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## Sec. 15.05.220. Inclusionary housing.

### A. Findings.

1. The regional trend toward increasing housing prices will, without intervention, result in inadequate supplies of affordable housing in the city for low, moderate, and middle income households. This trend has a negative effect on the ability of local employers to maintain an adequate workforce, adversely impacting the economy of the city.
2. Because land appropriate for residential development within the city is limited, it is essential that a reasonable proportion of such land be developed into housing units that are affordable to low- and moderate-income residents and working people. All development of market-rate housing should therefore include affordable housing, and the council finds that 12 percent is the reasonable proportion at this time, given economic indicators and community need.
3. Less expensive market-rate housing (middle-tier housing) generally has less of an impact than larger market-rate housing, provides housing for an additional segment of the population that is critical to the city's workforce and economy, and would be less likely to be developed were it to be required to include an affordable housing component. The requirements of this section should therefore apply to market-rate housing in a graduated manner.
4. The development of accessory dwelling units, the conversion of residential buildings to add a single additional housing unit, and planning approval of developments that do not create a condition for further development each have only a de minimis impact on land supply and the overall social, economic, and environmental health of the city, and need not be included within the requirements of this section.
5. The market for rental housing is distinct from the market for for-sale housing and attracts different consumers. The construction of higher-density rental units will increase the overall quantity of rental units across all price ranges. The construction of a greater number of rental units across all price ranges will alleviate existing demand pressures, not apparent in the for-sale market, forcing some individuals to rent in price ranges below what their incomes will allow. In turn, higher-density rental developments will improve the availability of affordable rental housing. City housing data suggests that rental densities exceeding 20 units per acre are not likely to be developed absent a significant incentive. Accordingly, marginal units in a rental development that exceed a density threshold of 20 units per acre should not be subject to the requirements of this section.

### B. Applicability. This section applies to any development receiving approval of a final plat, site plan, PUD plan, overall development plan, or other similar planning approval.

1. The following exceptions shall apply to the applicability of this section 15.05.220:
  - a. The development of accessory dwelling units.
  - b. Adding a single additional housing unit to any residential building.
  - c. A development receiving planning approval that would not create a condition for further development as further clarified in the rules under subsection O of this section.
  - d. When a development that has received final approval of a final plat, site plan, PUD plan, overall development plan, or other similar planning approval prior to December 11, 2018, requests an amendment to such final approval, this section 15.05.220 shall apply only to any additional units or square footage proposed in the requested amendment.
  - e. When a development seeks planning approval to convert a residential building to a group care home, this section 15.05.220 shall apply to any additional bedroom spaces.

C. *Transitional provision, applicability by date.* This section shall apply only to any development receiving approval of a final plat, site plan, PUD plan, overall development plan, or other similar planning approval after December 11, 2018. For development of one single-family detached dwelling unit on a single lot platted prior to December 11, 2018, this development code does not require a subdivision plat, because no subdivision will occur, nor a site plan. See section 15.02.070.C.2.

D. *Requirements by unit type.*

1. *For sale.* Developments of units for sale may satisfy the requirements of this section using any of the options listed in subsection E of this section.
2. *For rent.* Developments of units for rental may satisfy the requirements of this section using any of the options listed in subsection E of this section, ~~except the on-site or off-site location options described in subsections E.1 and 3 of this section, but including the alternative agreement option in subsection E.6 of this section.~~
3. *Live/work.* Live/work units shall be considered residential development for the purposes of this section. However, for market-rate live/work units, only 80 percent of the unit shall be considered market-rate housing.

E. *Options to satisfy requirements.*

1. *On-site location.* The developer or builder may satisfy its obligations under this section by providing affordable housing at the same location as market-rate units.
  - a. *Quantity and design.* At least 12 percent of the dwelling units in the development shall be affordable.
  - b. *Phasing.* Phasing of construction of affordable units and securities for each phase shall be detailed in an affordable housing agreement approved by the ~~cCity mManager or designee community services director~~ under the same standards and procedures as a public improvement agreement.
  - c. *Amenities.* Affordable units shall have equal access as market-rate units to all amenities within the development, including, but not limited to, common areas, indoor and outdoor facilities for convenience or recreation, and parking facilities.
  - d. *Homeowner associations.* Affordable units must be placed on a fair and equal footing as market-rate units within the governing documents of any homeowner association or similar entity.
2. *Fee in lieu.* A developer may pay a fee in lieu of providing affordable units.
  - a. *Amount.* The council finds that Inclusionary Housing Fee in Lieu Methodology for the City of Longmont, ~~dated November 30, 2018,~~ reasonably calculates the impact to the city, including the city's finances and the welfare of the city's residents, of market-rate dwelling units being developed in the city. ~~Accordingly, the fee in lieu is set initially at \$7.90 per square foot of finished market-rate for-sale housing, and \$1.90 per square foot of finished market-rate rental housing.~~ The fee in lieu of providing any required fraction of a unit shall be based on its proportional share (fractional quantity divided by total number of units required) of the amount of fee in lieu that would be required for the whole development. The ~~cCity mManager or designee community services director~~ shall recalculate the fee in lieu every three years and present the recalculation to the council, ~~after which the final fee shall be published on the City's website.~~
  - b. *Timing of payment.* A developer or builder shall pay the fee in lieu for each ~~market-rate~~ unit as a prerequisite for receiving the certificate of occupancy for that unit. The fee paid shall be the fee in effect at the time of the final plat or site plan for the development, whichever is later.

**Commented [KW1]:** Council directed to streamline the approval process for on-site rental production by changing rental compliance to an administrative approval process.

**Commented [KW2]:** Minor Housing Keeping change: The identified approval authority position no longer exists. This change was repeated throughout the ordinance

**Commented [KW3]:** Minor Housing Keeping: Date reflected is not the accurate adoption date.

**Commented [KW4]:** Minor House Keeping: Fee-in-lieu rate is adjusted and published every three years. What is reflected in code is 5 years old. In order to void regular code updates when the FIL is updated and published. City staff will publish the rate change on a city website.

**Commented [KW5]:** Minor Housing Keeping: Provides clarity about which unit square footages are subject to the FIL calculation.

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- c. *Calculation with density cap.* Rental units excluded from the requirements of this section due to the density cap in subsection Q of this section shall be excluded from the calculation of the fee in lieu in the following manner: the square footage of the development for the purposes of the fee in lieu shall be calculated as the average actual square footage of the units in the development multiplied by the number of units not excluded.
  - d. *Conversion of rental developments to ownership dwelling units.* A rental development may be converted to a for sale development from time to time. If the inclusionary housing requirement for a rental development was satisfied with a fee in lieu contribution and the rental development is converted to a for-sale development within five years of the issuance of a final certificate of occupancy, the property owner shall pay the city the difference between the fee in lieu amount paid and the amount that would have been due at the time of the final plat or site plan for a for-sale development. An owner of a rental development shall enter into an agreement with the city, acting by and through its city manager or designee community-services director, where the form of such agreement is approved by the city manager or designee community-services director, agreeing to pay the difference between the rental fee in lieu and the for-sale fee in lieu if the rental development, or any unit therein, is converted to for-sale in the five-year period. The agreement shall indicate the difference between the fee in lieu amount owed upon conversion to a for-sale unit during the five-year term. No additional fee in lieu shall be required if such conversion occurs after the expiration of the five-year term.
3. *Off-site location.* A developer or builder may seek to provide affordable units within the city in a different location than the development of the market-rate units.
- a. *Quantity required.* The developer or builder shall provide no less quantity of affordable housing than would have been required on-site.
  - b. *Location restrictions.* The affordable units may not be located in a low to moderate income area as designated by the U.S. Department of Housing and Urban Development, unless an exception is granted under subsection K.3 of this section.
  - c. *New or existing housing.* Existing homes may be acquired and deed restricted as affordable if they are in good repair in the determination of the City mManager or designee community services director based on an inspection paid for by the developer but commissioned by the city, carry a warranty of sufficient scope and duration to protect the resident from significant preexisting deficiencies, and are not already burdened by restrictions requiring them to be kept affordable or restrictions similar in effect.
  - d. *Timing of off-site construction.* No final plat or site plan shall be executed for the location of the market-rate units until a final plat sufficient to facilitate the development of the affordable units, and site plan if necessary, have been recorded. Phasing and security shall be governed in the same manner as on-site locations as described in subsection E.1.b of this section. The affordable housing agreement shall run with the land and shall be recorded against the off-site location.
  - e. *Approval.* Approval of the use of this option does not guarantee approval of any land use application or building permit for the off-site location. The developer risks forfeiture of security if unable to build the off-site units as proposed.
4. *Land dedication.* A developer may seek to provide land to the city in lieu of the development of affordable units. Dedicated land must meet the following standards:
- a. All off-site infrastructure necessary or proper for the development of the land as affordable housing either: (i) must already be in place, and any outstanding obligations paid to neighboring landowners for public infrastructure they installed; (ii) the developer must agree to build the infrastructure within a timeframe that will not delay the development of the affordable housing

and the developer may be required to post securities for the infrastructure via a public improvement agreement; or (iii) the land donation must be accompanied with additional compensation to the city sufficient to construct such infrastructure.

- b. The land must be able to support at least the quantity of affordable housing as would be required on-site, without the need for a variance, modification, rezoning, or reliance on any incentive for affordable housing found in this development code, such as a density or height bonus. The developer shall submit a concept plan illustrating how it complies.
  - c. The land must not be encumbered in any manner, including, but not limited to, any lien, outstanding tax or fee accrued, or floodplain, which in any way jeopardizes the city's ability to develop that quantity of housing.
  - d. The land may not be located in a low to moderate income area as designated by the U.S. Department of Housing and Urban Development, unless an exception is granted under subsection K.3 of this section.
  - e. The land must be dedicated to the city at the time of execution of the plat or plan allowing the development of the market-rate units.
  - f. The developer and the owner of the land shall comply with all environmental site assessment provisions of section 15.02.140 applicable to dedications via plats or site plans, and associated development.
  - g. The land dedication must be in fee simple and by general warranty deed.
5. *Redemption of credits.* A developer may acquire, and redeem with the city, credits generated as described in subsection L of this section, from the prior development of affordable housing, to offset an equivalent quantity of required affordable housing.
6. *Voluntary alternative agreement.* A developer may propose an alternative manner in which the development will satisfy its obligations under this section. Such an agreement need not meet the otherwise applicable substantive requirements of this section, but must be approved by the city council under the provisions of subsection K.2 of this section. ~~Specifically, developers of rental housing may voluntarily agree to limit rent on a property or unit and accept deed restrictions to that effect in order to designate the units as affordable, rather than pay the fee in lieu or dedicate land.~~ Also, the agreement may facilitate the construction of lower-priced affordable homes as follows:
- a. The agreement may provide that the home price of a for-sale unit would be affordable at or below 60 percent of the area median income.
  - b. For rental housing, the agreement may provide that the monthly rental price would be affordable at or below 40 percent of the area median income.
  - c. Under subsections E.6.a and b of this section, the obligations otherwise applicable under this section may be reduced up to 25 percent.
  - d. Subsections E.6.a through c of this section may apply to on-site and off-site affordable housing as well as land donations.
7. *Combination.* A developer or builder may pursue any combination of the allowable options in this subsection.
- F. *Middle-tier housing.* Prior to issuance of building permits, a developer or builder may enter an agreement with the city, acting by and through its ~~cCity mManager or designee community services director~~, where the form of such agreement is approved by the ~~cCity mManager or designee community services director~~, providing that the development may include less affordable housing than this section would otherwise

**Commented [KW6]:** Council directed to streamline the approval process for on-site rental production by changing rental compliance to an administrative approval process.

require, due to the developer's commitment to provide middle-tier housing. The agreement shall provide as follows:

~~a. 1.~~ No obligation shall arise under this section to satisfy any affordable housing requirement for any unit sold for occupancy at a price affordable between 80.1 percent and 100 percent of the area median income.

~~b. a. 2.~~ The requirements for any units sold for occupancy at a price affordable between 100.1 percent and 110 percent of the area median income shall be reduced to 40 percent of the otherwise applicable requirement.

~~c. b. 3.~~ The requirements for any units sold for occupancy at a price affordable between 110.1 percent and 120 percent of the area median income shall be reduced to 80 percent of the otherwise applicable requirement.

~~d. 2.~~ For-sale units sold for occupancy at a price that exceed the median sales price in the city of Longmont tier for a given unit type, as published by the City of Longmont, shall be precluded from subsections F.a through c.

~~e. 3.4.~~ The developer or builder shall state the price tiers for which the homes will qualify.

~~f. 4.5.~~ The developer or builder shall use best efforts to ensure that the initial owner or owners of each such individual home shall have a bona fide intent to occupy the premises, and shall provide documentation thereof.

~~g. 5.6.~~ In order to receive building permits for such middle-tier homes, the developer or builder shall confirm in writing to the ~~cCity mManager or designee community-services director~~, in the form provided by the ~~cCity mManager or designee community-services director~~, that each home will sell for a price within the applicable range described in the agreement. In order to receive a certificate of occupancy for such a middle-tier home, the developer or builder shall produce proof, to the satisfaction of the ~~cCity mManager or designee community-services director~~, that the home will actually sell for a price within that applicable range. Promptly upon sale of the home, the developer or builder shall provide proof, to the satisfaction of the ~~cCity mManager or designee community-services director~~, that the home did actually sell for a price within the applicable range.

~~h. 6.7.~~ Middle-tier true-up. Where a developer or builder sells some of such middle-tier homes for more than the designated tier, and the development's obligations under this section increase as a result, the developer or builder may still receive approvals for such homes, including certificates of occupancy, by paying to the city the amount of the fee in lieu for the difference.

G. *Deed restrictions.* All required affordable housing shall carry deed restrictions and covenants in the form set by the ~~cCity mManager or designee community-services director~~.

1. *When required.*

- a. *Ownership covenant.* Deed restrictions shall be required for each affordable for-sale unit at the time the unit passes to a qualifying owner.
- b. *Rental covenant.* Deed restrictions for affordable rental units shall be required prior to issuance of the first certificate of occupancy for any rental unit in the development.

2. *Content.* The deed restrictions shall contain all terms determined by the ~~cCity mManager or designee community-services director~~ to be appropriate to ensure the affordability of the unit and compliance with this section.

3. *Deed of trust.* The deed restrictions shall be secured by a deed of trust on the property, which may be subrogated to other deeds of trust on the property.

**Commented [KW7]:** City Council option 2 :

a. The requirements for any units sold for occupancy at a price affordable between 80.1 percent and 100 percent of the area median income shall be reduced to 55 percent of the otherwise applicable requirement.

b. The requirements for any units sold for occupancy at a price affordable between 100.1 percent and 110 percent of the area median income shall be reduced to 70 percent of the otherwise applicable requirement.

c. The requirements for any units sold for occupancy at a price affordable between 110.1 percent and 120 percent of the area median income shall be reduced to 90 percent of the otherwise applicable requirement.

**Commented [KW8]:** Minor Housing Keeping- Clarity: section d. is intended to provide clarity on what sales prices are precluded from the middle tier housing compliance option.

**Commented [KW9]:** City council option 1: Remove this entire section.

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4. *Term.* All ownership and rental covenants shall be perpetual or virtually so; they shall require affordability of the affected unit for the greatest duration allowed by law.
  5. *Sale.*
    - a. *Ownership covenants.* Ownership covenants shall allow sale to another homeowner qualifying under subsection H of this section. These covenants shall allow for appreciation of the home at a rate determined based on changes in the area median income, plus an allowance for the value of capital improvements to the home installed by the owner. The rate may be capped so as to ensure the continued affordability of a unit to a new purchaser, to ensure that unit price does not fall unreasonably below the level at which a unit would be considered affordable, and to facilitate the economically practical sale of a unit once its owner's income increases sufficiently for the owner to afford a market-rate unit. The seller of the home shall charge to the buyer no other special or unusual fees, including any finder's fee. The council may consider allowing an owner of an affordable unit to sell to a buyer who does not meet the qualifications of subsection H of this section in exceptional circumstances involving significant disruption to the local economy or individual financial hardship. In exchange, the owner would transfer equity to the city at that time. The ~~cCity mManager or designee community-services-director~~ may specify in the deed restriction the amount of such equity. The amount shall be revised upon each sale of the affordable unit, and shall be based on the difference between the most recent affordable sales price and the estimated market price of the unit at the time of most recent sale.
    - b. *Rental covenants.* The ~~cCity mManager or designee community-services-director~~ may release and discharge a rental covenant after 30 years' duration, allowing sale or rental of the property to people who do not qualify under subsection H of this section, so long as the owner of the units seeking the removal of the deed restriction pays to the city at that time, for each deed-restricted affordable rental unit, the amount of the difference between the value of the unit with and without the deed restriction, as calculated by the ~~cCity mManager or designee community-services-director~~ based on reasonable market data collection or projections. If an arm's-length sale of the property accompanies the termination, the units shall be valued proportionally to the value at which the property is priced in the sale, so long as the director determines that valuation to be a reasonable market price.
  - H. *Income qualification and local live/work preference.* Affordable units may be sold or rented only to a person selected by the ~~cCity mManager or designee community-services-director~~ who meets the city's qualifications. Such qualifications shall be based on the person's income and assets and shall be intended to ensure that only those who require affordable housing shall be eligible. In selecting particular qualified applicants for particular affordable units, the ~~cCity mManager or designee community-services-director~~ shall consider applicants' household size compared to the size of available affordable units. If more qualified applicants of the appropriate household size request housing in an affordable unit than there are affordable units available, the ~~cCity mManager or designee community-services-director~~ shall give priority to applicants who prove their residency or employment within the city to the satisfaction of the ~~cCity mManager or designee community-services-director~~. If applicants are equally so prioritized, the ~~cCity mManager or designee community-services-director~~ may select among the applicants by lottery.
  - I. *Restriction on rental of for-sale units.* No owner of a for-sale affordable unit may fail to continuously occupy the unit as a primary residence, or lease or rent out the unit to any person. The ~~cCity mManager or designee community-services-director~~ may grant an exception to this restriction if the owner proves to the satisfaction of the ~~cCity mManager or designee community-services-director~~ that the lease or rental is directly necessitated by a bona fide hardship, the property has no outstanding down payment assistance loan from the city, and the lessee or renter will be a person approved by the ~~city manager or designee community-services-director~~ as meeting the qualifications of a purchaser of an affordable unit under subsection H of this section. The owner must notify the ~~cCity mManager or designee community-services-director~~ at least 90

days prior to leasing or renting out the unit, to give the ~~cCity mManager or designee vcommunity-services director~~ adequate time to consider the proposed exception.

J. *Affordable housing fund.* All revenues accruing to the city under this section shall be placed in the affordable housing fund established in chapter 4.99.

K. *Approval process.*

1. Administrative approval.

a. *For-sale on-site.* For-sale developments which opt to satisfy this section by producing all required affordable for-sale units on-site under subsection E.1 of this section, may memorialize their commitments on the plat or site plan without requiring council approval.

b. ~~Rental on-site. Rental developments which opt to satisfy this section by producing all required affordable rental units on-site under subsection E.1 of this section, may memorialize their commitments on the plat or site plan without requiring council approval.~~

c. b- *Fee in lieu.* Developments which opt to satisfy this section by paying the fee in lieu, as described in subsection E.2 of this section, may do so without requiring council approval.

2. Other options; approval by city council. Developments seeking to use other options in subsection E of this section must seek approval of their proposed use of such options from the city council. The council's decision on such proposals is discretionary and legislative. The council will consider whether the proposal will result in more affordable housing, providing more of a benefit to the city, than would the provision of the affordable units on-site under subsection E.1 of this section, whether practical difficulties prevent the inclusion of the affordable units on-site under subsection E.1 of this section, whether the proposal would better benefit the inhabitants of the city than requiring the provision of affordable housing on-site, or any other factors that may be relevant to these considerations.

3. Exception to restrictions on placement of affordable housing in low to moderate income areas. The council may, in its discretion and as a legislative act, grant an exception to the restrictions of subsections E.3 and E.4 of this section on provision of off-site affordable housing and land dedication within low to moderate income areas. The council will generally consider whether the placement of the required affordable housing in such areas would result in clustering of low-income housing in a way that would negatively impact the inhabitants of the area, the surrounding community, or the city as a whole, and whether positive elements of redevelopment or investment in the area outweigh any potential negative impacts.

4. The ~~cCity mManager or designee community-services director~~ shall recommend approval or denial of each proposal before the council.

L. *Credits for excess affordable housing.*

1. *Award of credit.*

a. *By agreement.* At the time of plat or site plan, a developer may enter into an agreement with the city, acting by and through the ~~city manager or designee community-services director~~, and in a form acceptable to the ~~city manager or designee community-services director~~, to memorialize that the developer shall develop more affordable housing than would otherwise be required under this section.

b. *Certificate of credit.* Provided that such housing is actually developed, and a certificate of occupancy issued, the city shall award the developer a credit for the excess number of units provided.

c. *Exceptions.* No credit shall be available for any affordable housing built on land donated or sold at a significant discount for the purpose of developing affordable housing in satisfaction of this

**Commented [KW10]:** Council directed to streamline the approval process for on-site rental production by changing rental compliance to an administrative approval process.

Section b mirrors the administrative memorialization requirement placed on for-sale projects.

section or any prior affordable housing requirements of the city; or for any affordable housing receiving any ~~federal, state, or local subsidies~~ ~~city-funded or city-administered assistance~~ whether financial subsidy, tax relief or other credits or incentives from the city under chapter 4.79. However, a development's use of a loan from the U.S. Department of Housing and Urban Development shall not disqualify its affordable housing from generating a credit.

**Commented [KW11]:** Council directed to amend the credit compliance option to prohibit credit allocation for any project receiving federal, state, or local subsidies.

- d. *Applicable regardless of nonmonetary development code incentives.* Affordable housing receiving land use incentives under this development code shall not thereby be rendered ineligible for a credit. As an exception to any otherwise applicable provision of this development code, such excess affordable housing shall not be excluded from such land use incentives by virtue of a developer's determination to seek a credit rather than to enter an agreement with the city for monetary incentives under chapter 4.79.

2. *Redemption of credit.* The credit may be redeemed to offset an equivalent number of affordable housing units that would otherwise be required under this section. Such credit shall be freely transferable to any other developer but shall be transferred in a manner acceptable to the ~~city manager or designee~~ ~~community-services director~~ so as to ensure accurate tracking of the transfer of credits by the city. A credit shall expire five years after it is awarded unless, within that time, the city executes an agreement with the holder of the credit to apply the credit to a specified development. Before the credit expires, the ~~city manager or designee~~ ~~community-services director~~ may, upon request, in writing, and for good cause, extend the term of the credit by one additional term of two years.

- M. *Marketing and sale of units.* Rules and regulations under subsection O of this section may address marketing and sale of units to ensure that the community has sufficient notice of available affordable housing.

- N. *Violation.* It shall be unlawful and a violation of this development code for any person to violate any provision of this section, any rule or regulation adopted by the ~~city manager or designee~~ ~~community-services director~~ under this section, any agreement executed as described in this section, or any deed restriction recorded as described in this section.

- O. *Rules and regulations.* The ~~city manager or designee~~ ~~community-services director~~ may propose such reasonable rules and regulations as may be necessary for the purpose of administering, interpreting, or enforcing the provisions of this section. The rules and regulations shall be reviewed by the city attorney's office and then adopted by the city manager. Notice of adopted rules shall be published in a newspaper of general circulation in the city.

- P. *Appeal.* The general appeal provisions of section 15.02.040.K, shall not apply to this section, except as noted below, and no variances, modifications, or other deviations from the requirements of this section shall proceed under this development code. Appeals shall instead be permitted as follows:

1. *Appeal of decisions of the ~~city manager's~~ ~~designee~~ ~~community-services director~~.*
  - a. *To the city manager.* A developer or builder may appeal to the city manager, under the procedures listed in chapter 2.98, any action, decision, refusal, denial, or order by the ~~City Manager's designee~~ ~~community-services director~~ that finally disposes of a request or application under this section. The city manager shall reverse the decision of the ~~City Manager's designee~~ ~~community-services director~~ upon finding that the decision misapplied or misinterpreted this section.
  - b. *To the city council.* A developer or builder who receives an unfavorable written decision from the city manager on appeal may then appeal the matter to the city council by filing a notice of appeal as described in section 15.02.040.K.6 within seven days from the date of the city manager's decision. The council shall hear and decide on the appeal generally under the procedures



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detailed in section 15.02.040.K.10., 11.a through c, and 12. The council shall reverse the decision of the city manager upon finding that the decision misapplied or misinterpreted this section.

2. *Appeal of adoption of rules and regulations.* Any rule or regulation promulgated under subsection O of this section may be appealed to the city council within 28 days of publication of adoption, by filing a notice of appeal as described in section 15.02.040.K.6. The council shall hear and decide on the appeal generally under the procedures detailed in sections 15.02.040.K.10, 11.a through c, and 12. The council shall reverse any rule or any part of any rule upon finding that the decision misapplied or misinterpreted this section, and may then remand any matters to the city staff for further rulemaking. Any rules or parts of rules not specifically reversed shall be final.

- Q. *Density cap for rental units.* Where a rental development exceeds a density of 20 units per acre, no obligation shall arise under this section to satisfy any affordable housing requirement for any marginal rental units provided exceeding that density.

(Code 2009, § 15.05.220; Ord. No. O-2018-51 , § 2, 12-11-2018; Ord. No. O-2019-17 , § 3, 3-19-2019; Ord. No. O-2021-18 , § 2, 4-13-2021)