 | 19.55 | 3.45 | 23.00 | 1.38 | 2.07 | 3.45 | 1 VLI, 2 LI/MOD, 0.45 in-lieu |
| 24 | 20.40 | 3.60 | 24.00 | 1.44 | 2.16 | 3.60 | 1 VLI, 3 LI/MOD |
| 25 | 21.25 | 3.75 | 25.00 | 1.50 | 2.25 | 3.75 | 2 VLI, 2 LI/MOD |
| 26 | 22.10 | 3.90 | 26.00 | 1.56 | 2.34 | 3.90 | 2 VLI, 2 LI/MOD |
| 27 | 22.95 | 4.05 | 27.00 | 1.62 | 2.43 | 4.05 | 2 VLI, 2 LI/MOD |
| 28 | 23.80 | 4.20 | 28.00 | 1.68 | 2.52 | 4.20 | 2 VLI, 2 LI/MOD, 0.20 in-lieu |
| 29 | 24.65 | 4.35 | 29.00 | 1.74 | 2.61 | 4.35 | 2 VLI, 2 LI/MOD, 0.35 in-lieu |
| 30 | 25.50 | 4.50 | 30.00 | 1.80 | 2.70 | 4.50 | 2 VLI, 3 LI/MOD |
| 31 | 26.35 | 4.65 | 31.00 | 1.86 | 2.79 | 4.65 | 2 VLI, 3 LI/MOD |
| 32 | 27.20 | 4.80 | 32.00 | 1.92 | 2.88 | 4.80 | 2 VLI, 3 LI/MOD |
| 33 | 28.05 | 4.95 | 33.00 | 1.98 | 2.97 | 4.95 | 2 VLI, 3 LI/MOD |
| 34 | 28.90 | 5.10 | 34.00 | 2.04 | 3.06 | 5.10 | 2 VLI, 3 LI/MOD, 0.10 in-lieu |
| 35 | 29.75 | 5.25 | 35.00 | 2.10 | 3.15 | 5.25 | 2 VLI, 3 LI/MOD, 0.25 in-lieu |
| 36 | 30.60 | 5.40 | 36.00 | 2.16 | 3.24 | 5.40 | 2 VLI, 3 LI/MOD, 0.40 in-lieu |
| 37 | 31.45 | 5.55 | 37.00 | 2.22 | 3.33 | 5.55 | 2 VLI, 4 LI/MOD |
| 38 | 32.30 | 5.70 | 38.00 | 2.28 | 3.42 | 5.70 | 2 VLI, 4 LI/MOD |
| 39 | 33.15 | 5.85 | 39.00 | 2.34 | 3.51 | 5.85 | 2 VLI, 4 LI/MOD |
| 40 | 34.00 | 6.00 | 40.00 | 2.40 | 3.60 | 6.00 | 2 VLI, 4 LI/MOD |

Calculation Worksheet for Inclusionary Units
 Recommended by staff for CC 2016-05-23

| Total Units | MR (85%) | BMR (15%) | MR + BMR | VLI (6%) | LI/Mod (9%) | TOTAL | Breakdown |
|-------------|----------|-----------|----------|----------|-------------|-------|-------------------------------|
| 41 | 34.85 | 6.15 | 41.00 | 2.46 | 3.69 | 6.15 | 2 VLI, 4 LI/MOD, 0.15 in-lieu |
| 42 | 35.70 | 6.30 | 42.00 | 2.52 | 3.78 | 6.30 | 2 VLI, 4 LI/MOD, 0.30 in-lieu |
| 43 | 36.55 | 6.45 | 43.00 | 2.58 | 3.87 | 6.45 | 2 VLI, 4 LI/MOD, 0.45 in-lieu |
| 44 | 37.40 | 6.60 | 44.00 | 2.64 | 3.96 | 6.60 | 3 VLI, 4 LI/MOD |
| 45 | 38.25 | 6.75 | 45.00 | 2.70 | 4.05 | 6.75 | 3 VLI, 4 LI/MOD |
| 46 | 39.10 | 6.90 | 46.00 | 2.76 | 4.14 | 6.90 | 3 VLI, 4 LI/MOD |
| 47 | 39.95 | 7.05 | 47.00 | 2.82 | 4.23 | 7.05 | 3 VLI, 4 LI/MOD, 0.05 in-lieu |
| 48 | 40.80 | 7.20 | 48.00 | 2.88 | 4.32 | 7.20 | 3 VLI, 4 LI/MOD, 0.20 in-lieu |
| 49 | 41.65 | 7.35 | 49.00 | 2.94 | 4.41 | 7.35 | 3 VLI, 4 LI/MOD, 0.35 in-lieu |
| 50 | 42.50 | 7.50 | 50.00 | 3.00 | 4.50 | 7.50 | 3 VLI, 5 LI/MOD |
| etc. | | | | | | | |

Prepared by Greg Wolff
 Asst. Planning Director
 2/22/2016