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Chapter 17.36 HOUSING*

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* Editor's Note: The title of Ch. 17.36 was amended by Ord. 06-09 §1.

17.36.010 Purpose.

A. The goal of this policy is the creation of workforce housing in Mammoth Lakes sufficient to mitigate the increased workforce housing demands created by new development. This includes the needs of part-time employees, full-time employees, and nonworking household members.

B. The continued development of Mammoth Lakes will result in an increase in service-oriented employment opportunities and consequently in the need for living accommodations. This chapter details the method and manner by which new development shall satisfy the requirements for mitigating workforce housing impacts.

C. Applicability. The provisions and requirements contained in this chapter shall be binding upon all new developments and new construction including additions to existing development. (Ord. 06-09 §1 (Att. A (part)), 2006; Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.020 Definitions.

“Affordable housing” means housing that is restricted as to rental rate or sales price based upon household income and size criteria as defined by the state of California or the town of Mammoth Lakes.

“Bedroom” means a room designed to be used for sleeping purposes which may contain closets, shall have access to a bathroom and which meets applicable building code requirements for light, ventilation, sanitation and egress and has a minimum floor area of one hundred square feet plus closet.

“Deed restriction” means a recorded contract entered into between the town of Mammoth Lakes and the owner or purchaser of real property identifying the conditions of occupancy and resale.

“Dwelling unit” means for the purposes of calculating density in multiple-family zones, a one bedroom unit or studio unit up to a maximum eight hundred fifty net square feet of living area, shall be considered to equal one-half of a dwelling.

“Existing long-term rental unit” means any dwelling that has been leased for residential purposes for a period or periods in excess of thirty consecutive days for more than five months per year within the last two years.

“FTEE - Full-time equivalent employee” means a full-time employee or combination of part-time employees. When employee generation calculation results in seasonal or part-time employees, those employees are grouped together to form FTEEs. Full-time year round employees equal one FTEE, part-time year round employees and full-time seasonal employees equal one-half FTEE, and part-time seasonal employees equal one-quarter FTEE.

“HMDP - Housing mitigation development plan” means a housing mitigation plan, written and submitted by the developer, that details how the developer intends to mitigate affordable housing impacts.

“New development” means any new construction or conversion of use resulting in an increase in the employee generation as described in Table 17.36.030-1. New development includes expansions of, or additions to, existing uses.

“Sleeping area” means a sleeping area is defined as any bedroom, loft, or other space that can be equipped with beds, foldout sofas or other similar sleeping furniture within a visitor accommodation/transient occupancy facility.

“Workforce housing” means as used in this chapter, workforce housing is housing that is restricted for rent or purchase by individuals and households working in the community of Mammoth Lakes. Employment criteria, rental rates and sales prices for workforce housing shall be established administratively. (Ord. 06-09 §1 (Att. A (part)), 2006; Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.030 Housing requirements.

A. Employee Generation by Use. Table 17.36.030-1 determines a standard number of employees per land use type. In recognition of visitor accommodations as the primary driver of economic growth in Mammoth Lakes, these provision rates are based upon the land use category’s pro rata share of the aggregate induced demand for employment in town, rather than direct employee generation. The single-family residence employee generation rate is based on a sliding scale to reflect documented evidence that larger homes require more employees per square foot.

**Table 17.36.030-1
EMPLOYEE GENERATION BY USE**

1. Multi-unit ¹ and single-family ² transient.	.0005 FTEE per square foot	
2. Commercial/office uses: Includes all nonresidential except industrial.	.00042 FTEE per square foot	
3. Industrial uses: Includes all uses involving manufacturing, distribution and warehousing.	.00011 FTEE per square foot	
4. Multi-unit nontransient: This category includes all attached dwelling units including deed restricted and market rate apartments and multifamily condominiums which prohibit transient rentals. This also includes all multi-unit developments located within the Residential Multifamily 1 zone and affordable housing zone and any other multi-unit development in town that prohibits transient rental.	Market rate units	.00012 FTEE per square foot
	Rental apartments and deed restricted units	0 FTEE
5. Single-family nontransient. This category of land use encompasses all detached dwelling units located in the town’s low density residential (LDR) land use designation and includes both the rural residential and residential single-family zones.	For that portion of the building area from: 0--2,000 square feet, .00006 FTEE per square foot 2,001--4,000 square feet, .00009 FTEE per square foot 4,001--6,000 square feet, .00012 FTEE per square foot 6,001--8,000 square feet,	

	.00015 FTEE per square foot 8,001 square feet and up, .00018 FTEE per square foot
	*Calculate the building square footage between 0 and 2,000 square feet at rate as shown. Then, for square footage exceeding 2,000 square feet calculate at rates as shown. Continue until all square footage has been calculated. Add all lines for total.
6. Uses not listed.	To be determined by community development director based upon comparisons with like businesses.

1 This category includes all attached dwelling units within the resort, specific plan, commercial general, commercial lodging and Residential Multifamily 2 zones which are either intended for transient occupancy or can be rented out on a nightly basis. These include all hotel, motel, fractional and resort condominium lodging as well as condominium units which are privately owned and can be rented out on a nightly basis.

2 This category of land use encompasses all detached dwelling units located within the resort and specific plan zones which are permitted by master plan and/or specific plan conditions to be rented out on a nightly basis.

B. Included Square Footage. For those uses where FTEE generation is based upon square footage, the square footage of habitable spaces as measured between the exterior walls shall be used, excluding garages. In multi-unit transient, multi-unit transient rental apartments, and deed/rent restricted housing structures, common areas shall also be excluded. Where common areas contain additional uses such as commercial space, these shall be subject to the mitigation requirement of said use. Where a building contains multiple uses; e.g., industrial, office, and retail, the calculation shall be based upon the sum of the FTEEs of each use calculated separately. For additions to existing uses, including demolition and reconstruction of existing structures, only the new incremental demand shall be required to be mitigated.

C. Provision Rate. For the purpose of mitigating the employee housing demands created by each new development, the developer shall provide housing based upon the following formula or as described in Sections 17.36.050. Commercial projects of less than five thousand square feet, residential projects with fewer than five units, visitor lodging projects with fewer than four rooms, and all developments in the industrial zone qualify for in-lieu fees without requiring analysis under Section 17.36.050.

Housing is provided for one hundred percent of the FTEEs generated according to Table 17.36.030-1 at the following rate*:

All calculations are based upon one FTEE equaling a minimum of two hundred fifty square feet of living space.

2 FTEEs	= a studio or one-bedroom unit with a minimum of 500 sq. ft. of living space
2.5 FTEEs	= a one or two-bedroom unit with a minimum of 625 sq. ft.
3 FTEEs	= a two-bedroom unit with a minimum of 750 sq. ft.
3.5 FTEEs	= a three-bedroom unit with a minimum of 875 sq. ft.
4 FTEEs	= a three-bedroom unit with a minimum of 1,000 sq. ft.
5 FTEEs	= a four-bedroom unit with a minimum of 1,250 sq. ft.

The total number of FTEEs may be accommodated using any combination of the above. Where the calculation of FTEEs results in a fraction, that fraction shall be rounded up to the next higher whole or half

FTEE.

* This rate takes into consideration the percentage of employees not requiring housing assistance and the number of nonworking others (spouses, children, etc.) associated with one FTEE. (Ord. 06-09 §1 (Att. A (part)), 2006; Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.040 Housing mitigation development plan.

A. Housing Mitigation Development Plan (HMDP). Each developer will submit to the town for approval a HMDP which shall contain the following specific and detailed information:

1. The housing requirements generated by their project as defined herein;
2. The method or combination of methods by which housing is to be mitigated;
3. The timetable for the mitigation;
4. A description of the land proposed and the type, number and unit size of the proposed housing plus any management/operational plans;
5. Preliminary plans showing the site and floor plans;
6. The proposed rent or sales prices;
7. A statement as to the way that the HMDP meets the intent of these regulations.

For projects eligible for payment of in-lieu fees, the calculation of those fees constitutes the HMDP.

B. Timing. The HMDP shall be submitted to the town in conjunction with the application for the development. In-lieu fees will be submitted to the town prior to the issuance of a building permit. Housing developed or acquired must be ready for occupancy prior to or concurrent with obtaining an initial certificate of occupancy from the town for the structure(s) or land use generating the housing requirements. For phased projects, mitigation units shall be provided in proportion to the requirement of each phase.

C. Unit Mix. Developers shall provide housing in proportion to the FTEEs generated by their respective developments as described in Section 17.36.030(C). There can be a mix of rental and owner-occupied units, with a minimum of seventy percent of the units being for rent.

D. Location. On-site housing is the preferred mitigation. On-site means on the same lot, within the same building, or within the same master-planned development. An alternate mitigation plan may be proposed by an applicant for consideration by the planning commission. One hundred percent of the housing shall be provided within the town boundaries. Wherever possible, mitigation housing should be located in proximity to employment and public transportation routes. Housing required to mitigate industrial development may not be provided in the industrial zone.

Where additional findings can be made by the planning commission or, if subject to administrative review, the community development director, based upon substantial evidence, that on-site mitigation is undesirable for the community or infeasible, or that there is substantial additional community housing or housing related services benefit, may the planning commission or community development director then approve an off-site alternative. Only where findings can be made by the planning commission, based upon substantial evidence, that an on-site or offsite alternative is undesirable for the community or infeasible as determined by the commission or community development director, may the town then approve payment of a fee in lieu of provision of housing.

Suitable zones for mitigation housing located off-site are the R, RMF-2, CG, or CL zones. Existing long-term rental units may not be purchased for the purpose of providing project mitigation housing, nor may the Shady Rest Tract be used for this purpose.

E. Approval. An HMDP provided in conjunction with a permit application for a permitted use shall be subject to review and approval by the community development director or his designee. An HMDP provided in conjunction with a permit application for a conditional or discretionary use shall be subject to review and approval by the planning commission. The community development director or planning commission shall determine adequacy of unit design for the intended occupants.

F. Appeal. A developer may appeal to the planning commission any of the provisions or requirements contained in this chapter providing they can demonstrate to the satisfaction of the planning commission that said provisions or requirements are inapplicable to the proposed development. The planning commission may adjust any provision or requirement contained herein, based upon substantial evidence. (Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.050 Alternate housing proposals.

A. The other sections of this chapter notwithstanding, the town may approve mitigation proposals which deviate from the standards outlined herein in those cases where it can be demonstrated that the alternate mitigation proposal meets the purpose of this chapter and provides a greater housing benefit to the community than would be attained through strict adherence to the provisions of this chapter.

B. Criteria for Approving Alternate Mitigation Plans. The town shall consider, but not be limited to, the following criteria in evaluating an applicant's proposal for use of off-site development, in-lieu fees, establishing a housing credit or other alternate mitigation plan:

1. That the development does not require the provision of affordable housing on-site to meet service needs;
2. That the size of the proposed new development is such that production of affordable housing on-site by the applicant is not feasible;
3. That the applicant's site is not suitable for the development of affordable housing based upon location or conflicting land uses;
4. That commercial lending requirements render construction of housing infeasible;
5. That the use of mitigation fees by the town is more appropriate than the provision by the applicant of affordable housing;
6. Purchase of qualifying existing units (Section 17.36.040(D)) is desirable as an off-site solution;
7. That the proposed mitigation plan will provide housing at the earliest possible date;
8. That the alternate housing mitigation plan provides more affordable units than required under Section 17.36.030;
9. That the alternate mitigation plan provides a mix of affordability levels consistent with Section 17.36.060.

In addition to any other findings, approval of a housing mitigation plan, including the acceptance of in-lieu fees, shall be accompanied by findings of impracticality and/or findings of greater affordable housing benefit. (Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.060 Income and eligibility guidelines.

A. Deed or Use Restriction. The units shall be restricted to rental terms, sales terms and occupancy limitations that insure adherence to the use and income level for which they are intended. Of the units provided, a minimum forty percent of rental units shall be affordable to low-income households, a minimum of thirty percent of rental units shall be affordable to median-income households, and all other rental units shall be affordable to moderate-income households. Homeownership units shall be a minimum of two-third affordable to households making one hundred fifty percent or less of the median household income and the remainder affordable to households making two hundred percent or less of the median household income. The applicant may provide a greater percentage at lower income levels than required by this section. For determining the number of units in each affordability category under this formula, unit numbers in each category shall be reasonably rounded and final provision ratios shall be approved by the community development director on a project specific basis. (For example, a project creating two new units, both could be low-income or one could be low and one moderate, or both could be median. For three units, one in each affordability category would be typical. For projects creating only one dwelling, that dwelling may be a low-income unit or a median-income unit).

B. Allocation. Any developer or owner providing mitigation units in accordance with this chapter shall be able to request the town of Mammoth Lakes or its designee to provide tenant or purchaser selection for the mitigation units to the town of Mammoth Lakes or its designee if the owner does not intend to manage the units.

For rental units, the owner or developer may first offer the units to the employees of the project being mitigated. Any unleased units may be offered to the town of Mammoth Lakes for tenant selection. All leases and tenant qualification procedures shall be in accordance with town of Mammoth Lakes policies and procedures. For sales units, the initial owner or developer may first offer the units to their employees. Thereafter, buyer eligibility and selection shall be in accordance with town of Mammoth Lakes policies and procedures. Any unsold units may be offered to the town of Mammoth Lakes for buyer selection. (Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.070 Payment in-lieu.

A. The developer of qualifying projects (see Section 17.36.030(C)) may pay an in-lieu fee for the number of mitigation units required to be provided and not otherwise mitigated.

1. Payment In-Lieu Fee. Payment of an in-lieu fee shall be made for each FTEE or partial FTEE not otherwise mitigated. This fee shall be established by resolution of the town council.

2. Timing of Payment and Use of Funds. Payment of in-lieu fees shall be made to the town finance director prior to, and on a proportionate basis to, the issuance of any building permits for the applicable portion of the development.

3. Authorized Use of Funds. The funds and interest accrued shall remain in the fund and shall be used only for the purposes of planning for, administering, subsidizing or developing affordable housing.

4. Refunds of Expired Permits. Any payment made for a development for which a building permit has expired due to noncommencement of construction, may be refunded in accordance with the provisions of Section 15.16.090 of the town of Mammoth Lakes municipal code. (Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.080 Administration.

The planning commission and town council shall from time to time, by resolution or ordinance, adopt such policies and requirements as are necessary to carry out the purpose of this chapter. At a minimum, the planning commission shall hold a public meeting once every two years, reviewing the effectiveness of these regulations. (Ord. 04-13 §1 (Exh. A (part)), 2004)

17.36.090 Density bonus provisions.

A. Density shall be increased pursuant to the provisions of California Government Code Sections 65915 through 65917 and any amendments thereto. Proportionately greater bonuses may be granted by the planning commission, subject to a conditional use permit, for projects with a higher percentage of qualifying affordable units, up to a maximum project density of twice the permitted density. The affordable units shall be restricted to their designated affordability level for a minimum of thirty years. Affordability levels shall be as defined by the state of California. (Ord. 06-09 §1 (Att. A (part)), 2006)