

- b. Building materials, except during on-site construction, in compliance with a valid Building Permit.
2. **Parking.** Parking is allowable within a required setback only in compliance with Section 17.46.080 (Parking Design Standards).
3. **Front and corner side setback pavement in residential zones.** Within a residential zoning district, no portion of any front or corner side setback area between the street property line and the building line shall be paved unless paving has been approved by the Zoning Administrator and the paving and site comply with the following requirements:
 - a. Not more than 30 percent of the front or corner side setback area shall be paved;
 - b. All unpaved areas shall be improved and maintained with landscaping;
 - c. A driveway shall lead to covered parking elsewhere on the lot; and
 - d. Driveway widths shall not exceed the maximum allowed under Section 17.46.150 (Driveway Design, Widths, and Clearances).

17.40.170 - Truck Trip Limitations

A. Applicability.

1. The following standards shall apply to commercial and industrial uses in commercial and industrial zoning districts including specific plan areas.
2. This Section does not apply to the CD zoning district.

B. Hours of operation.

1. The operation of large trucks on sites that are more than 500 feet from a freeway and are less than 300 feet from a residential district that is not within 500 feet of a freeway shall be permitted between the hours of 6 a.m. to 7 p.m. This shall apply to new uses and uses that expand by more than 30 percent of the gross floor area.
2. In the CG-1 district, on any site that is within 300 feet of an R district, large trucks shall be permitted between the hours of 6 a.m. to 7 p.m. This requirement applies to all uses, existing as well as proposed.
3. These hours of operation maybe modified through the approval of a conditional use permit. The base ambient noise level found in the vicinity (without the operation of the trucks) shall not be exceeded during the time the truck activity is proposed.

C. Number of truck trips.

1. A commercial or industrial use within 300 feet of an R district shall be limited to ten one-way truck trips by large trucks per day, per six-day work week. This shall apply to new

uses and uses that expand by more than 30 percent of the gross floor area. This requirement shall not apply to uses that are within 500 feet of a freeway.

2. A commercial or industrial use within 300 feet of an R district and within the CG-1 district shall be limited to ten one-way truck trips by large trucks per day, per six-day work week. This shall apply to all sites and uses.

17.40.180 - Walls and Fences

All proposed walls and fences, including those located within a specific plan area, shall comply with the requirements of this Section. Requirements for walls for screening purposes are in Section 17.40.140 (Screening).

A. Wall and fence height measurement.

1. **Measured from existing grade.** The height of all walls and fences shall be measured from the existing grade to the top of the wall or fence in order to prevent the artificial raising of the grade in order to allow for a higher wall or fence. Where the existing grade changes (i.e., for a driveway) the fence shall height shall change with the grade.
2. **Measured in a continuum.** The height shall be measured in a continuum at each point along the wall or fence.

B. Height limits for walls and fences.

1. **Walls and fences adjacent to intersections.** All walls and fences adjacent to a street intersection shall comply with the requirements of Municipal Code Chapter 12.12.
2. **Residential zoning districts.** The maximum height of a wall or fence within the RS or RM-12 zoning districts shall be as follows. See Section 17.22.070 (RM District Additional Development Standards) for wall and fence requirements within the RM-16, RM-32, and RM-48 zoning districts.
 - a. **Abutting OS or PS zoning district – six feet.** In interior side or rear setbacks abutting property in a OS or PS zoning district or abutting property with a residential use, the maximum wall or fence height shall be six feet.
 - b. **Abutting commercial or industrial zoning district – eight feet.** In interior side or rear setbacks abutting property in a commercial or industrial zoning district with a nonresidential use, the maximum wall or fence height shall be eight feet along the property line separating the residential district from the commercial or industrial district.
 - c. **Front setback – four feet.** Between the front property line and the occupancy frontage, the maximum wall or fence height shall be four feet. Walls and fences in the front setback shall be at least 50 percent open and any concrete block materials shall have a finished stucco appearance. Fences shall be set back a minimum of 18 inches from the front property line.

- d. **Corner setback areas.** Walls and fences in corner setback areas shall be allowed as follows and as illustrated by Figure 4-7 (Corner Wall and Fence Height Limits in RS and RM-12 Zoning Districts) below:
- (1) **Rear setback.** The maximum height shall be six feet between the rear building line and the rear property line, provided the wall or fence is located a minimum distance of five feet from the street property line.
 - (a) Where there are multiple rear building lines:
 - i. The "rear building line" shall be the corner of the dwelling that is closest to the street property line; and
 - ii. The corner of the dwelling that is closest to the street property line shall have a rear building line that is a minimum of 15 feet in length.
 - (b) If there is an offset of less than 15 feet in length, the rear building line shall be the corner of the dwelling closest to the rear property line.
 - (2) **Within five feet of street property line.** The maximum height within five feet of a street property line or between the occupancy frontage and the rear building line shall not exceed four feet.
 - (3) **Visibility at edge of driveway.** The maximum height shall be 30 inches within a triangular area extending at an angle of 45 degrees from the street property line to a point on the edge of the driveway 10 feet from the street property line.

Notwithstanding these provisions, the maximum height of a wall or fence in a corner setback shall be six feet and may be located at the street property line, provided the wall or fence is located beyond the front building line of the main structure and a commercial or industrial zoning district is located on the opposite side of the street adjacent to the corner setback.

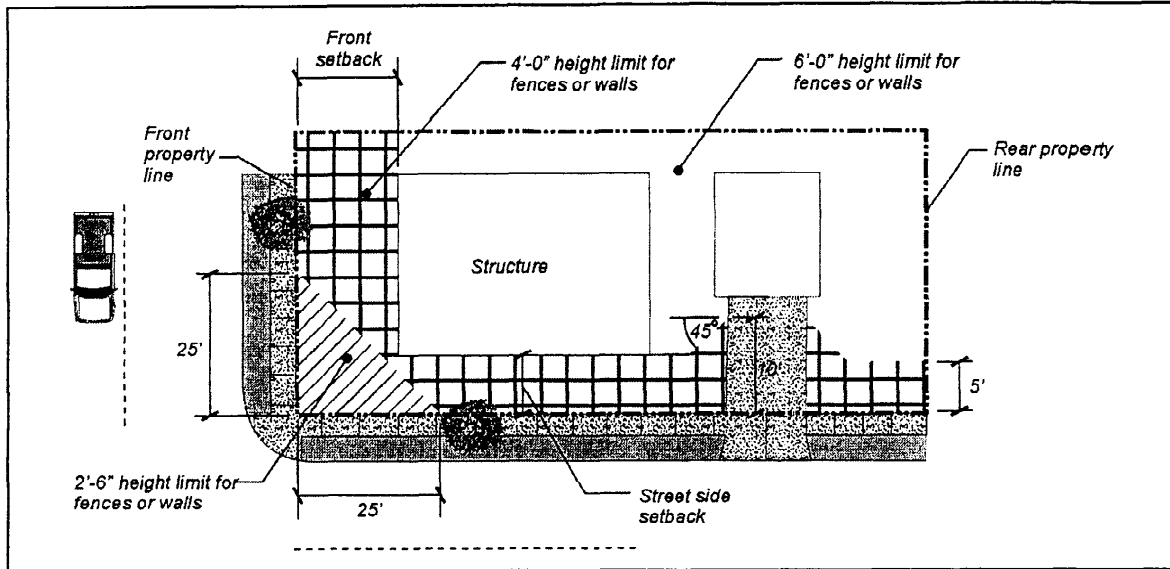


Figure 4-11 - Corner wall and fence height limits in the RS and RM-12 zoning districts

- e. **Double frontage lots.** On double frontage lots, the Zoning Administrator shall determine the rear setback for the purposes of wall or fence height, and the maximum height of the rear wall or fence shall be six feet; provided, the wall or fence is located a minimum distance of 25 feet measured perpendicular to the rear street property line. The maximum height of a wall or fence in the rear setback within 25 feet of a street property line shall not exceed four feet.
 - f. **Flag lots.** On flag lots, the maximum front yard wall or fence height may be six feet, provided the front yard of the flag lot is abutting interior side or rear yards on all sides.
 - g. **Spikes on walls and fences.** Spikes on walls and fences are not allowed when the walls or fences are less than six feet in height.
3. **Nonresidential zoning districts.** The maximum height of a wall or fence within the commercial and industrial zoning districts, including the CD, shall be as follows.
- a. **Nonresidential projects.**
 - (1) **Front and corner side setbacks.**
 - (a) The maximum height of a wall or fence along a street frontage shall be four feet when the wall or fence is located in front of a structure.
 - (b) A wall or fence not located in front of a structure, but along a street frontage (e.g., located in front of a parking lot), shall not exceed a maximum height of six feet.

(2) **Interior side and rear setbacks.**

- (a) The maximum height of a wall or fence shall be eight feet.
- (b) The height of the wall or fence shall step down to four feet when located within five feet of the street property line(s).

(3) **When abutting a residential zoning district.** The minimum height of a wall located within five feet of a street property line(s) shall be equivalent to the maximum height for a solid wall or fence in the development standards of the abutting residential zoning district.

(4) **Design standards for walls and fences.**

- (a) Walls and fences abutting a residential zoning district shall be constructed only from brick, concrete, or masonry.
- (b) Barbed wire, concertina wire, and razor wire shall not be allowed.
- (c) The wall or fence shall be a minimum of 50 percent open, except when a solid masonry wall is required to screen outdoor storage areas in compliance with Section 17.50.180.
- (d) Chain-link fences shall not be allowed along street frontages, but may be allowed in rear and interior side yards.
- (e) Spikes on walls and fences are not allowed when the walls or fences are less than six feet in height.

b. **Residential projects.**

- (1) **RS or RM-12 zoning district standards.** Projects subject to the development standards of the RS or RM-12 zoning districts shall meet the wall and fence requirements of those zoning districts.
- (2) **RM-16, RM-32, or RM-48 zoning district standards.** Projects subject to the development standards of the RM-16, RM-32, or RM-48 zoning districts shall meet the wall and fence requirements of those zoning districts.

C. **All new projects abutting a residential zoning district.** Required setbacks abutting residential zoning districts shall be enclosed by a solid concrete or masonry wall at least seven feet in height.

17.40.190 - Underground Utilities

Proposed development shall provide for the undergrounding of utility facilities (e.g., cable television, data network, electrical, telephone, and similar distribution lines providing direct service to the site) in compliance with the following requirements.

- A. **Nonresidential development.** All utility facilities shall be installed underground within the site.
- B. **Residential development.** All utility facilities on a site being developed with a new dwelling unit, or new construction adding more than 100 square feet to an existing dwelling unit, shall be installed underground within the property lines of the site.
 - 1. Risers on poles and structures are allowed and shall be provided by the developer or owner from the pole that provides services to the property.
 - 2. Where no developed underground system exists, utility service poles may be placed on the rear of the property to be developed only to terminate underground facilities.
 - 3. The developer or owner is responsible for complying with the requirements of this Section and shall make the necessary arrangements with the affected utility providers for the installation of the facilities.
 - 4. The requirements of this Subsection shall not apply when the cost of placing the services underground exceeds the cost of construction of the new dwelling unit or the new construction.
- C. **Exemptions.** Unless otherwise required by any provision of the Municipal Code, a development site shall not be subject to the requirements of this Section if, as of the date of filing of a Building Permit application:
 - 1. The utility lines serving the site are located aboveground, and there are no underground facilities within 100 feet of the site, and no plan to install the facilities within ten years of that date are either in the current budget or other authorized plan of the Pasadena Water and Power Department; or
 - 2. The site is not within an underground utility district approved by the Council.

CHAPTER 17.42 - AFFORDABLE HOUSING INCENTIVES AND REQUIREMENTS

Sections:

- 17.42.010 - Purpose of Chapter
- 17.42.020 - Applicability and Exempt Projects
- 17.42.030 - Definitions
- 17.42.040 - Inclusionary Unit Requirements
- 17.42.050 - Alternatives to Units within Project
- 17.42.060 - Housing Plan and Housing Agreement Required
- 17.42.070 - Standards
- 17.42.080 - Enforcement
- 17.42.090 - Takings Determination
- 17.42.100 - Density Bonus and Incentive Provisions
- 17.42.110 - Inclusionary Housing Trust Fund
- 17.42.120 - Administrative Fees
- 17.42.130 - Appeal

17.42.010 - Purpose of Chapter

This Chapter establishes standards and procedures to encourage the development of housing that is affordable to a range of households with varying income levels. The purpose of this Chapter is to encourage the development and availability of affordable housing by ensuring that the addition of affordable housing units to the City's housing stock is in proportion with the overall increase in new housing units.

17.42.020 - Applicability and Exempt Projects

The requirements of this Chapter shall apply to all new residential projects, except as noted in Subsection B. The requirements of this Chapter shall apply to all developers and their agents, successors-in-interest, and assigns proposing a residential project. All inclusionary units required by this Chapter shall be sold or rented in compliance with this Chapter and the City's regulations for the implementation of this Chapter (see Subsection A).

- A. Additional regulations.** The Council shall by resolution establish regulations for the implementation of this Chapter. (These regulations were first adopted by the Council on September 10, 2001 and are entitled "City of Pasadena Inclusionary Housing Regulations.")
- B. Exempt projects.** The following are exempt from the requirements of this Chapter.
 - 1. Project with discretionary approvals.** A residential project that has obtained:
 - a. Discretionary approval (e.g., a Conditional Use Permit, Variance, or Design Review approval) in compliance with this Zoning Code before the effective date of this Chapter; and

- b. A Building Permit in compliance with the discretionary approval within 12 months of the effective date of this Chapter; and
 - c. A Certificate of Occupancy in compliance with the same discretionary approval.
2. **Exempt by State law.** A residential project that is exempt from this Chapter by State law, including a project for which the City enters into a development agreement.
 3. **Project with Redevelopment Agreement.** A residential project for which the Community Development Commission has executed a Redevelopment Agreement, provided that the Redevelopment Agreement is effective at the time the residential project would otherwise be required to comply with the requirements of this Chapter, and there is no uncured breach of the Redevelopment Agreement before issuance of a Certificate of Occupancy for the project.

17.42.030 - Definitions

All of the terms used in this Chapter are defined in Article 8 (Glossary of Specialized Terms and Land Use Types) under the term "Affordable Housing Definitions."

17.42.040 - Inclusionary Unit Requirements

- A. **Minimum number of units required.** A minimum of 15 percent of the total number of dwelling units in a residential project shall be developed, offered to, and sold or rented to households of low and moderate-income, at an affordable housing cost, as follows.
 1. **Units for sale.** If the project consists of units for sale, a minimum of 15 percent of the total number of units in the project shall be sold to low or moderate-income households.
 2. **Rental units.** If the residential project consists of rental units, a minimum of 10 percent of the units shall be rented to low-income households and five percent of the units shall be rented to low or moderate-income households.
- B. **Exception to minimum number required.** For a period of 12 months from the effective date of this Chapter, a residential project that obtains discretionary approval, or if no discretionary approval is required, obtains a Building Permit within that period, shall develop, offer to, and sell the following number of units to low and moderate-income households at an affordable housing cost, instead of the 15 percent required by Subsection A.
 1. **Units for sale.** If the project consists of units for sale, a minimum of six percent of the total number of units shall be sold to low or moderate-income households.
 2. **Rental units.** If the project consists of rental units, a minimum of four percent of the total number of units shall be rented to low-income households and two percent of the total number of units shall be rented to low or moderate-income households.

- C. Allowable credits.** The inclusionary unit requirements of Subsections A. and B. may be reduced as follows.
- 1. Very low-income units in lieu of low-income units.** If very low-income units are provided in lieu of the required low-income units, the project shall receive a credit of 1.5 affordable units for each unit actually provided.
 - 2. Very low-income units in lieu of moderate-income units.** If very low-income units are provided in lieu of required moderate-income units, the project shall receive a credit of two units for each unit actually provided.
 - 3. Low-income units in lieu of moderate-income units.** If low-income units are provided in lieu of required moderate-income units, the project shall receive a credit of 1.5 units for each unit actually provided.
- D. Rounding of quantities in calculations.** In calculating the required number of inclusionary units, fractional units of 0.75 or above shall be rounded-up to a whole unit if the residential project consists of 10 to 20 units; and fractional units of 0.50 or above shall be rounded-up to a whole unit if the project consists of 21 or more units.

17.42.050 - Alternatives to Units within Project

As an alternative to developing required inclusionary units within an affected residential project in compliance with Section 17.42.040 (Inclusionary Unit Requirement), the requirements of this Chapter may be satisfied through one or more of the following alternatives, in compliance with the City's regulations for the implementation of this Chapter (see Section 17.42.020.A).

- A. In lieu fee.** The developer may choose to pay a fee in lieu of providing all or some of the inclusionary units, as follows.
- 1. Amount of fee.** The amount of the fee shall be as required by the Council's Fee Resolution.
 - 2. Special adjustment for first 12 months.** For 12 months from the effective date of this Chapter, the fee shall be 40 percent of that required by the Council's Fee Resolution.
 - 3. Timing of payment.** One-half of the in-lieu fee required by this Subsection shall be paid (or a letter of credit posted) before issuance of a Building Permit for any part of the residential project. The remainder of the fee shall be paid before a Certificate of Occupancy is issued for any unit in the project.
 - 4. Housing Trust Fund.** Fees collected in compliance with this Section shall be deposited in the Inclusionary Housing Trust Fund.
- B. Off-site units.** Upon application by the developer and at the discretion of the Director, the developer may satisfy the inclusionary unit requirements for the project, in whole or in part, by constructing or substantially rehabilitating the required number of units on a site other than that of the affected residential project.

- C. **Land donation.** Upon application by the developer and at the discretion of the Director, the developer may satisfy the project inclusionary unit requirements, in whole or in part, by dedicating land to the City for the construction of the inclusionary units.

17.42.060 - Housing Plan and Housing Agreement Required

- A. **Submittal and execution.** The developer shall comply with the following requirements at the times and in compliance with the standards and procedures in the City's regulations for the implementation of this Chapter (see Section 17.42.020.A).
1. **Housing Plan.** The developer shall submit an Inclusionary Housing Plan for approval by the Director, detailing how the provisions of this Chapter will be implemented for the proposed project.
 2. **Housing Agreement.** The developer shall execute and cause to be recorded an Inclusionary Housing Agreement, unless the developer is complying with this Chapter as provided in Sections 17.42.050.A. (In lieu fee) or C. (Land donation).
- B. **Discretionary approvals.** No discretionary approval shall be issued for a residential project subject to this Chapter until the developer has submitted an Inclusionary Housing Plan.
- C. **Issuance of Building Permit.** No Building Permit shall be issued for a residential project subject to this Chapter unless the Director has approved the Inclusionary Housing Plan, and any required Inclusionary Housing Agreement has been recorded.
- D. **Issuance of Certificate of Occupancy.** A Certificate of Occupancy shall not be issued for a residential project subject to this Chapter unless the approved Inclusionary Housing Plan has been fully implemented.

17.42.070 - Standards

- A. **Location within project, relationship to non-inclusionary units.** All inclusionary units shall be:
1. Reasonably dispersed throughout the residential project;
 2. Proportional, in number, bedroom size, and location, to the market rate units; and
 3. Comparable with the market rate units in terms of the appearance, base design, materials, and finished quality.
- B. **Timing of construction.** All inclusionary units in a residential project shall be constructed concurrent with, or before the construction of the market rate units. If the City approves a phased project, the required inclusionary units shall be provided within each phase of the residential project.

- C. Time limit for reserving units.** All required inclusionary units shall be reserved for low and moderate-income households at the applicable affordable housing cost for the following minimum time periods.
- 1. Units for sale - 30 years.** A unit for sale shall be reserved for the target income level group at the applicable affordable housing cost for a minimum of 30 years.
 - 2. Rental units - Reserved in perpetuity.** A rental unit shall remain reserved for the target income level group at the applicable affordable housing cost in perpetuity.
- D. Recapture of financial interest.** Notwithstanding Subsection C. 1., above, inclusionary units for sale may be sold to an above-moderate-income purchaser in compliance with the City's regulations for the implementation of this Chapter (see Section 17.42.020.A); provided that the sale shall result in a recapture by the City, or its designee, of a financial interest in the unit equal to:
- 1. Difference between price and value.** The difference between the initial affordable sales price and the appraised value at the time of the initial sale; and
 - 2. Proportionate share of appreciation.** A proportionate share of any appreciation.

17.42.080 - Enforcement

- A. Forfeiture of funds.** Any individual who sells or rents an inclusionary unit in violation of this Chapter shall be required to forfeit all money so obtained. Recovered funds shall be deposited into the Inclusionary Housing Trust Fund.
- B. Legal actions.** The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including actions:
- 1.** To disapprove, revoke, or suspend any permit, including a Building Permit, Certificate of Occupancy, or discretionary approval; and
 - 2.** For injunctive relief or damages.
- C. Recovery of costs.** In any action to enforce this Chapter, or an Inclusionary Housing Agreement recorded hereunder, the City shall be entitled to recover its reasonable attorney's fees and costs.

17.42.090 - Takings Determination

- A. Determination of a taking of property without just compensation.**
- 1. Initiated by request from developer.** Commencing upon the approval or disapproval of the Inclusionary Housing Plan by the Director, in compliance with the City's regulations for the implementation of this Chapter (see Section 17.42.020.A), and within 15 days thereafter, a developer may request a determination that the requirements of this Chapter, taken together with the inclusionary incentives as applied to the residential project, would legally constitute a taking of property of the residential project without just compensation under the California or Federal Constitutions.

2. **Burden on developer.** The developer has the burden of providing economic information and other evidence necessary to establish that application of the provisions of this Chapter to the project would constitute a taking of the property of the proposed project without just compensation.
 3. **Director's determination subject to appeal.** The Director shall make the determination, which may be appealed in compliance with Chapter 17.72 (Appeals) except that the Council shall serve as the applicable review authority.
- B. Presumption of facts.** In making the taking recommendation or determination, the review authority shall presume each of the following facts:
1. **Application of requirements.** Application of the inclusionary housing requirement to the residential project;
 2. **Incentives.** Application of the inclusionary incentives;
 3. **Product type.** Utilization of the most cost-efficient product type for the inclusionary units; and
 4. **External funding.** External funding where reasonably likely to occur.
- C. Modifications to reduce obligations.** If it is determined that the application of the provisions of this Chapter would be a taking, the Inclusionary Housing Plan shall be modified to reduce the obligations in the inclusionary housing component to the extent, and only to the extent necessary, to avoid a taking. If it is determined no taking would occur though application of this Chapter to the residential project, the requirements of this Chapter remain applicable.

17.42.100 - Density Bonus and Incentive Provisions

- A. Purpose.** The incentives offered in this Section are used by the City as one means of meeting its commitment to encourage the provision of affordable housing units to all economic groups living within the City.
- B. Applicability.**
1. **Five or more units.** The provisions of this Section apply only to residential projects of five or more units before applying for a density bonus.
 2. **Allowable bonuses.** The following bonus provisions are allowed:
 - a. **Reduction in minimum lot.** In the RS and RM-12 zoning districts, a reduction in the minimum lot size shall be the sole method of providing a density bonus.

TABLE 4-3 - DENSITY BONUS LOT SIZE REDUCTION

	Zoning District				
	RS-1	RS-2	RS-4	RS-6	RM-12
Lot Size Reduction	30,000 sq. ft.	15,000 sq. ft.	9,000 sq. ft.	5,400 sq. ft.	5,400 sq. ft.

- b. **Density bonus of up to 25 percent.** For projects subject to Section 17.22.080 (RM District Garden Requirements), or Section 17.50.350 (Urban Housing), or for the residential portion of a mixed-use project, a density bonus of up to 25 percent above the maximum density (lot area per unit) shall be allowed by right.
 - c. **Density bonus of up to 50 percent.** For projects subject to Chapter 17.26 or the residential portion of a mixed-use project in Central District subdistricts, CD-1, CD-2, CD-3, and CD-4 may be granted a density bonus of up to 50 percent above the maximum density (lot area per unit); however, a Conditional Use Permit (Section 17.61.050) shall be required for any density bonus exceeding 25 percent.
 - d. **Density bonus defined.** A density bonus of up to 25 percent (as in Subparagraph b., above) or 50 percent (as in Subsection B.2.c., above) shall be defined as the ability to provide additional dwelling units over and approve the maximum number normally allowed by the General Plan designation and zoning district for the subject development site.
3. **Rounding of quantities.** When calculating the number of density bonus units allowed, any fraction of a residential unit shall be counted as a whole unit.
 4. **Bonus units excluded from calculations.** Density bonus units shall be excluded when calculating the number of units required for very low, low-income households, or senior citizen housing.
 5. **Prerequisites for bonus.** The granting of a density bonus shall require that the project comply with at least one of the following criteria:
 - a. At least 10 percent of the units are for very low-income households;
 - b. At least 20 percent of the units are for low-income households; or
 - c. At least 50 percent of the units are for senior citizen housing.
- C. **Preliminary proposal.** An applicant may submit a written preliminary proposal to determine the means of complying with this Section. Within 90 days of receipt of the proposal, the Zoning Administrator shall notify the applicant in writing of the applicable procedure.
- D. **Covenant.** A covenant or other document satisfactory to the City Attorney shall be recorded before issuance of a Building Permit. The covenant shall ensure that the affordable units remain

affordable to designated income groups for at least 20 years, if no development incentive is requested, and at least 30 years if a development incentive is granted.

- E. Development incentives.** In addition to the density bonus, an applicant may request a development incentive as follows.
- 1. Permit requirement.** The granting of a development incentive shall require Minor Conditional Use Permit approval (Section 17.61.050).
 - a. Financial report required.** The applicant shall provide a financial report detailing how the development incentive contributes significantly to the economic feasibility of providing affordable housing.
 - b. Additional finding required.** The granting of a development incentive shall require that the review authority first find that the requested incentive contributes significantly to the economic feasibility of providing affordable housing in addition to the findings otherwise required for Minor Conditional Use Permit approval by Section 17.61.050.
 - 2. Allowable development incentives.** For the purpose of this Subsection, a development incentive may include:
 - a.** A reduction or modification of one or more residential development standards; or
 - b.** Another regulatory incentive or concession proposed by the developer which results in identifiable cost reductions.
 - 3. Provision of child care facility.** A housing development that complies with the requirements of Subparagraph B. 5. (Prerequisites for bonus), above, and also includes a child care facility, other than a large or small child day-care home, that will be located on the site of, as part of, or adjacent to the development shall be subject to the following additional bonus, incentives, and requirements.
 - a. Additional bonus and incentives.** The City shall grant a housing development that includes a child care facility in compliance with this Subsection either of the following:
 - (1) An additional density bonus that is an amount of floor area in square feet of residential space that is equal to or greater than the floor area of the child care facility; or
 - (2) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.
 - b. Requirements to qualify for additional bonus and incentives.** The City shall require, as a condition of approving the housing development, that:

- (1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable in compliance with Subsection 17.42.070 C. (Time limit for reserving units), above, and
- (2) Of the children who attend the child care facility, the children of very low-income households, lower income households, or families of moderate-income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low-income households, lower income households, or families of moderate-income in compliance with Subparagraph B. 5. (Prerequisites for bonus) above.

The City shall not be required to provide a density bonus or concession for a child care facility in compliance with this Subsection if it finds, based upon substantial evidence, that the community has adequate child care facilities.

4. **Alternative incentives.** In lieu of a density bonus, an applicant may request an alternate incentive having equal financial value based upon the land cost per dwelling unit.
 5. **Ineligible incentives.** The reduction or waiver of the main garden requirement in compliance with Section 17.22.080 (RM District Garden Requirements) shall not be eligible as an incentive.
- F. **Expedited development processing.** The City may provide an expedited review or plan check for density bonus projects.
- G. **Council finding required.** The Council shall approve one or more of the above listed incentives, notwithstanding the other provisions of this Section, unless it makes a written finding that the additional incentives are not required in order for the sales price or rent for the affordable units to be set in compliance with State law (Government Code Section 65915(c)).

17.42.110 - Inclusionary Housing Trust Fund

There is hereby established a separate fund of the City, to be known as the Inclusionary Housing Trust Fund. All monies collected in compliance with Subsections 17.42.050 A. (In lieu fee), 17.42.080 D. (Recapture of financial interest), or 17.42.090 (Enforcement), above, shall be deposited in the Inclusionary Housing Trust Fund.

17.42.120 - Administrative Fees

The Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

17.42.130 - Appeal

Within 15 calendar days after the date of the Director's decision, an appeal may be filed in compliance with Chapter 17.72 (Appeals and Calls for Review).

CHAPTER 17.44 - LANDSCAPING

Sections:

- 17.44.010 - Purpose of Chapter
- 17.44.020 - Applicability
- 17.44.030 - Preliminary Landscape Plan
- 17.44.040 - Final Landscape and Irrigation Plan
- 17.44.050 - Landscape Documentation Package
- 17.44.060 - Landscape Location Requirements
- 17.44.070 - Landscape Standards
- 17.44.080 - Maintenance of Landscaping
- 17.44.090 - Tree Retention
- 17.44.100 - Street Trees

17.44.010 - Purpose of Chapter

In addition to the general purposes identified in Chapter 17.10 (Enactment and Applicability of Zoning Code), the specific purposes of this Chapter are to:

- A. Provide general landscape requirements common to various zoning districts;
- B. Encourage quality landscape designs;
- C. Enhance the appearance of all development by requiring the design, installation, and proper maintenance of landscaping and by providing standards relating to the quality, quantity, and functional aspects of landscaping and landscape screening;
- D. Ensure that new landscaping would be consistent with any applicable design guidelines and that important resources (e.g., large specimen plants) are retained;
- E. Protect public health, safety, and welfare by minimizing the impact of various forms of physical and visual pollution, controlling soil erosion, screening incompatible land uses, preserving the integrity of existing residential neighborhoods, and enhancing pedestrian and vehicular traffic and safety;
- F. Encourage the efficient use of irrigation, appropriate plant materials, and regular maintenance of landscaped areas; and
- G. Ensure the protection of landmark, native, and specimen trees to the extent specified in Chapter 8.52 (City Trees and Tree Protection Ordinance) of the Municipal Code.

17.44.020 - Applicability

- A. **Landscaping required.** All projects shall provide and maintain landscaping in compliance with the provisions of this Chapter.

B. Landscaping plans subject to review.

1. **Submittal of plans required.** Final landscape and irrigation plan, and plans for the ornamental use of water, including fountains and ponds, shall be submitted to the Zoning Administrator for review for compliance with the requirements of this Chapter.
2. **Approval by Zoning Administrator required.** The landscaping shall not be installed until the applicant receives approval of the final landscape and irrigation plan by the Zoning Administrator and any applicable permits have been issued.
3. **Changes to final plans.** Changes to the approved final landscape and irrigation plans that affect the character or quantity of the plant material or irrigation system design are required to be resubmitted for approval before installation.

- C. **No construction resulting in injury or removal of trees.** No construction shall be allowed that results in the injury or removal of a landmark, native, or specimen tree, as those terms are defined in Chapter 8.52, unless the appropriate findings are made in compliance with Chapter 8.52 (City Trees and Tree Protection Ordinance) of the Municipal Code.

17.44.030 - Preliminary Landscape Plan**A. Plan required.**

1. A preliminary landscape plan shall be submitted as part of an application for a land use entitlement.
2. Where no entitlement is required, the final landscape and irrigation plan shall be submitted to the Zoning Administrator in order to fulfill any landscape requirement identified by this Zoning Code before issuance of a Building Permit.

B. Intent of preliminary landscape plan.

1. The preliminary landscape plan shall meet the purpose of this Chapter by exhibiting a design layout that demonstrates the desired landscaping program in terms of function, location, size/scale, theme, and similar attributes
2. The preliminary landscape plan shall provide the Zoning Administrator with a clear understanding of the landscaping program before preparation of the detailed final landscape and irrigation plan.
3. The preliminary landscape plan shall meet the intent of Chapter 8.52 (City Trees and Tree Protection Ordinance) of the Municipal Code.

- C. **Landscape architect required.** Preliminary landscape and irrigation plans shall be prepared by a California-registered landscape architect, or the architect that designed the on-site structures and improvements.

- D. Waiver of requirements.** The Zoning Administrator may waive the requirement for a preliminary landscape plan for building additions and remodelings where no, or only minor, alterations to the existing landscape or topography are proposed.

17.44.040 - Final Landscape and Irrigation Plan

This Section provides standards for preparation and submittal of the final landscape and irrigation plan.

A. Submittal of plan.

1. A final landscape and irrigation plan (e.g., construction documents) for on-site landscaping shall be submitted following approval of the land use entitlement application by the Zoning Administrator.
2. Where no entitlement is required, the final landscape and irrigation plan shall be submitted to the Zoning Administrator in order to fulfill any landscape requirement identified by this Zoning Code, before issuance of a Building Permit.

- B. Waiver of plan requirements.** The Zoning Administrator may waive the requirement for the preparation and submittal of a final landscape and irrigation plan for building additions and remodelings where no, or only minor, alterations to the existing landscape or topography are proposed.

- C. Landscape architect required.** Final landscape and irrigation plans shall be prepared by a California-registered landscape architect, or the architect that designed the on-site structures and improvements.

- D. Landscape plan contents.** The landscape plan shall be drawn on project base sheets, be fully dimensioned, and include all of the information identified in Subsection 17.44.050 B. (Landscape design plan) below.

- E. Irrigation plan contents.** A fully dimensioned irrigation plan shall be drawn on project base sheets separate from the landscape design plan. The scale and format shall be the same as the landscape design plan. The irrigation design plan shall include all of the information identified in Subsection 17.44.050 C. (Irrigation design plan) below.

17.44.050 - Landscape Documentation Package

- A. Applicability.** A landscape documentation package conforming to the requirements of this Section shall be submitted for review and approval by the Zoning Administrator for all projects subject to the requirements of this Chapter.

- B. Landscape design plan.** A landscape design plan meeting the following requirements shall be submitted as part of the landscape documentation package.
- 1. Plant selection and grouping.** Any plants may be used in the landscape, providing the plants meet the requirements below.
 - a. Plants having similar water use shall be grouped together in distinct hydrozones.
 - b. Plants shall be selected based upon their adaptability to the climatic, geologic, and topographical conditions of the site.
 - c. Existing trees shall be preserved in compliance with Section 17.44.090 (Tree Retention).
 - 2. Content of plans.** Landscape plans shall include all of the necessary information as determined by the Zoning Administrator. At a minimum, the plans shall include the following:
 - a. Plant name;
 - b. Plant quantity;
 - c. Plant size;
 - d. Irrigation system; and
 - e. Plans for tree retention and removal.
 - 3. Water features.** Only recirculating water shall be used for decorative water features.
- C. Irrigation design plan.** An irrigation design plan meeting the following requirements shall be submitted as part of the landscape documentation package.
- 1. Irrigation design criteria.**
 - a. Runoff and overspray.** Soil types and infiltration rates shall be considered when designing irrigation systems. All irrigation systems shall be designed to avoid runoff, low-head drainage, overspray or other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways, or structures. Proper irrigation equipment and schedules shall be used to closely match application rates to infiltration rates in order to minimize runoff.
 - b. Special attention required.** Special attention shall be given to avoid runoff on slopes and to avoid overspray in landscaped areas with a width of less than 10 feet.
 - c. Irrigation efficiency.** For the purpose of determining the maximum water allowance, irrigation efficiency is presumed to be 0.625. Irrigation systems shall be designed, maintained, and managed to meet or exceed 0.625 efficiency.

2. Equipment.

- a. **Water meters.** Separate landscape water meters shall be installed for any project with a landscaped area greater than 5,000 square feet.
- b. **Automatic controllers.** Automatic control systems shall be required for all irrigation systems and shall be able to accommodate all aspects of the design.
- c. **Drip irrigation.** The use of drip irrigation shall be considered whenever appropriate.
- d. **Plant groupings.** Plants that require different amounts of water shall be irrigated by separate valves. If one valve is used for a given area, only plants with similar water use shall be used in that area. Anti-drain (check) valves shall be installed at strategic points to prevent low-head drainage.
- e. **Sprinkler heads.** Heads and emitters shall have consistent application rates within each control valve circuit. Sprinkler heads shall be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.
- f. **Rain-sensing devices.** Rain sensing override devices shall be required for any project with a landscaped area greater than 10,000 square feet.
- g. **Moisture-sensing devices.** Soil moisture sensing devices shall be required for any project with a landscaped area greater than 10,000 square feet.

D. Precise grading plan. When required by the Director, a precise grading plan satisfying the following conditions shall be submitted as part of the landscape documentation package.

- 1. A precise grading plan shall be drawn on project base sheets. It shall be separate from, but use the same format as, the landscape design plan; and
- 2. The precise grading plan shall indicate finished configurations and elevations of the landscaped area, including the height of graded slopes, drainage patterns, pad elevations, and finished grade.

17.44.060 - Landscape Location Requirements

Landscaping shall be provided as specified in this Section.

A. Residential projects. Each residential project shall be landscaped, irrigated, and maintained in compliance with the requirements of this Chapter.**1. New single-family projects.**

- a. A final landscape plan shall be submitted for review and approval by the Zoning Administrator before a Building Permit is issued.

- b. The landscape plan shall contain the specimen or common names of plants, sizes, locations on the site, and the number of each variety being used.
 - c. The landscape plan shall include the front and any corner side setback areas.
 - d. All landscape planting areas shall be provided with a permanent underground irrigation system.
- 2. Multi-family projects.**
- a. For City of Gardens and Urban Housing projects, a preliminary landscape plan shall be submitted for review and approval by the Zoning Administrator before a Building Permit is issued.
 - b. For City of Gardens projects, the landscape plan shall comply with the applicable requirements identified in Section 17.22.060 (RM District General Development Standards).
- B. Nonresidential projects.** The total area of each nonresidential project not devoted to lot coverage and paving shall be landscaped, irrigated, and maintained in compliance with the requirements of this Chapter.
- 1. A preliminary landscape plan shall be submitted for review and approval by the Zoning Administrator before a Building Permit is issued.
 - 2. The landscape plan shall include all uncovered areas.
 - 3. All landscape planting areas shall be provided with a permanent underground irrigation system.
- C. All setback areas shall be landscaped.**
- 1. **Landscaping of setbacks.** All setback and open space areas required by this Zoning Code shall be landscaped, except where a required setback is occupied by a sidewalk or driveway, or where a required setback is screened from public view and it is determined by the Zoning Administrator that landscaping is not necessary to fulfill the purposes of this Section.
 - 2. **Modification by Design Commission.** The Design Commission may modify this requirement to landscape all setback and open space areas. The modification may only be approved if the Design Commission finds that the project provides:
 - a. For outdoor dining activities, special paving, or other examples of exceptional architectural quality in the project's design;
 - b. A higher overall quality of landscape design than would normally be expected for a similar development project; and
 - c. A superior landscape maintenance plan.