

**ORDINANCE NO. 2337**

**BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL AMENDING CHAPTER 21.24 (INCLUSIONARY HOUSING ORDINANCE) AND CHAPTER 21.14 (OVERLAY/COMBINING DISTRICTS) OF THE CAMPBELL MUNICIPAL CODE TO FACILITY APPROVAL OF HOUSING DEVELOPMENT PROJECTS AND TO CLARIFY RELATED REGULATORY REQUIREMENTS. FILE NO. PLN-2025-135.**

**WHEREAS**, after notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

**WHEREAS**, the subject ordinance will amend Chapter 21.24 (Inclusionary Housing Ordinance) and Chapter 21.14 (Overlay/Combining Districts) of the Campbell Municipal Code and Chapter 21.14 (Overlay/Combining Districts) to facilitate approval of housing development projects and to clarify related regulatory requirements.

**WHEREAS**, housing prices and rents in the City of Campbell have increased at a significantly higher rate than general wages. The lack of affordable housing in Campbell forces many residents to pay a very high percentage of their income for housing or to commute considerable distances, adding to air pollution and traffic congestion in Campbell and throughout Santa Clara County. The lack of affordable housing has made it more difficult to recruit workers from out of the area, in general, especially workers in lower-paying jobs, potentially affecting the economic vitality of the Campbell. New housing developments do not, to any appreciable extent, provide housing affordable to lower income households. As a result, there is a severe shortage of lower income housing as evidenced by the following:

- a. According to the 2023-2031 Final Regional Housing Needs Allocation (RHNA) Plan for the San Francisco Bay Area, prepared by the Association of Bay Area Governments (ABAG), over half (56%) of the City's housing need is for very-low, low, and moderate-income households.
- b. According to the U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019) 44.6% of renters, and 27.4% of homeowners, in Campbell are cost burdened, spending more than 30% of their income on housing.

**WHEREAS**, the proposed amendments to Chapter 21.24 (Inclusionary Housing Ordinance) of the Campbell Municipal Code include additional findings in Section 21.24.010 (Purpose and findings.) which are included herein by reference.

**WHEREAS**, the proposed amendments would be consistent with the 2040 General Plan and 2023-2031 Housing Element of the City of Campbell including, but not limited to, the following:

## 2040 General Plan

*Goal LU-3: Employ creative approaches to providing a range of affordable housing options in Campbell while protecting the character of established neighborhoods.*

*LU-3.a: Implement the programs in the Housing Element in order to achieve the city's housing goals.*

## 2023-2031 Housing Element

*Program H-1a: Inclusionary Housing Ordinance Implementation: Amend the Inclusionary Housing Ordinance to offer developers a menu of options for achieving affordability, adjusting the percentage of units required to be affordable depending on the degree of affordability achieved (i.e., moderate-, low-, very low-, and extremely low income). These amendments could also include:*

- Initiating a nexus study to reevaluate increasing the affordable housing in-lieu fee.*
- Updating the inclusionary ordinance to require for-sale projects to provide the same allocation of units available to lower-income and very low-income units that is required for rental projects.”*
- Modifying the In-Lieu Fee threshold to apply only to developments of 5-9 units. Housing developments of 10 or more units would not be allowed to substitute affordable units with in-lieu fees.*

**WHEREAS**, the legislature of the State of California has, in Government Code Sections 65302, 65560 and 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

**WHEREAS**, the review and adoption of the proposed amendments is done in compliance with California Government Code Sections 65853 through 65857, which require a duly noticed public hearing of the Planning Commission whereby the Planning Commission shall provide its written recommendation to the City Council for its consideration.

**WHEREAS**, adoption of the proposed Ordinance is considered a "project" under Section 15378(a)(1) of the California Environmental Quality Act (CEQA).

**WHEREAS**, the proposed Ordinance may be found exempt from environmental review under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) in that there is no possibility that the proposed changes to the City's Municipal Code may have a significant effect on the environment.

**WHEREAS**, the legislature of the State of California has, in Government Code Sections 65302, 65560 and 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

**WHEREAS**, the proposed amendments will not be detrimental to the public interest, health, safety, convenience, or general welfare of the city.

**WHEREAS**, the proposed amendments are internally consistent with other applicable provisions of the Campbell Municipal Code and Zoning Code.

**WHEREAS**, in consideration of the adoption of the subject Ordinance, the City Council provided due consideration of all evidence presented and provided in the entire administrative record.

**THEREFORE**, the City Council of the City of Campbell does ordain as follows:

**Section 1.** Chapter 21.24 (Inclusionary Housing Ordinance) of the Campbell Municipal Code is hereby amended to read as set forth in **Exhibit A** with underlining (underlining) indicating new text and strikeouts (~~strikeouts~~) indicating deleted text.

**Section 2.** Section 21.14.070.C.4. (Mixed-use development.) of the Campbell Municipal Code is hereby amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

4. Mixed-use development. Where the City's adopted Form-Based Zone Map designates a "Tier 1" ground-floor non-residential requirement, the project must adhere to all corresponding regulations outlined in the adopted Multi-Family Development and Design Standards, established in accordance with Campbell Municipal Code Section 21.07.030 (Multi-Family Development and Design Standards Document and Form-Based Zone Map adopted). This eligibility standard shall not apply to housing development projects that meet the criteria of Government Code Section 65915(b)(1)(G) and are located outside of the "Downtown Development Plan" boundary depicted on General Plan Figure LU-2 (Special Planning Areas); and

**Section 3.** Section 21.14.070.D.1. (Increased density bonus.) of the Campbell Municipal Code is hereby amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

1. Increased density bonus. The following density bonuses shall be offered to projects which provide a greater percentage of very-low, low-, or moderate-income housing units, by category, than otherwise required by State Density Bonus Law but less than required to qualify for an additional density bonus under state law. In no case shall the combination of the density granted under this Section and any other law result in a total density bonus that is greater than seventy percent, except for bonus unit granted for providing small-scale housing units in accordance with Campbell Municipal Code Section 21.20.060.B.3. (Density bonus for providing small-scale housing units). Further, density bonuses provided for by this Section may not be combined across income categories and shall be calculated consistent with Campbell Municipal Code Section 21.20.050.A (Number of units) excepting that for Step 2 - the corresponding percentage density bonus shall be calculated based on the values indicated in the tables below.

**Section 4.** Section 21.14.070.D.3. (Extended permit approval.) of the Campbell Municipal Code is hereby amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

3. Extended permit approval. Projects qualifying for an increased density bonus of any amount, in accordance with CMC Section 21.14.070.D.1., shall be granted a three~~five~~-year permit approval for the first approval of all land use entitlements permits. The permit approval period of post-entitlement permits, such as building permits, and/or land use entitlements granting subsequent extensions of approval, and/or modifications to the first land use approval, shall not be extended as an incentive of this Section.

**Section 5.** If any section, sentence, clause, phrase, word, or other provision of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Ordinance, or the validity of this Ordinance, shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

**Section 6.** The proposed Ordinance is exempt under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) as there is no possibility that the proposed changes to the City's Municipal Code may have a significant effect on the environment.

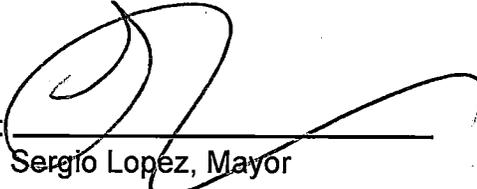
**Section 7.** The City Council further finds and determines that the proposed Ordinance is consistent with the goals, policies, and actions of the 2040 General Plan and the 2023-2031 Housing Element.

**Section 8.** That this Ordinance shall become effective thirty (30) days following its passage and adoption and shall be published, or summary thereof, one time within fifteen (15) days upon passage and adoption in the Metro Silicon Valley, a newspaper of general circulation for the City of Campbell, County of Santa Clara.

PASSED AND ADOPTED this 2nd day of December, 2025, by the following roll call vote:

AYES: Councilmembers: Bybee, Hines, Scozzola, Furtado, Lopez  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None  
ABSTAIN: Councilmembers: None

APPROVED: \_\_\_\_\_

  
Sergio Lopez, Mayor

ATTEST: \_\_\_\_\_

  
Andrea Sanders, City Clerk

## Chapter 21.24 INCLUSIONARY HOUSING ORDINANCE<sup>1</sup>

### 21.24.010 Purpose and findings.

- A. The purpose of this Chapter is to enhance the public welfare by establishing policies which facilitate the availability of housing affordable to a broad range of households with varying income levels within the City of Campbell, meet the City's regional share of housing needs, and implement the goals and objectives of the General Plan and Housing Element.
- B. The City Council desires to encourage the development of inclusionary units to be located upon the same site as market rate residential development to provide for integration of lower income households with households in market rate neighborhoods and to disperse Inclusionary Units throughout the City where new residential development occurs.
- C. The City's Housing Element recognizes that affordable housing is a critical component to the City's economic and social health. Establishing policies which facilitate the availability of housing affordable to a broad range of households with varying income levels within the City of Campbell is consistent with and will implement the City's Housing goals, policies, and programs for Affordable Housing which include, but are not limited to, the following:
  - 1. Goal 1: Improve Housing Affordability in Campbell - Encourage the Production of Affordable Housing; and
  - 2. Program H-1a (Inclusionary Housing Ordinance Implementation).
- D. Providing affordable housing for new employees in lower income jobs locally (rather than leaving those employees to obtain housing in lower cost areas far from Campbell employment centers and transit corridors) helps minimize housing's contribution to greenhouse gas emissions and locating housing to reduce vehicle miles traveled and auto dependency. If the increased demand for affordable housing is not addressed within Campbell it will cause such housing to be built elsewhere, in areas with lower land values that are far from city employment centers and transit corridors, and the resulting commuting will cause increased traffic and transit demands and consequent noise and air pollution.
- E. If the increased demand for affordable housing is not addressed within Campbell it may also impact economic growth in that businesses within the city may find it more difficult to attract and retain the variety of workers that they need.

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<sup>1</sup>Ord. No. 2318, § 1(Exh. A), adopted Sep. 3, 2024, repealed the former Ch. 21.24, §§ 21.24.010—21.24.100, and enacted a new Ch. 21.24 as set out herein. The former Ch. 21.24 pertained to similar subject matter and derived from Ord. 2074, Att. 3 (part), adopted 2006; Ord. No. 2206, § 14, adopted Aug. 2, 2016; Ord. No. 2252, § 20, adopted Nov. 19, 2019; Ord. No. 2293, § 1(Exh. B), adopted May 2, 2023.

- F. Establishing policies which facilitate the availability of housing affordable to a broad range of households with varying income levels also implements policies of the State of California to: (1) provide sufficient capacity for new housing affordable at all income levels necessary to accommodate the State's future economic growth; and (2) by providing housing for lower income workers, long commutes from less expensive housing markets can be avoided and thus contribute to the implementing the Global Warming Solutions Act of 2006 and the Sustainable Communities and Climate Protection Act of 2008.
- G. State housing policy requires the City to assist in the development of adequate housing to meet the needs of lower income households. There is a significant shortage of housing affordable to lower income households, which will only increase as the finite number of residentially zoned parcels within the city are purchased and developed for market rate residential developments. This loss of residential land available for affordable housing is another impact of market rate residential development.
- H. The requirements of this Chapter are based on a number of factors including, but not limited to, the City's long-standing commitment to economic diversity; the serious need for affordable housing as reflected in local and State housing laws, regulations, and policies; the demand for affordable housing created by the development of market rate housing; and the impact that the lack of affordable housing production has on the health, safety, and welfare of the City's residents including its impacts on traffic, transit and related air quality impacts, and the demands placed on the regional transportation infrastructure. Establishing policies which facilitate the availability of housing affordable to a broad range of households with varying income levels that are reasonably related to the burdens created by new market-rate development on the City's need for affordable housing will contribute to addressing impacts and fulfilling goals of the City and State of California.
- I. The City also desires to provide the residential development community with alternatives to construction of the inclusionary units on the same site as the market rate residential development. Therefore, Section 21.24.070 (Alternatives) includes a menu of options from which an applicant may elect, in lieu of building affordable units within a residential project. Nothing in this Chapter shall deem or be used to deem the compliance options in Section 21.24.070 (Alternatives), including, but not limited to, the in lieu housing fee authorized pursuant to Section 21.24.70.C., as an ad hoc exaction, as a mandated fee required as a condition to developing property, or as a fee subject to the analysis in Building Industry Association of Central California v. City of Patterson (5th Dist. 2009) 171 Cal. App. 4th 886.
- J. The City has prepared a Nexus Study which shows that there is a reasonable relationship between the purpose for which the in-lieu housing fees established by this Chapter are to be used and the type of development projects on which the fees are imposed, and between the need for affordable housing and market-rate development and between the amount of the fees and the cost of the affordable housing units or portion of the units attributable to the development on which the fees are imposed. The Nexus Study complies with the requirements of California

Government Code section 66001(A)(4) by establishing the reasonable relationship between the need for affordable housing and the development of market-rate housing.

- K. It is the intent of the City that the in-lieu housing fee established by this Chapter shall be supplementary to any conditions imposed upon a market-rate housing project pursuant to other provisions of the Municipal Code, the Subdivision Map Act, the California Environmental Quality Act, and other State and local laws, which may authorize the imposition of project specific conditions on development.
- L. High housing costs relative to income can contribute to overcrowding which has been found to contribute to impacts to public health, safety, and welfare according to the U.S. Department of Housing and Urban Development's 2007 report on "Measuring Overcrowding in Housing" and the Center for Disease Control's 2020 publication on "Health Effects of Housing."
- M. The requirements of this Chapter are adopted pursuant to the City's police power authority to protect the public health, safety, and welfare. The requirements of this section are consistent with Housing Element goals related to protecting the public welfare by fostering an adequate supply of housing for persons at all economic levels and maintaining both economic diversity and geographically dispersed affordable housing.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

#### **21.24.020 Applicability.**

This chapter shall not apply to rental projects or for-sale projects that are developed in accordance with, and subject to, a recorded governmental agency deed restriction or regulatory agreement that imposes affordable rent, occupancy, and eligibility restrictions or affordable ownership cost and sale price restrictions with associated eligibility and occupancy restrictions on all residential units in the development, except for manager's units. Such deed restriction or regulatory agreement must be recorded against the property, be binding on successors in interest for at least the same duration as required by this chapter, and be executed by the property owner and any of the following entities or agencies: the City of Campbell, the County of Santa Clara, the California Tax Credit Allocation Committee, the issuer of tax-exempt bonds used to finance the residential development, the California Department of Housing and Community Development or any other State of California agency, and the U.S. Department of Housing and Urban Development or any other federal agency.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

#### **21.24.030 Definitions.**

As used in this chapter, the following terms shall have the meanings set forth below:

"Appliances" means refrigerators, stovetops, ranges, microwaves, air conditioners, furnaces, heat pumps, electric vehicle chargers, whole house fans, and battery storage systems.

"Affordable ownership cost" means average monthly housing costs during the first calendar year of a household's occupancy, as determined by the city, including mortgage payments, loan insurance fees, if any, property taxes, reasonable allowances for utilities and property maintenance and repairs, homeowners insurance and homeowners association dues, if any, that is affordable to a low- or moderate-income household, or at even lower levels of affordability, adjusted for household size.

"Affordable rent" means monthly rent, including utilities and all fees for housing services, which do not exceed thirty percent of the gross monthly income adjusted for household size.

"Affordable unit(s)" means one or more living units which are required under this chapter to be rented at affordable rents or available at an affordable housing cost to specified households.

"Applicant" means a person or entity who applies for a residential project and, if the applicant does not own the property on which the residential project is proposed, also means the owner or owners of the property.

"Area median income" means area median income for Santa Clara County as published pursuant to California Code of Regulations, Title 25, Section 6932 (or its successor provision).

"Construction cost index" means the California Construction Cost Index (CCCI) published by the California Department of General Services, Real Estate Service Division. If that index ceases to exist, the community development director shall substitute another construction cost index which in his or her judgment is as nearly equivalent to the original index as possible.

"Common ownership" means real property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent (10%) or more of the interest in the real property."

"Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

"Eligible household" means a household whose household income does not exceed the maximum specified in Section 21.24.040 (General requirements.) of this chapter for a given affordable unit.

"Evidence of common ownership" includes, but is not limited to, a contract, covenant, easement, lease, license, or similar document that either:

(a) vests majority control over the management, use, development, or transfer of an interest in one or more contiguous lots in Common Ownership that have majority control

over the management, use, development, or transfer of an interest in another contiguous lot; or

(b) aligns the management, use, development, or transfer of an interest in one or more contiguous lots with the management, use, development, or transfer of an interest in another contiguous lot all in Common Ownership, or makes the management, use, development, or transfer of an interest in one or more contiguous lots dependent on the management, use, development, or transfer of an interest in another contiguous lot all in Common Ownership.

Exception: Notwithstanding the foregoing, lots shall not be deemed to be in common ownership where the property owner(s) submit a sworn affidavit, in a form acceptable to and approved by the City Attorney, demonstrating to the City's satisfaction that the lots are not subject to common ownership or control as otherwise defined by this section.

"Extremely low-income household" means a household whose household income does not exceed thirty percent of the area median income in Santa Clara County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.

"Fee Satisfied Affordable Unit Obligation" means any affordable housing unit obligation to be satisfied by payment of an in-lieu housing fee in accordance with Campbell Municipal Code Section 21.24.070.C. (In-Lieu Fee) before application of the requirement to construct the next higher whole number of affordable units.

"First approval" means the first of the following approvals to occur with respect to a residential project: building permit, tentative parcel map, tentative subdivision map, conditional use permit, site and architectural review permit, or other discretionary city land use approval.

"For-sale project" means a residential project, or portion thereof, which is intended to be sold to owner-occupants upon completion.

"Household income" means the combined adjusted gross income for all adult persons living in a living unit as calculated for the purpose of the Section 8 Program under the United States Housing Act of 1937, as amended, or its successor.

"Initial Affordable Unit Obligation " means the total calculated affordable housing unit obligation of a residential project as required by Section 21.24.040 (General requirements.) before application of the requirement to construct the next higher whole number of affordable units.

"Inclusionary housing agreement" means an agreement between the city and an applicant, governing how the applicant shall comply with this chapter.

"Livable area" means the total square footage of the interior of all dwelling units within a residential development that a tenant can occupy and use as measured from the interior face of the exterior walls. This area specifically includes all living spaces, kitchens and bathrooms, and usable closet and storage spaces within a dwelling unit. This definition specifically excludes common areas such as hallways, elevators, stairwells, mailrooms, multi-use rooms, indoor pool rooms, mechanical rooms, lobbies,

parking areas, and areas shared with a non-residential use in a mixed-use development.

"Living unit" means one or more rooms designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and bathroom facilities. For the purposes of this Chapter, Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) shall not count as living units.

"Lower-income" means a household whose household income is less than eighty percent of the area median income in Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development.

"Low-income household" means a household whose household income is greater than fifty percent and does not exceed eighty percent of the area median income in Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50079.5 of the California Health and Safety Code.

"Manager's unit" means a housing unit within a rental housing development that is designated for occupancy by a property manager or on-site staff responsible for the management and maintenance of the property.

"Market rate unit" means a housing unit or the legal lot for such unit offered on the open market at the prevailing market rate for purchase or rental.

"Ministerial project" means a project for which the governmental agency's action involves only the application of fixed, objective standards or criteria, without personal judgement or discretion. Ministerial projects do not require discretionary approval by a public agency.

"Moderate-income household" means a household whose household income is greater than eighty percent and does not exceed one hundred twenty percent of the area median income in Santa Clara County, as published and periodically updated by the California Department of Housing and Community Development pursuant to Section 50093 of the California Health and Safety Code.

"Nexus Study" means the fee study entitled: "Affordable Housing Nexus Study" prepared by BAE Urban Economics, dated July 15, 2024, approved by the City Council on August 20, 2024, and on file with the City Clerk.

"Rental project" means a residential project, or portion thereof, which is intended to be rented to tenants upon completion.

~~"Residential project" has two distinct meanings depending on the date of application submittal as follows:~~

~~1. For a residential project submitted less than one year after the effective date of this Chapter, "Residential project" means, any parcel map, subdivision map, conditional use permit, site and architectural review permit, building permit, or other city approval, which authorizes ten or more living units or residential lots, or living units and residential lots with ten or more in combination., exclusive of any proposed accessory dwelling units. In order to prevent evasion of the provisions of this chapter, contemporaneous construction of ten or more living units on a lot, or on contiguous lots for which there is~~

~~evidence of common ownership or control, even though not covered by the same city land use approval, shall also be considered a residential project. Construction shall be considered contemporaneous for all units which do not have completed final inspections for occupancy and which have outstanding, at any one time, any one or more of the following: parcel map, subdivision map, or other discretionary city land use approvals, or building permits, or applications for such an approval or permits.~~

~~2. For a residential project submitted one year or more after of the effective date of this Chapter, "Residential project" means, any parcel map, subdivision map, conditional use permit, site and architectural review permit, building permit, or other city approval, which authorizes five or more living units or residential lots, or living units and residential lots with five or more in combination, exclusive of any proposed accessory dwelling units. In order to prevent evasion of the provisions of this chapter, contemporaneous construction of five or more living units on a lot, or on contiguous lots for which there is evidence of common ownership or control, even though not covered by the same city land use approval, shall also be considered a residential project. Construction shall be considered contemporaneous for all units which do not have completed final inspections for occupancy and which have outstanding, at any one time, any one or more of the following: parcel map, subdivision map, or other discretionary city land use approvals, or building permits, or applications for such an approval or permits.~~

~~3. "Very low-income household" means a household whose household income is greater than thirty percent and does not exceed fifty percent of the area median income in Santa Clara County, as published and periodically updated by the State Department of Housing and Community Development pursuant to Section 50105 of the California Health and Safety Code.~~

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

#### **21.24.040 General requirements.**

- A. Percentage requirement. At least fifteen percent of all living units, excluding any density bonus units and accessory dwelling units, in a residential project shall be made available at affordable rents or affordable ownership cost as prescribed in this section and shall be approved and completed not later than the times prescribed in Section 21.24.050 (Time performance.), unless an alternative mode of compliance is approved as set forth in Section 21.24.070 (Alternatives.), of this chapter. When the percentage requirement results in a fraction of units, the owner of the property shall ~~round fractional units as follows:~~
- ~~1. For a residential project submitted less than one year after the effective date of this Chapter, the property owner shall construct the next higher whole number of affordable units where the fraction is 0.5 or greater and shall construct the next lower whole number of affordable units where the fraction of units is less than 0.5.~~
  - ~~2. For a residential project submitted one year or more after the effective date of this Chapter, for any fractions of units in residential projects the owner of the property shall construct the next higher whole number of affordable units.~~

- B. Provision of affordable units. Where affordable and market rate units are provided in a residential project, the affordable units, irrespective of income level, shall be indistinguishable, in terms of building materials, architectural features, lighting fixtures, type and number of appliances, and landscaping areas from other residential units in the residential project. Further, affordable units, irrespective of income level, shall have the same access to parking facilities, project amenities, and recreational areas as other residential units in the residential project.
- C. Location and distribution of affordable units. Where affordable and market rate units are provided in a residential project, the affordable units shall be distributed proportionally to the total units in the residential project, inclusive of any density bonus units, in terms of their assignment to rental and ownership units, and their placement in buildings, floors, and model types (accounting for floor plans, bedroom count, and unit sizes) where different buildings, floors, or model types are present in the residential project.
- D. For-sale projects. Affordable units which are constructed in for-sale projects for owner-occupancy shall be sold at affordable ownership cost to low-income households and moderate-income households. Of these affordable units in for-sale projects, forty percent of the required fifteen percent, or six percent of the total units in the residential project, shall be offered at affordable ownership costs exclusively to low-income households, provided that where this requirement for low-income units would result in a fraction of a low-income unit, the number of low-income units shall be rounded up and the number of moderate-income units which need not be low-income units shall be rounded down. For determining compliance with the affordability requirements of this section, units provided at even lower income levels than those specified shall be found to satisfy the requirement. The sale price of units shall be based on the methodology established by, and on file with, the Community Development Department consistent with the requirements of this Chapter.
- E. Rental projects. The affordable units which are constructed in rental projects shall be offered for rent at affordable rents to low-income households and very low-income households. Of these affordable units in rental projects, forty percent of the required fifteen percent, or six percent of the total units in the residential project, shall be offered at affordable rents exclusively to very low-income households, provided that where this requirement for very low-income units would result in a fraction of a very low-income unit, the number of very low-income units shall be rounded up and the number of low-income units which need not be very low-income units shall be rounded down. For determining compliance with the affordability requirements of this section, units provided at even lower income levels than those specified shall be found to satisfy the requirement. The rental rates of units shall be based on the methodology established by, and on file with, the Community Development Department consistent with the requirements of this Chapter.
- F. Priority for rental or purchase of units. Preference in the rental or purchase of affordable units shall be given, first to income eligible lower income households of protected units displaced by demolition for any required replacement units as

provided for by Section 66300.6 of the California Government Code, second (for up to ten percent of all affordable units subject to this chapter) to income eligible employees of the City of Campbell, third to income eligible existing Campbell residents, and fourth to income eligible persons employed within the city limits of the City of Campbell.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

**21.24.050 Time performance.**

- A. Application requirements. An application for first approval of a residential project will not be deemed complete until the applicant has submitted plans and proposals which demonstrate the manner in which the applicant proposes to meet the requirements of this chapter, including any plans for the construction of on-site units pursuant to Section 21.24.040 (General requirements.) of this chapter or the applicant's selection of an alternative mode of compliance pursuant to Section 21.24.070 (Alternatives.) of this chapter.
- B. Conditions. Conditions to carry out the purposes of this chapter shall be imposed on the first approval for a residential project. Additional conditions may be imposed on later city approvals or actions, including without limitation tentative parcel maps, tentative subdivision maps, conditional use permits, housing development permits, site and architectural review permits, or building permits. The conditions of approval included with the first approval of the residential project shall further provide that prior to the recordation of the parcel map or final map in the case of subdivisions and or prior to the issuance of building permits in the case of all other land use permits to which this chapter applies, the applicant shall enter into an inclusionary housing agreement acceptable to the community development director that contains specific requirements implementing the condition of approval including, but not limited to, as applicable, the number of affordable units, the level(s) of affordability, location and type of affordable units, timing of construction of affordable units in relation to the construction of the market rate units contained in the development, preferences given in selecting occupants, and amount of the in-lieu fee, if any. The inclusionary housing agreement may be amended by the parties, provided the amendment is consistent with the condition of approval imposed as part of the first approval and the then-existing city approvals. If such proposed amendment is minor or technical in nature, the community development director shall have authority to approve or disapprove the amendment on behalf of the city. If such proposed amendment makes a substantive or material change to the inclusionary housing agreement, such amendment shall be effective only if, following notice and hearing and such other procedures as may be required by law, approved by the city agency that gave the first approval on the project.
- C. No building permit shall be issued for any market rate unit until the applicant has obtained permits for affordable units sufficient to meet the requirements of Section 21.24.040 (General requirements.) of this chapter, or received approval of an alternative requirement of Section 21.24.070 (Alternatives.) of this chapter. No final inspection for occupancy for any market rate unit shall be completed until the

applicant has constructed the affordable units required by Section 21.24.040 (General requirements.) of this chapter, or completed corresponding alternative performance under Section 21.24.070 (Alternatives.) of this chapter. The time requirements set forth in this subsection for issuance of building permits for market rate units and for final inspections for occupancy for market rate units may be modified to accommodate phasing schedules, model variations, or other factors in a residential project, if the city determines this will provide greater public benefit and an inclusionary housing agreement acceptable to the community development director or the Community Development Director's designee pursuant to subsection B of this section so provides.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024).

#### **21.24.060 Continued affordability and city review of occupancy.**

- A. Term of affordability—For-sale projects. A resale restriction, covenant, deed of trust and/or other documents acceptable to the community development director or the director's designee, shall be recorded against each affordable owner-occupied unit. These documents shall, in the case of affordable units which are initially sold, be for a term of forty-five years and shall be renewed at the change of each title for a period of forty-five years for a residential project submitted less than one- year from the effective date of this Chapter. For a residential project submitted one year or more after the effective date of this Chapter, the term shall be fifty-five years and shall be renewed at the change of each title for a period of fifty-five years. The resale restriction, or other documents authorized by this subsection, and any change in the form of any such documents which materially alters any policy in the documents, shall be approved by the community development director or his or her designee prior to being executed with respect to any residential project.
- B. Term of affordability—Rental projects. A regulatory agreement, covenant, deed of trust, and/or other documents acceptable to the Community Development Director or the Director's designee, shall be recorded against each unit/complex for residential projects containing affordable rental units. These documents shall, in the case of affordable units which are rented, be for a term of fifty-five years and shall be renewed at the change of each title for a period of fifty-five years. The regulatory agreement and other documents authorized by this subsection, shall run with the property and not be affected by the sale of the property or units in the project. The regulatory agreement and other documents authorized by this subsection, and any change in the form of any such document which materially alters any policy in the document, shall be approved by the Community Development Director or his or her designee prior to being executed with respect to any residential project.
- C. Eligibility requirements. No household shall be permitted to begin occupancy of an affordable unit unless the city or its designee has approved the household's eligibility. If the city or its designee maintains a list of, or otherwise identifies, eligible households, initial and subsequent occupants of affordable units shall be selected first from the list of identified households, to the maximum extent possible, in

accordance with rules approved by the community development director or his or her designee.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

#### **21.24.070 Alternatives.**

An applicant may elect, in lieu of building affordable units within a residential project, to satisfy the requirements of this chapter by one of the following alternative modes of compliance, provided that the applicant includes such election in its application for the first approval of the residential project and that the criteria stated in the relevant subsection below are satisfied.

- A. Off-site construction. Construct, or make possible construction by another developer of, units not physically contiguous to the market-rate units (or units that are physically contiguous to the market-rate units if the City determines this will provide greater public benefit and if an inclusionary housing agreement acceptable to the Community Development Director or his or her designee pursuant to Section 21.24.050(B) (Conditions.) of this chapter so provides) and equal or greater in number to the number of affordable units required under Section 21.24.040 (General requirements.) of this chapter. Off-site construction pursuant to this subsection shall be approved only if:
  1. Approval has been secured for the off-site units not later than the time the residential project is approved and completion of the off-site units is secured by a requirement that final inspections for occupancy for the related market-rate units be completed after those for the affordable units, provided that the time requirements set forth in this subsection for final inspections for occupancy for market-rate units may be modified to accommodate phasing schedules, model variations, financing requirements, or other factors in a residential project for the off-site units, if the City determines this will provide greater public benefit, and if an inclusionary housing agreement acceptable to the Community Development Director or his or her designee pursuant to Section 21.24.050(B) (Conditions.) of this chapter so provides;
  2. The off-site units will be greater in number, larger or affordable to households with lower incomes than would otherwise be required in Section 21.24.040 (General requirements.) of this chapter;
  3. Financing or a viable financing plan is in place for the off-site units;
  4. In the event the off-site units receive any public assistance, the developer of the residential project will contribute to the off-site units economic value equivalent to the value of making on-site units in the developer's residential project affordable; and
  5. The City may require that completion of off-site units shall be further secured by the developer's agreement to pay an in-lieu fee in the amount

due under subsection D of this section in the event the off-site units are not timely completed.

- B. Land dedication. Dedicate without cost to the city, a lot or lots within or contiguous to the residential project, sufficient to accommodate at least the required affordable units for the residential project. An election to dedicate land in lieu of compliance with other provisions of this chapter shall be allowed only if:
1. The value of the lot or lots to be dedicated is sufficient to make development of the otherwise required affordable units economically feasible, and financing or a viable financing plan is in place for at least the required number of affordable units; and
  2. The lot or lots are suitable for construction of affordable housing at a feasible cost, served by utilities, streets and other infrastructure, there are no hazardous material or other material constraints on development of affordable housing on the lot or lots, and land use approvals have been obtained as necessary for the development of the affordable units on the lot or lots.
- C. In-lieu housing fee. The applicant of a residential project ~~submitted one year or more after the effective date of this Chapter~~ may elect to pay an in-lieu housing fee, in accordance with Section 21.24.080 (Establishment and use of in-lieu housing fees), instead of developing the affordable units required in Section 21.24.040 (General requirements.) of this Chapter, pursuant to the requirements set forth below:
1. Projects with ~~five-nine or fewer or six units~~:
    - a. Effective through June 30, 2030, the applicant of a housing development project with nine or fewer living units ~~The applicant may pay an in-lieu housing fee to satisfy any whole or fractional affordable unit obligation required by this Chapter (i.e., 0.75 or 0.9 units) rather than constructing the next higher whole number of affordable units.~~
    - a-b. Effective July 1, 2030, the applicant of a housing development project with nine or fewer living units may pay an in-lieu housing fee to satisfy any fractional housing unit obligation required by this Chapter (i.e., 0.75, or 0.9) rather than constructing the next higher whole number of affordable units.
  2. Projects with ~~more than nine seven or more units~~: The applicant of a housing development project with more than nine living units may pay an in-lieu housing fee to satisfy any fractional affordable unit obligation less than 0.5 rather than constructing the next higher whole number of affordable units. Nothing contained in this section shall alleviate the applicant from developing the remainder of the affordable units required by Section 21.24.040 (General requirements) or allow for payment of an in-

lieu housing fee in situations where the fractional obligation is 0.5 or greater.

**3. Calculation of in-lieu fees.** In-lieu fees shall be calculated based on the fee schedule:

- a. In effect at the time the fee is paid for a ministerial project application;
- b. The date an application was deemed complete for a development project application; or
- c. The date the complete preliminary application was submitted for a project submitted pursuant to California Government Code Section 65941.1.

If a permit meets more than one of the above criteria, the fee shall be based on the fee schedule in effect on the date that results in the lowest fee from the list above.

In-lieu fees shall be paid prior to issuance of building permits. If building permits are issued for only part of a residential project, the fee amount shall be based only on the number of units then permitted.

- D. Substitution of units. The applicant may elect to provide additional affordable units, instead of developing the affordable units required in Section 21.24.040 (General requirements.) of this chapter, as set forth below:
  - 1. Very Low-Income Units: The applicant may substitute required very low-income housing units at a ratio of one to two for low-income units or at a ratio of one to four for moderate income units.
  - 2. Low-Income Units: The applicant may substitute required low-income housing units at a ratio of one to two for moderate income units.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

**21.24.080 Establishment and use of in-lieu housing fees.**

- A. Initial in-lieu housing fee. The initial in-lieu housing fee shall be set by City Council resolution based on an affordable housing analysis or nexus study which supports the initial fee rate and fee calculation method established in this Section.
- B. Fee calculation method. The in-lieu housing fee shall be calculated as follows:

$$\text{In-Lieu Fee} \times \frac{\text{Fee Satisfied Affordable Unit Obligation}}{\text{Initial Affordable Unit Obligation}} \times \text{Livable Area} = \text{Total Due}$$

$$\frac{\text{Fractional Affordable Units}}{\text{Total Affordable Units Required}} \times (\text{Livable Area}) = \text{Total Due}$$

- C. Fee adjustments. The initial fee established, in accordance with Section 21.24.080.A. (Initial in-lieu housing fee.), shall be adjusted annually on July 1, based on the percentage change in the construction cost index from the previous year.

- D. All in-lieu fees collected under this chapter shall be deposited into a separate account to be designated the City of Campbell housing trust fund.
- E. The in-lieu fees collected under this chapter and all earnings from investment of the fees shall be expended exclusively to provide or assure continued provision of affordable housing in the city through acquisition, construction, development assistance, rehabilitation, financing, rent subsidies or other methods, and for costs of administering programs which serve those ends. The housing shall be of a type, or made affordable at a cost or rent, for which there is a need in the city and which is not adequately supplied in the city by private housing development in the absence of public assistance.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

#### **21.24.090 Waiver of requirements.**

Notwithstanding any other provision of this chapter, the requirements of this chapter shall be waived, adjusted or reduced if the applicant shows that there is no reasonable relationship between the impact of a proposed residential project and the requirements of this chapter, or that applying the requirements of this chapter would take property in violation of the United States or California Constitution or otherwise result in an unconstitutional application of this chapter. To receive a waiver, adjustment or reduction under this section, the applicant must file a written request together with the development application(s) when applying for a first approval for the residential project, and/or as part of any appeal which the City provides as part of the process for the first approval. The written request shall provide substantial evidence showing that there is no reasonable relationship between the impact of a proposed residential project and the requirements of this chapter, or that applying the requirements of this chapter would take property in violation of the United States or California Constitution or otherwise result in an unconstitutional application of this Chapter. The City may assume that: (a) the applicant will provide the most economical inclusionary units feasible meeting the requirements of this Chapter; and (b) the applicant is likely to obtain housing subsidies when such funds are reasonably available. The waiver, adjustment, or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

#### **21.24.100 Enforcement.**

- A. The City Council may adopt guidelines, by resolution, to assist in the implementation of all aspects of this Chapter.
- B. No permit, license, subdivision approval or map, or other approval or entitlement for a residential project shall be issued, including without limitation a final inspection for occupancy or certificate of occupancy, until all requirements applicable to the residential project at such time pursuant to this Chapter have been satisfied.

- C. The City Attorney shall be authorized to enforce the provisions of this Chapter and all inclusionary housing agreements, regulatory agreements, resale controls, deeds of trust, or similar documents placed on affordable units, by civil action and any other proceeding or method permitted by law.
- D. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any applicant or owner from the requirements of this Chapter.
- E. The remedies provided for in this Chapter shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

**21.24.110 Phased projects.**

- A. Purpose. This section serves to ensure that each development phase of a multi-phase development project contributes its fair share of affordable units and maintains consistency with the overall project's requirements.
- B. Required Affordable Units by Project Phase. Each phase of a development project must provide at least as many affordable units, by income level, as would be required if that phase, along with any previously completed project phase(s), were completed independently from the rest of the project.
- C. Building Permit Final. No development phase of a project shall receive a building permit final until all affordable units required by that phase of the project are completed.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)

**21.24.120 Severability.**

If any provision or clause of this Chapter or the application thereof is held to be invalid, such invalidity shall not affect the other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are declared to be severable.

(Ord. No. 2318, § 1(Exh. A), 9-3-2024)