

# TITLE 1

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## Administration and Personnel

*This document contains track changes. Proposed deletions are shown in ~~red-strike-through~~ font.  
Proposed additions are shown in red 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.

#### **1.37.010 Purpose.**

The Transfer of Development Rights (TDR) Administrative Code establishes procedures for the operation of the City's TDR Program. The TDR Program is designed to advance the goals of the State's Growth Management Act by providing a tool to advance the City's conservation goals, historical preservation goals, and built environment goals by encouraging the voluntary redirection of development potential away from areas where the City wants less or no development potential, called sending areas, toward areas that the City has designated as suitable for bonus development potential, called receiving areas.

#### **1.37.020 Definitions.**

"Baseline development potential" is the maximum development density or intensity allowed in TDR receiving areas when property owners choose not to use the bonus palette in Title 13 TMC to achieve bonus height.

"Bonus development" is development that exceeds baseline development potential in accordance with this chapter and the TDR provisions in Title 13 TMC.

"Receiving areas" are lands designated by this chapter which TDRs can be used in compliance with this chapter and Title 13 TMC.

"Sending areas" are lands or structures qualified to generate TDRs for use within receiving areas in compliance with this chapter.

"Sending area TDR allocation" means the number of TDRs that a sending area owner is issued per acre or lot conserved, or per landmark structure preserved.

"TDR Administrative Procedures" are procedures in Title 1 TMC that implement this chapter and the TDR bonus provisions in Title 13 TMC.

"TDR Manager" is an employee of the Tacoma Planning and Development Services Department tasked with accomplishing the duties specified by this chapter.

"Transferable development rights (TDR or TDRs)" are whole or fractional units of development potential transferred from sending areas that can be used in receiving areas to increase development density or intensity in compliance with this chapter.

#### **1.37.030 Sending Areas.**

The following five categories of land or structures qualify as sending areas:

- A. Pierce County Farm Land: Farm land designated as Agriculture Resource Land (ARL) in unincorporated Pierce County situated in Pierce County's Puyallup Valley (Alderton-McMillin or Mid County Community Planning Areas).
- B. Pierce County Forest Land: Forest land designated as Forest Land (FL) situated in unincorporated Pierce County.
- C. Resource lands in King County and Snohomish County.

D. Tacoma Habitat: Lands providing high habitat and natural value located within, or in proximity to, designated Open Space Corridors in the Comprehensive Plan, and lands providing exceptional habitat and natural value located within the City and outside of the designated Open Space Corridors.

E. Tacoma Landmarks: Structures designated as a landmark as identified in the Tacoma Register of Historic Places.

Publicly owned lands are not eligible sending areas. Public or privately owned lands that are currently encumbered by a perpetual conservation easement or a similar instrument are not eligible sending areas.

The City may modify eligible sending areas situated in unincorporated Pierce County or unincorporated King County and Snohomish County through an interlocal agreement or resolution that references WAC 365-198. In the event that the City modifies eligible sending areas with an interlocal agreement or resolution, the terms of the interlocal agreement or resolution are controlling.

### **1.37.040 Sending Area Development Limitations.**

With the sole exception of Tacoma Landmarks, property owners who participate in the TDR Program shall record a conservation easement on the sending area property that achieves the following standards:

A. For sending areas situated in unincorporated Pierce County, the sending area must be encumbered by a conservation easement approved by Pierce County.

B. For sending areas situated in unincorporated King County, the sending area must be encumbered by a conservation easement approved by King County.

C. For Tacoma Habitat, the sending area must be encumbered by a conservation easement approved by the City.

D. For Tacoma Landmarks, the sending area must continue to be regulated by the landmark development controls and a conservation easement specific to the sending area property.

All conservation easements used to achieve development bonuses encumber real property pursuant to this chapter and Title 13 TMC must be conveyed in a manner consistent with RCW 64.04.130. The grantee of the conservation easement must be the City or a third party with the express right to enforce the terms of the conservation easement.

### **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 ~~dwelling-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 foregone 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 foregone 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 foregone or unused potential floor area allowed by the property's current zoning.

### **1.37.060 Receiving Area Baselines, Maximum Development and Exchange Ratios for Receiving Areas Where Bonus Development Is Allowed By TDR.**

In zones where Title 13 TMC expresses bonus development in terms of height, the number of TDRs required to obtain a development bonus shall be calculated using square feet of bonus floor area.

As provided in Title 13 TMC, the relevant zoning regulations for each TDR receiving area establish the property's base height limit development potential and the ability to use TDRs to achieve the property's maximum development potential. TDRs may be used as follows to achieve the height bonus as provided in Title 13 TMC:

- A. For sending areas situated in unincorporated Pierce County: one TDR allows 5,000 square feet of bonus floor area.
- B. For sending areas situated in unincorporated King County: one TDR allows 10,000 square feet of bonus floor area.
- C. For Tacoma Habitat sending areas: one TDR allows 15,000 square feet of bonus floor area.
- D. For Tacoma Landmarks sending area: one TDR allows 10,000 square feet of bonus floor area.

Project applicants may use TDRs from one or more sending sites for an individual project. If the project results in unused TDRs, the City's TDR Manager shall, upon the project applicant's request, mark the TDR certificate as having a fractional TDR value. Fractional TDRs may be transferred to third parties.

### **1.37.070 Sending Area Process / TDR Certification.**

The following must occur before the City recognizes a TDR for bonus development purposes:

- A. For sending areas situated in unincorporated Pierce County: the TDR must be certified pursuant to the Pierce County Code 18G.10.070, or any amendment thereof. For the purposes of this TDR program, the City will honor Pierce County's transferrable development credits (TDCs) as TDRs on a one to one basis.
- B. For sending areas situated in unincorporated King County: the TDR must be certified pursuant to the King County Code 21A.37.070, or any amendment thereof.
- C. For Tacoma Habitat sending areas:
  1. Prior to recordation of a conservation easement on an eligible TDR sending area, the landowner shall submit an application, application fee and proposed, unsigned easement in compliance with the TDR Administrative Procedures. This application shall include the documentation required by the TDR Administrative Procedures to prove ownership. All lien holders must provide written consent to the recordation of the proposed easement.
  2. When the TDR Manager and the applicant agree that all requirements have been satisfied, the easement shall be signed and recorded. The grantee may be the City, another governmental entity, or an authorized conservation organization acceptable to the City.
  3. Upon recordation of the easement, the TDR Manager shall issue to the applicant a specified number of TDRs, each with a serial number. The TDR Manager shall document the issuance and retirement of all TDRs as well as all transfers of TDR ownership in accordance with the TDR Administrative Procedures. TDRs from the same sending area are not required to be transferred or retired as a group. In accordance with the TDR Administrative Procedures, TDRs may be transferred together or individually. Any person, organization or government, including the City, may acquire TDRs and hold them for preservation purposes or resale.
- D. For Tacoma Landmark sending areas:
  1. The owners of designated Tacoma landmarks who choose to participate in the TDR program shall submit an application and application fee. This application shall include the documentation required by the TDR Administrative Procedures to prove ownership.
  2. When the TDR Manager and the applicant agree that all requirements have been satisfied, the TDR Manager shall issue to the applicant a specified number of TDRs, each with a serial number. The TDR Manager shall document the issuance and retirement of all TDRs. TDRs from the same sending area are not required to be transferred or retired as a group. In accordance with the TDR Administrative Procedures, individual TDRs may be transferred together or individually. Any person, organization or government, including the City, may acquire TDRs and hold them for preservation purposes or resale.

### **1.37.080 Receiving Area Process.**

Developers who intend to exceed baseline development potential in a TDR receiving area, as identified in Title 13 TMC, shall acknowledge in development-related application materials that they will be required to submit the prescribed number of TDRs

at the time the developer submits the building permit application. Preliminary application approval, where applicable, will indicate the estimated number of TDRs required prior to final approval. Applicants are not required to own or control TDRs at the time of submitting the application, and TDRs do not impact a project's ability to vest to current regulations. Instead, applicants shall submit the prescribed number of TDRs prior to the City's issuance of building permits.

Developers may obtain TDRs directly from a sending area landowner, from TDR banks, or from any other intermediary.

Final building permit approval shall not be granted until the TDR Manager has provided written documentation of compliance with TDR requirements. The serial numbers of all TDRs shall be recorded on the building permit for all projects using TDRs.

**1.37.090 TDR Manager Responsibilities.**

- A. The TDR Manager shall maintain a TDR registry documenting the ownership history of all TDRs by serial number from the time they are granted to the sending area owner to their retirement in a receiving area development.
- B. The TDR Manager may adjust the value of a serially numbered TDR to reflect TDRs that have been partially used as contemplated in this chapter.
- C. Upon the City Council's request, the TDR Manager shall prepare for City Council an annual TDR report documenting all TDRs issued, transferred and retired. The report may include recommendations on amendments that could improve the effectiveness of the TDR program. If necessary, the TDR Manager may recommend establishing limits on the number of TDRs from any of the sending area categories or other mechanisms designed to maximize achievement of City goals including but not limited to compliance with the requirements of a TDR-based Tax Increment Financing District (as authorized in chapter 39.108 RCW).
- D. The TDR Manager shall recommend adjustments in 1.37.060 as market conditions change in a significant manner.

## 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 ~~Residential Upzones. 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 ~~50-60~~ 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.A. 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.~~

**B. Annual Portion of Net Proceeds Table.**

~~An Exhibit to the Affordable Housing Incentives Program Covenant Agreement which details the applicable in lieu fee percentage to use when determining the required in lieu fee payment for homeownership projects.~~

**CB. 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.

**DC. Density-Development Bonus.**

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

**E. Essential utilities.**

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

**FE.** 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.

**FG.** 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.

**GH.** 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.

**HI.** 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.

**IJH.** 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.**

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 an increase in height or density 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 and 13.06A. 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 in certain circumstances, including with the grant of residential upzone requests and for development within areas designated for inclusionary housing.

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.

**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.~~** ~~Number of units.~~

~~A minimum of 20 units shall be included in a project in order to qualify to enter the program.~~

~~**B.C.** 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.~~

~~To qualify, rental occupied households shall earn no more than 50 percent of Area Median Income (AMI) for Pierce County, adjusted for family size. To qualify, owner households shall earn no more than 80 percent of AMI for Pierce County, adjusted for family size. 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.D. 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.E. 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.F. Size/Location/Appearance of Affordable Housing Units.

The affordable housing units shall be provided in a range of sizes comparable to the overall unit mix for the project, use units that are available to other residents. 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. Interior finish materials and content of affordable units shall be generally comparable with market rate housing units within the project.

G.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 protects the City's interests, provides remedies for non-compliance with the requirements of any in the event that a developer obtains affordable housing incentives obtained through the platting or building phases-permit process. Non-compliance remedies may include but are not limited to:

but fails to provide low income affordable housing; —

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. —committing the seller/lessor to utilize affirmatively market the units to low and moderate income households. 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.



~~65. A commitment to Language that requires recording the required low-income affordability provisions as specified in this Chapter prior to the approval of a final plat, multi-family or mixed-use building permit, or other development approval; and~~

~~76. Language that recognizes Recognition of the potential need to modify the agreement if the submitted project requires alteration through the review and approval process; and,~~

~~87. Language that sets forth Recognition of the consequences of a breach of contract action where the applicant fails to provide the required number of affordable housing units as required under the Agreement;~~

~~9. An in lieu fee reduction schedule per the requirements of section 1.39.060.~~

~~HG.~~ Monitoring and Enforcement of Continued Affordability.

The Housing ~~Development~~ Division of the Community and Economic Development Department, or designees, shall monitor the continued affordability of both rental and owner-occupied housing units. The City reserves the right to establish ~~in the Affordable Housing Incentives Program Covenant Agreement monitoring~~ fees for the ongoing cost of monitoring the affordable housing units, ~~which can be adjusted over time to account for inflation~~. 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.

~~HH.~~ 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 at 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.**

~~A.~~ 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, ~~and to reduce costs in exchange for providing affordable housing units. Financial incentives are authorized by this Chapter but are resource dependent.~~

~~A.B.~~ Expedited Permit Processing.

The City will seek opportunities to expedite the review of development proposals incorporating affordable housing under the provisions of this Chapter. ~~Actions to implement this shall be resource dependent.~~

~~B.C.~~ 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. ~~Such action will be resource dependent.~~

### **1.39.060 Development Incentives.**

~~A.~~ 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.

~~B. Planned Residential Districts.~~

~~Per the provisions of TMC 13.06.140, PRDs offer a zoning mechanism to develop a site specific proposal on larger sites that can incorporate additional density in exchange for the provision of affordable housing units pursuant to the requirements of this Chapter. PRDs may allow up to two times the number of dwelling units permitted in the underlying residential district. Fifty percent of this bonus development capacity is reserved for the provision of affordable housing pursuant to the requirements of this Chapter.~~

~~A.C.~~ Downtown Tacoma.

Per the provisions of TMC ~~13.06A.080~~ 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.D.~~ Mixed-use Centers.

Per the provisions of TMC ~~13.06.300.(E).7 Height Bonus Palette~~ 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.E. 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.

**1.39.070—Residential Upzones.**

E. A-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 units. Zoning changes are governed by the provisions of TMC 13.06.650.

B- Per TMC ~~13.06.650~~ 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 Residential Upzones.Reserved.**

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

A- 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.B- 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. ~~To satisfy the provisions of this section the following is required:~~

~~1. Density bonuses—Planned Residential Districts and Downtown Floor Area Ratio.~~

~~For each additional market rate dwelling unit allowed through a density bonus, pursuant to the provisions of this Chapter and of TMC 13.06 and 13.06A, an additional affordable unit shall also be included. The ratio of bonus density market rate to affordable units shall be one to one.~~

~~2. Density bonuses—Residential Upzones.~~

~~For every three additional market rate dwelling units allowed through a privately initiated upzone request, an additional affordable unit shall also be included per the provisions of this section and of TMC 13.06.650. The ratio of upzone market rate to affordable units shall be three to one.~~

~~3. Density bonuses—Affordable Housing Inclusionary Development Areas.~~

~~Areas designated in TMC 13.18 as Affordable Housing Inclusionary Development Areas shall incorporate the required percentage of total units as affordable, pursuant Section 1.39.100, below.~~

~~4. Affordability requirements.~~

~~To qualify as affordable per the provisions of this section, rental households shall be affordable to households earning up to 50 percent of the Pierce County Area Median Income (AMI), and ownership households shall be affordable to households earning up to 80 percent of AMI, adjusted for household size.~~

~~5. A combination of affordable rental and ownership households is acceptable within a qualifying development.~~

~~6. Affordable housing units provided pursuant to the provisions of this section shall remain affordable for a 50-year term, pursuant to the requirements of RCW 36.70A.560.~~

~~B.C. 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 City approval to allow more density the development bonuses offered, and has been calibrated to provide a comparable equivalent 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 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.

~~1. Density bonus types.~~

~~The density bonus provisions of this section function either as an increase in the number of dwelling units permitted (in the case of PRDs), or as an increase in over height and bulk (in the case of Floor Area Ratios or height increases). Upzone requests can work in either fashion. 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. The in lieu fee options for each are calculated as follows:~~

~~a. Calculation—Dwelling Units bonus.~~

~~If paid prior to issuance of the Certificate of Occupancy, the in lieu fee shall be \$10,000 for Planned Residential Districts, Mixed-use Center Height bonuses, and Downtown Floor Area Ratio bonuses, and \$5,000 for upzones, as of July 1, 2016, adjusted per the Consumer Price Index annually, for each additional dwelling unit (both market rate and affordable) permitted through the bonus density or upzones provisions of this Chapter.~~

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. Multifamily Rental projectsunits.

The per unit in lieu fee as described in C.1.a above multiplied by the additional units created through the Density Bonus. This number constitutes the Up Front In-Lieu Fee. The Up Front In-Lieu Fee is multiplied by two percent multiplied by the number of years ~~the project has been in service~~remaining in the affordability period per the Affordable Housing Incentives Program Covenant Agreement.

b. Homeownership projectsunits.

If the home is resold to a non-income qualified Successor-in-Interest ~~within the first 5 years of the~~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: 100 percent of the net proceeds upon resale would constitute the in-lieu fee. If the home is resold to a non-income qualified Successor in Interest in year 6 or after, the in-lieu fee would be the net proceeds from the resale of the home multiplied by the following in-lieu fee percentage: At year 6 the in-lieu fee is 50 percent of net proceeds, declining thereafter by 1 percent per year in years 7 through 48 with a two percent decrease at year 49.

(1) Years 1-10: in-lieu fee = Net Sales Proceeds x the percentage the homes value has increased since the initial sale

(2) Years 11-20: in-lieu fee = Net Sales Proceeds x (the percentage the home’s value has increased since the initial sale- 2.5%)

(3) Years 21-30: in-lieu fee = Net Sales Proceeds x (the percentage the home’s value has increased since the initial sale- 5%)

(4) Years 31-40: in-lieu fee = Net Sales Proceeds x (the percentage the home’s value has increased since the initial sale- 10%)

(5) Years 41-50: in-lieu fee = Net Sales Proceeds x (the percentage the home’s value has increased since the initial sale- 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 ~~for~~ any land 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. ~~This option shall become available at such time as the City establishes an Inclusionary Zoning fee in lieu amount.~~

H. Procedures. The provisions of Section 1.39.090 apply.