



2025 General Plan Inclusionary Housing Ordinance

Drafting and Implementation Checklist

As accepted by Affordable Housing Work Group
July 20, 2006

The following summarizes the direction provided by the Affordable Housing Working Group at your July 20th meeting on the 21 items listed in the California League of Cities' Institute of Local Government's "A Drafting and Implementation Checklist" for inclusionary housing. This direction has been incorporated in the draft outlines of the Affordable Housing Controls and Inclusionary Housing ordinances.

1. **Will the Ordinance be Voluntary or Mandatory?** *The ordinance will be mandatory.*
2. **To What Extent Do State Rent Control Statutes Apply?** *The ordinance will be designed and include language to fit an exception to State rent control laws, specifically the Costa Hawkins Rental Housing Act.*
3. **What is the Inclusionary Percentage?** *This is also discussed in Checklist Item #6. The inclusionary percentages proposed at this time are:*
 - *For-purchase housing, 15% of the total number of units, restricted to moderate income households (120% of the Nevada County AMI)*
 - *Rental housing, 15% of the total number of units, restricted to lower income households (80% of the Nevada County AMI)*

The inclusionary percentage requirement may be decreased if the affordability level of the units is decreased. For example, the number of affordable rental housing units will be less if the units are restricted to very low income households (50% of the Nevada County AMI). The affordability levels of the units may be increased if the inclusionary percentage requirement is decreased. For example, the affordability level of for-purchase housing may be restricted to above-moderate income households (180% of the Nevada County AMI) if the number of affordable units is increased. The inclusionary percentage requirement may be required to be increased if the project does not meet minimum density requirements as set forth in Housing Program H-1.2.2.

4. **To What Types of Development Will the Requirement Apply?** *The ordinance will apply to residential development projects. Checklist Item #5 addresses exemptions. Affordable housing for non-residential development projects will be addressed by a separate ordinance.*
5. **What is the Applicable Threshold Size of the Project?** *Residential development projects of two or less units will be exempt (i.e., single family home on existing lot, secondary residential units, duplex). Residential development projects of three to six*

units will be exempt from constructing the affordable housing, but will still be subject to payment of an in-lieu fee. (The developer may still choose to meet their inclusionary requirements by constructing an affordable housing unit.)

- 6. What Will be the Mix of Very Low-, Low-, and Moderate-Income Units?** *The ordinance will require moderate-income units for for-purchase units and low-income units for rental units. Upon the developer's request, the Town may approve a reduction in the number of affordable units if the income affordability level is reduced or an increase in the income affordability level if the number of affordable units is increased. This is also discussed in Checklist Item #3. As part of the annual review of the General Plan and Housing Element, the required mix of affordable units will be evaluated to ensure that an appropriate mixture of affordable housing units by type (rental vs. for-purchase) and affordability levels are being built.*
- 7. To What Extent Will Fees be Permitted and At What Rate?** *In-lieu fees will be allowed at the developer's discretion for residential projects of three to six units. In-lieu fees may be allowed at the Town's discretion for residential projects of seven or more units. For these projects, the Town will not allow the payment of in-lieu fees, in whole or in part, unless other options (e.g., on-site construction, off-site construction, credit purchase, land dedication) are not feasible or do not result in a greater or more desired benefit.*

The amount of the fee will be determined by Council resolution and will be calculated as discussed in the ILG checklist to cover the full gap between the construction cost of an affordable unit and the income targeted price.
- 8. To What Extent Will Off-Site Housing be Permitted?** *The Town, at its discretion, may allow off-site housing, in whole or in part, if it is determined that on-site housing is not feasible or the developer's proposal to construct off-site housing will result in a greater or more desired benefit to the community (e.g., more affordable units, reduced income affordability levels).*
- 9. What are the Design Standards for Affordable Units?** *When constructed on-site, the affordable units should be integrated with the market-rate units. The design standards will focus on the exterior to ensure that the affordable units fit in with the market-rate units. The affordable units may be smaller in size and have lesser number and quality of interior features as long as standard interior features are provided.*
- 10. When Will the Units be Built?** *The affordable units will be built and completed concurrently with the market-rate units. The affordable units may be phased in a way that is proportional with the rest of the development project.*
- 11. What Will be the Duration of Affordability Controls?** *This will not be addressed in the Inclusionary Housing Ordinance, but rather in the general affordable housing standards and guidelines that will also apply to the Employee Housing Ordinance. At this time, the duration of affordability controls is proposed for perpetuity if legally possible. If not possible, the duration will be 55 years.*
- 12. What Incentives, If Any, Will be Offered to Developers?**

Because the affordable units are mandatory and required by ordinance and are not voluntary, the provisions of the State Density Bonus Law (CGC Section 65915 et seq.)

do not apply. However, the Town, at its discretion, may allow a density bonus so that the affordable units do not count towards the maximum zoning density (in effect, giving the project a 15% density bonus). Also, the Town may grant the project exceptions and reductions to Development Code standards. The Town is not obligated to grant financial incentives and concessions to the development project and may grant financial assistance to individual purchasers and renters of the project. If the development project provides additional affordable units above and beyond those mandated by the ordinance, the project would qualify for density bonuses, incentives and concessions in accordance with State law and the Town Development Code.

13. **How Will Beneficiaries Qualify?** *This will not be addressed in the Inclusionary Housing Ordinance, but rather in the general affordable housing standards and guidelines that will also apply to the Employee Housing Ordinance.*
14. **How Will Rent and Sales Price Be Calculated?** *This will not be addressed in the Inclusionary Housing Ordinance, but rather in the general affordable housing standards and guidelines that will also apply to the Employee Housing Ordinance. Rents and sale prices will be indexed to the Nevada County Area Median Income which is determined annually by the California Department of Housing and Community Development. The formulas and standards for calculating rent and sales price will be similar to those used by the State for affordable housing grant and tax credit projects.*
15. **How Will the Resale of For-Sale Units be Controlled?** *This will not be addressed in the Inclusionary Housing Ordinance, but rather in the general affordable housing standards and guidelines that will also apply to the Employee Housing Ordinance. The Town or its designee will use both a right of first refusal that will be recorded on the property and a regulatory agreement that must be signed by the developer and all subsequent tenants and purchasers.*
16. **How Will Equity be Shared When For-Sale Units are Transferred?** *This will not be addressed in the Inclusionary Housing Ordinance, but rather in the general affordable housing standards and guidelines that will also apply to the Employee Housing Ordinance. The value of the property will appreciate with increases in the Nevada County Area Median Income. The value of the property may also appreciate by improvements made to the property although there will be a cap to the maximum value. After proper marketing, if the unit cannot be sold to an income-qualifying household, the Town or its designee will have the right to purchase the unit at the restricted price. If the Town or its designee does not purchase the unit, the owner may sale the unit at its market value. However, the Town or its designee will receive a majority of the proceeds between the purchase price and the restricted price. The return in proceeds should be based on a sliding scale with the percentage of proceeds returned to the home seller increasing with the length of time of their home ownership.*
17. **How Will the Inventory of Affordable Units be Monitored?** *This will not be addressed in the Inclusionary Housing Ordinance, but rather in the general affordable housing standards and guidelines that will also apply to the Employee Housing Ordinance.*
18. **How Will the Agency Know Whether the Program is Effective?** *This will not be addressed in the Inclusionary Housing Ordinance, but rather in the general affordable housing standards and guidelines that will also apply to the Employee Housing Ordinance.*

19. **Will the Inclusionary Requirements be Imposed Legislatively?** *The inclusionary requirements will be imposed by ordinance and applied on a project-by-project basis. The decision-making body will be as set forth in the Development Code for the type of residential development project. Any decision on the imposition of inclusionary requirements on a project may ultimately be appealed to the Town Council.*
20. **Is a Variance or Waiver Available to Avoid Unjust Results?** *The Inclusionary Housing Ordinance will include built-in provisions for exceptions, waivers, and reductions to the inclusionary housing requirements. The ordinance will also include provisions that would allow the decision-making body to approve developer-initiated alternatives if the alternative would result in a better proposal (e.g., more affordable units, reduced income affordability levels).*
21. **Have Findings Been Drafted to Explain the Purpose of the Ordinance?** *The ordinance will include findings.*