

**Chapter 3.96**  
**RESIDENTIAL AFFORDABILITY INCENTIVE PROGRAM**

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**3.96.010 Purpose.**

The purpose of this chapter is to expand the affordable housing incentives in the City of Mountlake Terrace where middle housing is allowed to:

- A. Encourage increased affordable residential opportunities in the City, as provided in chapter 19.30 MTMC.
- B. Accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the City's comprehensive plan.

**3.96.020 Authority.**

This chapter is adopted under the authority of 36.70A.635 RCW, which provides for exceptions to minimum residential density requirements on lots zoned predominately for residential use.

**3.96.030 Definitions.**

When used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- A. "Affordability density bonus" incentives to develop affordable housing unit(s) as described in MTMC 19.30.045(C).
- B. "Affordable housing unit(s)" means dwelling units that have costs, including utilities other than telephone, that do not exceed 30 percent of the monthly income of a household whose income does not exceed the following percentages of median household income adjusted for household size, for Snohomish County, as reported by the United States Department of Housing and Urban Development:

Rental housing: 60%

Owner-occupied housing: 80%

- C. “Building codes” means the City and state building and fire codes as set forth in this code or adopted by reference.
- D. “City” means the City of Mountlake Terrace.
- E. “Department” means the Department of Community and Economic Development.
- F. “Director” means the Director of the Department of Community and Economic Development, or their designee.
- G. “Middle housing” as defined in chapter 19.15 MTMC.
- H. “Owner” means the property owner, part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of a building or land of record.
- I. “Permanent affordable housing” means housing that meets the definition of an “affordable housing unit(s),” providing either rental or owner occupancy on a non-transient basis. This includes an owner-occupied or rental accommodation that is leased for a period of at least six months. This excludes hotels and motels that predominantly offer rental accommodation on a daily or weekly basis.

#### **3.96.040 Applicability.**

Middle housing projects in residential areas (R-1, R-2, R-3, R-4 zoning districts) resulting from new construction may be entitled to participate in the City’s Residential Affordability Incentive Program to receive residential affordability density bonuses.

#### **3.96.050 Terms of the Residential Affordability Incentive Program.**

- A. The housing unit(s) qualifying under this chapter must be committed to renting or selling the agreed upon number of affordable housing unit(s).
- B. Incentive Term. The units must be maintained as affordable for a term of at least 50 years, and the property must satisfy that commitment and all required affordability and income eligibility conditions.
- C. The applicant shall record a covenant or deed restriction that ensures the continuing rental of units subject to these affordability requirements consistent with the

conditions in chapter 84.14 RCW for a period of no less than 50 years.

D. The covenant or deed restriction must also require that if the property is converted to a use other than one which continues to provide for permanently affordable housing, the property is subject to a lien that will accrue on an annual basis, 40% of AMI for rental unit(s) and 20% AMI for ownership unit(s). The lien is considered a fee in lieu of affordable housing which will be used by the city to maintain a public benefit.

E. The units dedicated as affordable must be provided in a range of sizes comparable to other units in the development.

F. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development.

G. The affordable units must generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

### **3.96.060 Project eligibility.**

A proposed middle housing project must meet the following requirements for consideration for a residential affordability bonus.

A. Location. The project must be located within R-1, R-2, R-3, R-4 zoning districts.

B. For the duration of the incentive term granted under this chapter, the subject property shall have no violations of applicable zoning requirements, land use regulations, or building code requirements contained in the Mountlake Terrace Municipal Code for which the Department shall have issued a notice to correct ("NTC") or notice of violation ("NOV") that are not resolved by a voluntary correction agreement, vacation by the Hearing Examiner, or action of the property owner in compliance with the applicable code requirements as determined by the Director, within the time period for compliance provided in such NTC or NOV and any extension of the time period for compliance granted by the Director.

C. Proposed Completion Date. New construction of middle housing with affordable unit(s) must be completed within the approval timeline of the building permit

D. Compliance with Guidelines and Standards. The project must be designed to comply with the City's Comprehensive Plan, building, housing, and zoning codes, and any other applicable regulations.

- E. The owner must enter into a contract with the city, approved by the city manager or their designee, under which the owner has agreed to the implementation of the development on terms and conditions satisfactory to the city and in compliance with this chapter.

### **3.96.070 Application procedure.**

An owner who wishes to propose a project for a residential affordability bonus shall file an application with the Department at the time of the building permit application, along with the required fees per the city's adopted taxes, rates, and fee schedule. A complete application shall include:

- A. A completed City application form setting forth the grounds for a residential affordability bonus. The form shall include:
  - 1. Number of proposed affordability unit(s) proposed;
  - 2. A brief description of the project, including the number and composition of proposed new units;
  - 3. A scaled site plan;
  - 4. Floor plan of units, including the location and type of unit(s) subject to the affordability requirement(s);
  - 5. The proposed rent or cost of the affordable unit(s);
  - 6. A statement acknowledging the required 50-year duration of the affordability requirement;
  - 7. A statement acknowledging that a covenant or deed restriction must be recorded by the applicant stating the applicable unit(s) are subject to affordability requirements consistent with the conditions in chapter 84.14 RCW for a period of no less than 50 years. The covenant or deed restriction must also address if the property is converted to a use other than which continues to provide for permanently affordable housing, the property is subject to a lien that will accrue on an annual basis, 40% of AMI for rental unit(s) and 20% AMI for ownership unit(s). The lien is considered a fee in lieu of affordable housing which will be used by the city to maintain a public benefit.; and

8. Verification by oath or affirmation of the information submitted.

B. Draft deed or covenant consistent with affordability and public benefit requirement language.

C. If, on the effective date of the ordinance codified in this chapter, ( July 2, 2025) the owner has applied for a building permit to the city, then application for a residential affordability bonus under this section may be submitted any time prior to issuance of a building permit.

**Commented [HE1]:** Replace with actual date. It's too hard to understand otherwise.

### **3.96.080 Approval criteria.**

The Department may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made following the receipt of a complete application.

A. The Director may approve the application if they find that:

1. The number of affordable units meets minimum requirements per section 19.30.045.
2. The affordable unit(s) meet the definition for affordable housing units as defined in section 3.96.030.A.2.
3. The units dedicated as affordable must be provided in a range of sizes comparable to other units in the development.
4. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development.
5. The affordable units must generally be distributed throughout the development and have substantially the same functionality as the other units in the development.
6. The proposed deed or covenant language is sufficient to ensure affordability and public benefit requirements for no less than 50 years.
7. The proposed project is or will be, at the time of completion, in conformance with all applicable local plans and regulations.

8. The property owner has complied with all standards and guidelines adopted by the City under this chapter, MTMC 19.30 and MTMC 19.32.

B. Approval of Application. If an application is approved, the applicant shall enter into a contract with the city regarding the terms and conditions of implementation of the project.

**Commented [HE2]:** I see "owner" and "applicant" used interchangeably - would recommend making it consistent

C. Prior to the building permit being issued, the applicant shall submit the recorded deed or covenant previously approved by the Department.

D. Denial of Application. If an application is denied, the Director shall state in writing the reasons for denial and shall exercise best efforts to send notice to the applicant at the applicant's last known address within 10 calendar days of the denial.

E. Appeal. An applicant may appeal a denial to the city's Hearing Examiner within 30 calendar days of receipt of the denial by filing a complete appeal application and fee with the Director. The appeal will be based on the record made before the Director. The Director's decision will be upheld unless the applicant can show that there is no substantial evidence in the record to support the Director's decision. The city Hearing Examiner's decision on appeal will be final.

### **3.96.090 Annual compliance review.**

A. Within 30 calendar days after the certificate of occupancy and each year for incentive term, the owner shall be required to file a notarized declaration with the city indicating the following:

1. The number and type of units produced or to be produced meeting affordable housing requirements;

2. A certification by the owner that the property has maintained a permanent affordable housing unit(s) use and that the property has been in compliance with the affordable housing requirements as described in RCW 36.70A.635 and requirements of this chapter since the date of the certificate of occupancy;

3. If the property has changed to a use other than which continues to provide for permanently affordable housing, the property is subject to a lien that will accrue on an annual basis, 40% of AMI for rental unit(s) and 20% AMI for ownership unit(s). The lien is considered a fee in lieu of affordable housing which

will be used by the city to maintain a public benefit;

4. If any changes have been made to the property covenants or deed restrictions that would affect the affordability or public benefit requirements, provide an updated copy to the city for review;

5. The income of each renter household at the time of initial occupancy and the income of each initial purchaser(s) of owner-occupied unit(s) at the time of rent or purchase for each of the unit(s) receiving a residential affordability bonus; and

6. The total monthly rent or total sale amount of each affordable unit(s).

B. City staff may also conduct on-site verification of the declaration. Failure to submit the annual declaration is subject to code enforcement pursuant to chapter 1.15 MTMC.