

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WOODLAND AMENDING  
CHAPTER 6A OF THE WOODLAND MUNICIPAL CODE RELATING TO  
AFFORDABLE HOUSING**

The City Council of the City of Woodland does hereby ordain as follows:

**SECTION 1. Purpose.** The purpose of this ordinance is to amend portions of Chapter 6A of the Municipal Code of the City of Woodland relating to affordable housing.

**SECTION 2. Authority.** The City Council enacts this ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution.

**SECTION 3. Amendment.** Chapter 6A of the Municipal Code of the City of Woodland is hereby amended by replacing Sections 6A-3-30(d)(1)(B)(i), 6A-3-40(b)(1), 6A-3-40(b)(2), 6A-4-10(c)(1), 6A-4-30(c)(2), 6A-4-40(c)(2), 6A-5-10(c), 6A-5-20, 6A-5-30(b)(4), 6A-5-30(c), 6A-5-30(d), 6A-5-40(a), 6A-5-50(b)(2), 6A-5-50(c)(2), 6A-5-50(c)(3), 6A-5-60 and 6A-6-10 in their entirety, with the following revised sections:

**Section 6A-3-30(d)(1)(B)(i). Inclusionary Housing Agreements.**

(i) Assurances, to the extent feasible, that the affordable dwelling units will be constructed concurrently with, or prior to, market-rate units in the residential project. In phased developments, inclusionary units may be constructed and occupied in proportion to the number of units in each phase of the residential project. If, as approved by the City, the affordable housing obligation is proposed to be satisfied by land dedication or by a separate third party development agreement (such as an affordable housing developer) and it is not feasible to develop the affordable units prior to or concurrently with the market-rate units, the Agreement must identify the specific residential lots on which the affordable units will be developed. Developers of for-sale residential projects who construct the required affordable units concurrent with their market-rate development shall receive an automatic 100 percent waiver of all building plan check fees (not impact fees) for the affordable units (this excludes re-inspection fees).

**Section 6A-3-40(b)(1). Outreach and Marketing Requirements.**

(1) Affordable Housing Marketing Plan. Prior to marketing the inclusionary units, the developer shall submit an Affordable Housing Marketing Plan to the City for approval. The Affordable Housing Marketing Plan shall outline the developer's plan to identify qualified purchasers (in the case of for-sale projects) or renters (for rental projects) for affordable units throughout the marketing period of a residential project. Substantial evidence shall be submitted to the City that establishes, to the City's reasonable satisfaction that the developer complied with the submitted Affordable Housing Marketing Plan and affirmatively marketed the units throughout the relevant

marketing period. The Affordable Housing Marketing Plan shall include, but not be limited to, the following:

(A) Advertise the availability of the affordable units by placing in newspapers of general circulation in Yolo County and the greater surrounding region no less than eight (8) advertisements, of which no less than three (3) shall be in the Daily Democrat and at least two (2) shall be in a publication with a regional scope. At least one advertisement shall be in a language other than English, such as Spanish. The advertisements in the Daily Democrat shall be at least sixteen square inches. In the event these publications are defunct or space is not available, the Community Development Director shall designate comparable alternative advertising. Advertising shall be required for each release of affordable housing units;

(B) No later than the date of issuance of a building permit for the units, provide written notice to a list of housing organizations and other agencies serving low and very low-income persons and families available from the City informing these organizations of the availability of the affordable units, and requesting that these organizations assist in publicizing the availability of the affordable units to their members and clients;

(C) Place a sign on the site of the residential project advertising the availability of the affordable units and providing contact information throughout the marketing period. This information can be integrated into the primary project sign or included on a separate stand-alone sign with comparable visibility. To the extent possible without obstructing necessary construction activity, the sign described shall be oriented, formatted and situated in such a manner that it is visible to the maximum number of pedestrians and drivers on the nearest public street;

(D) Advertise in such other mediums, such as the Internet, as is reasonably necessary to affirmatively market the affordable units.

**Section 6A-3-40(b)(2). Outreach and Marketing Requirements.**

(2) Because of the high demand for affordable for-sale units, a lottery system shall be used by the City or the developer to select potential buyers.

(A) Such a lottery or alternative selection process shall be conducted in a fair, unbiased, and non-discriminatory manner, if possible by a third party agreed upon by both the City and the developer. Employees of developers and their families shall not be given preferential treatment in the marketing of the affordable units or in the selection of qualified purchasers.

(B) To enter into the lottery, the developer must ensure that the affordable units will be completed within one hundred and eighty (180) days from the contract date. Extensions may be granted by the Community Development Director for delays beyond the control of the developer such as weather.

**Section 6A-4-10(c)(1). Standards Applicable to Rental Projects.**

(1) The affordable units in any one multifamily rental residential project shall be identical to the market-rate units in quality, amenities, size, and number of bedrooms. The affordable units shall also be visibly indistinguishable from the market-rate units and not be segregated from the market-rate units. Clustering of affordable units is allowed only if required to facilitate the construction of the project. A developer may meet the residential project's affordability obligation by either designating specific individual units as affordable units or using a system of "floating units" where the affordable units may change. However, in either option, the residential project must always contain the required number of inclusionary units. The developer shall indicate the preferred option to the City as part of the implementation of the City's Affordable Housing Monitoring Program Guidelines.

**Section 6A-4-30(c)(2). Land Dedication for Rental Projects.**

(2) Conveyed to an affordable housing developer approved by the City to produce the required affordable dwelling units. The City Council shall determine which affordable housing developer shall be conveyed the land required to produce the affordable dwelling units.

**Section 6A-4-40(c)(2). Procedure for Determining Affordable Rent.**

(2) Estimate Annual Housing Costs. The household allowance for utilities will be estimated based on the utility costs as shown on the current "Allowance for Tenant-Furnished Utilities and Other Services" table prepared by the Yolo County Housing Authority, using the applicable unit size and unit type (townhouse, garden apartment or high rise). The costs used will be based on the specifications of the particular unit and the utilities provided by the property owner, for example gas or electric for heating, gas or electric for cooking, etc. Utility tables are updated by the Yolo County Housing Authority every year, and shall be provided by the Community Development Department to developers of rental residential projects in accordance with the City's Affordable Housing Monitoring Program. The maximum rental rates of affordable units shall be adjusted as necessary based on changes to these utility tables. With the approval of the Community Development Director, a property owner may provide a utility survey, verified by the City, in place of the Yolo County Housing Authority's utility tables.

**Section 6A-5-10(c). Standards Applicable to For-Sale Projects.**

(1) Number of Bedrooms.

(A) It is the goal that the Affordable units "blend in" with the Market Rate units, which can be achieved through providing a variety of elevations and unit mixes within the residential project. Affordable for sale units may be smaller in square footage than the market rate units in a residential project that trigger the affordable housing obligation to a minimum unit living area of 850 square feet. However, a mix of bedroom numbers and greater square footage among for sale homes shall be implemented whenever feasible in order to accommodate larger low income households.

Except as provided for elsewhere in this Section, there shall be an average of three bedrooms provided per affordable unit, and the Developer can provide more but not less than the average target, unless it can be clearly demonstrated that a different average is required in order for the units to be sold in the affordable marketplace.

(B) A developer of a for-sale residential project may request an exemption from the requirements of this subsection if, based upon substantial evidence and financial information, such a mixture would be infeasible to the satisfaction of the Community Development Director.

(2) Affordable units shall not be clustered but be dispersed throughout the residential project and be comparable in infrastructure (including sewer, water, and other utilities) and construction quality to the market-rate units. A cluster is considered to be four (4) or more units adjacent to each other. Duplexes shall not be allowed as the only affordable units, unless all units in the development are duplexes. The developer shall submit, along with a map review fee, proposed locations for affordable units with the tentative map for approval by the City. If the developer desires to alter the approved locations of the affordable units, the requested alterations shall be submitted, along with a map review fee, with the final map. The map review fee shall be set by resolution of the City Council, as amended from time to time.

(3) Affordable units must be visibly indistinguishable from the exterior in comparison with surrounding market-rate units. Affordable for-sale units may have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality, and consistent with contemporary standards for new housing.

#### **Section 6A-5-20. Possible Alternatives to On-Site Construction of Affordable For-Sale Units**

(a) Possible Sale or Dedication of Land to Affordable Housing Developers.

(1) In a possible alternative to on-site construction of affordable units, the developer may propose to either sell or dedicate sufficient residential lots to a nonprofit developer to satisfy its affordable for-sale housing obligation if, to the City's satisfaction, it will enable the affordable housing developer to build the for-sale units and sell them at an affordable housing cost to low-income purchasers. Such an alternative proposal shall only be accepted if the Community Development Director determines that the proposal furthers the purpose of this chapter.

(2) At the time of sale or dedication to the affordable housing developer, the residential lots shall be economically feasible to develop, of sufficient size to build the required number of affordable units, and physically suitable for development of the required affordable units. The residential lots shall also have appropriate General Plan designation and zoning to accommodate the required number of dwelling units, be fully

improved with infrastructure, frontage improvements (i.e., curb, gutter, walk), paved street access, utility (i.e., water, gas, sewer, and electric) service connections stubbed to the property lines, and other such off-site improvements as may be necessary for development of the required affordable units or as required by the City. To exercise this option, the developer shall have a maximum of ninety (90) days from the date that the residential lots are finished with the above improvements to either sell or dedicate the lots to an affordable housing developer.

(b) Land Dedication Option.

(1) If a developer provides substantial evidence to prove that it is not feasible to develop the required affordable units on-site at a residential project, that developer may make an irrevocable offer of sufficient land within the City to satisfy the affordability requirements of this chapter. The dedicated site shall be economically feasible to develop, of sufficient size to build the required number of affordable units, and physically suitable for development of the required affordable units prior to dedication of the land.

(2) The dedicated site shall also have appropriate General Plan designation and zoning to accommodate the required number of units, be fully improved with infrastructure, frontage improvements (i.e., curb, gutter, walk), paved street access, utility (i.e., water, gas, sewer, and electric) service connections stubbed to the property lines, and other such off-site improvements as may be necessary for development of the required affordable units or by the City. The City may approve, conditionally approve, or reject such offer of dedication of any specific property. If the City rejects such offer of land dedication, the developer or its designee shall be required to meet the affordable housing obligations by other means set forth in this chapter.

(c) Development of Dedicated Land.

(1) The dedication of land for affordable for-sale lots must result in the development of affordable for-sale units and not multifamily rental units.

(2) Within one year from the date of conveyance of the dedicated land to the City, the City shall determine, at its discretion, whether the dedicated land will be:

(A) Developed by the City to produce the required affordable units; or

(B) Conveyed to an affordable housing developer or other third party who shall enter into an agreement with the City to produce such affordable units.

(d) In-Lieu Fees.

(1) For for-sale residential projects of less than 50 units where the City Council determines that it is not feasible or suitable for the for-sale residential project to have on-site affordable units, the City and developer may agree to a contribution of in-lieu fees to satisfy the developer's affordable housing obligation. Only the City may initiate this in-lieu fee option and only where it is demonstrated based on substantial

evidence that there is no feasible alternative.

(2) At the time of Tentative Map approval, if applicable, the City will provide the developer with an estimate of the in-lieu fees for the residential project. This in-lieu fee calculation at the time of Tentative Map is only an estimate and is subject to revision and verification at the time of construction, as the estimated sales price of units in the residential project at the Tentative Map stage may change by the time the project is actually built.

(3) The in-lieu fee for each affordable unit for which the developer is responsible under this provision shall be sufficient to make up the gap between (i) the affordable purchase price for a low-income household and (ii) the market value as determined by an appraisal (i.e. the “affordability gap”), plus a fee for administration of the City’s Inclusionary Housing Program. The appraisal shall be completed no earlier than six (6) months prior to the calculation of the in-lieu fee. The administration fee shall be assessed per unit of the residential project, and shall be based on an appropriate percentage of the “affordability gap” for affordable units. The in-lieu fee for a residential project shall be determined using the following methodology:

(A) The market value as determined by an appraisal - (minus) the affordable purchase price of a low-income household for the residential project. This amount determines the “affordability gap.”

(B) Calculate the inclusionary unit amount for the residential project at 10% of the total (fractions of a whole unit shall be rounded up).

(C) Multiply the “affordability gap” by the number of inclusionary units required for the residential project.

(4) The product of this calculation plus the administration fee per unit equals the in-lieu fee to be charged for the residential project.

(5) An example of an in-lieu fee calculation for a 20-unit for-sale single-family residential project is as follows:

Market value as determined by an appraisal = \$250,000  
Affordable purchase price for low-income household = \$150,000  
*Affordability Gap* = \$100,000  
Inclusionary unit requirement = 2 units (10% of 20 units)  
\$100,000 *Affordability Gap* x (times) 2 units = \$200,000  
\$200,000 + administrative fee = *in-lieu fee for the residential project*

(6) If the City determines that the developer may contribute in-lieu fees, the

developer must pay such fees as a lump sum prior to the issuance of the first building permit for the residential project. No building permit or certificate of occupancy shall be issued by the City until the developer provides written proof of the payment of all in-lieu fees.

**Section 6A-5-30(b)(4). Procedure for Sale of Affordable Units.**

(4) Calculation of “Silent Second” and Regulatory Agreement Equity Share. The “silent second” shall be in the amount of \$1,000. A note and deed of trust, or other appropriate document, securing the silent second will be recorded and assigned to the City at the time of sale of each affordable unit. The promissory note and deed of trust, or other designated document, will remain a lien against the property, subordinate to the first mortgage. This note will have a 30-year due date which can be extended by the Community Development Director. The Regulatory Agreement recorded against the property shall include an equity share baseline in the amount of the difference between 95% of the purchase price (or purchase price minus down payment amount) and the amount of the affordable maximum first mortgage. The equity share shall be triggered and calculated at the sale of the affordable unit to a non-qualified purchaser or at a non-affordable price.

**Section 6A-5-30(c). Procedure for Sale of Affordable Units.**

(c) Payoff of the Silent Second and Regulatory Agreement Equity Share. The silent second may not be prepaid during its first ten (10) years, as long as the low-income purchaser occupies the unit as their primary residence during this period. The amount due to the City under the equity share provision of the Regulatory Agreement at the eventual payoff of the silent second or the sale of the affordable unit to a non-qualified purchaser or at a non-affordable price shall be the amount which bears the equal ratio to the fair market value at the time the silent second is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price. For example, if the original sales price was \$200,000 and the original equity share baseline was \$50,000, the ratio would be 25%. If the fair market value at the time of payoff were \$400,000, the amount due the City would be \$100,000, or 25% of \$400,000. In another case, if the property rose in value to \$250,000, the 25% ratio would dictate the payoff amount to the City to be \$62,500.

**Section 6A-5-30(d). Procedure for Sale of Affordable Units.**

(d) Affordable Housing Fund. Funds received by the City through payoffs of equity share provisions of Regulatory Agreements will be deposited into the City’s Affordable Housing Fund. These funds may be used at the discretion of the Community Development Director to make additional affordable housing loans to income-qualified purchasers to facilitate the purchase of homes, to subsidize affordable multifamily projects, or for any other use to promote the development of affordable housing within the City of Woodland. Up to ten percent (10%) of each year’s income from the Affordable Housing Fund may be used for administration and ongoing monitoring of loans made from the Fund.

**Section 6A-5-40(a). Homebuyer Eligibility Requirements for Affordable Units.**

(a) Maximum Income Limitation. Low income households purchasing affordable units shall have incomes that do not exceed eighty percent (80%) of the current Area Median Income for Yolo County as adjusted for household size. In the event that the developer or owner is unable to locate a qualified low-income household purchaser within ninety (90) days, the City shall market for sixty (60) days to households with incomes up to one hundred percent (100%) of the Area Median Income for Yolo County as adjusted for household size. If no qualified purchaser has been identified, the City shall then market for sixty (60) days to households with incomes up to one hundred and twenty percent (120%) of the Area Median Income for Yolo County as adjusted for household size.

**Section 6A-5-50(b)(2). Resale Requirements for Affordable Units.**

(2) Following the receipt of such notice, the City shall either complete or require the owner to have completed an appraisal report to determine the fair market value of the unit. This appraised value will be used by the City to determine the seller's equity share provision obligation, equaling the amount which bears the same ratio to the fair market value at the time the note is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price. The City will also use the appraisal of the affordable unit to determine the amount of subsidy in the form of the assumed and possibly increased equity share provision that will be required by the subsequent qualified purchaser of the affordable unit.

**Section 6A-5-50(c)(2). Resale Requirements for Affordable Units.**

(2) At close of escrow the owner shall assign, and the qualified purchaser shall assume, the note, or other applicable document securing the City's silent second subsidy on the property. The ten-year occupancy requirement and restrictions on re-sale applied to the original qualified purchaser of the affordable unit shall be reset to the date the note or applicable document is assumed by the subsequent qualified purchaser. The subsequent qualified purchaser shall enter into a Regulatory Agreement with the City which shall be recorded against the property.

**Section 6A-5-50(c)(3). Resale Requirements for Affordable Units.**

(3) The City may provide an additional subsidy (if available) to increase the amount of the equity share provision of the Regulatory Agreement in order to allow the qualified purchaser to purchase the unit (i.e. increase the percentage of the purchase price which is represented by the equity share baseline).

**Section 6A-5-60. Limited Exceptions to Resale Requirements.**

(a) Inability to Identify a Qualified Purchaser.

(1) In the event the owner or the City is unable to identify a qualified purchaser who is able to purchase the unit within the resale marketing period in compliance with the sales timelines of this chapter and the Regulatory Agreement, the City shall have the right to purchase the unit at the Affordable Purchase Price. If the City decides not to purchase the unit, the owner may, with the prior written consent of the City, sell the unit to a non-qualified purchaser without regard to the purchaser's income. The owner's request to the City to sell to a non-qualified purchaser shall be accompanied by evidence establishing that the owner has actively and in good faith attempted to identify a qualified purchaser for the unit throughout the resale marketing period using affirmative marketing measures. "Affirmative marketing" means that the owner shall have continuously listed the property on the multiple listing service and shall have acted in good faith in responding to inquiries and offers from qualified purchasers.

(2) In the event of an approved resale to a non-qualified purchaser due to the seller's and the City's inability to identify a qualified purchaser within the ten-year occupancy requirement, the seller shall be required to pay off the equity share provision of the Regulatory Agreement to the City at the close of escrow. The amount due to the City shall be the amount which bears the equal ratio to the fair market value at the time the equity share provision is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price.

(b) Resale Necessitated by Hardship.

(1) The owner may sell the unit to a non-qualified purchaser during the ten-year affordability period and pay off the equity share provision of the Regulatory Agreement to the City in full if the Community Development Director reasonably determines that the sale of the unit to a non-qualified purchaser is necessary due to circumstances of hardship, or "excluded transfers," which may include:

(A) Financial hardship causing risk of default of the owner's first mortgage.

(B) A transfer resulting from the death of the owner;

(C) A transfer to the owner and his or her spouse as joint tenants;

(D) A transfer resulting from a decree of dissolution of marriage or legal separation or from a property settlement agreement incident to such decree;

(2) No excluded transfer shall be effective unless the City has received a written request to approve the excluded transfer not less than thirty (30) days prior to the proposed date of transfer. Any such request shall be accompanied by documentation supporting the basis for the excluded transfer.

(3) In the event of an approved resale to a non-qualified purchaser necessitated by the seller's circumstance of hardship within the ten-year occupancy requirement, the seller shall be required to pay off the equity share provision of the Regulatory Agreement to the City at the close of escrow. As previously stated, the amount due to the City shall be the amount which bears the equal ratio to the fair market

value at the time the equity share provision is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price.

(4) The City may record a default notice on any affordable unit. In the event of default, the City, in its discretion, may purchase the unit. In the event the City purchases an affordable unit pursuant to this subsection or subsection (a)(1), the City shall take reasonable steps necessary to maintain the affordability of the unit and identify a qualified purchaser. The City shall not maintain ownership and rent the affordable unit.

(c) Resale after Close of Ten Year Occupancy Requirement.

(1) The resale restrictions for affordable units shall be removed after a qualified purchaser has occupied the unit as their primary residence for at least ten (10) years. However, the silent second note will remain with the property secured by the deed of trust or other applicable document until either a) the unit is sold; or b) the silent second becomes amortized and payable after 30 years per the provisions of this chapter, unless extended by the Community Development Director.

(2) In the event that the affordable unit is resold at fair market value, the equity share provision of the Regulatory Agreement is due in full at the close of escrow. Again, the amount due to the City shall be the amount which bears the equal ratio to the fair market value at the time the equity share provision is paid off as the initial value that the equity share baseline had in relation to the original fair market sales price.

#### **Section 6A-6-10. Administration of Inclusionary Housing Program**

The Community Development Department shall be responsible for the implementation of this chapter. Guidelines implementing this chapter shall be maintained by the Community Development Department. Revisions to the guidelines necessary to comply with local, state and federal law may be approved by the Community Development Director. Any other substantive revisions to the administration of the Plan shall be made with the approval of the City Council Affordable Housing Subcommittee.

**SECTION 4. Effective Date and Notice.** This ordinance shall take effect thirty days after its adoption and, within fifteen days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Woodland.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

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David M. Flory  
Mayor

**ATTEST:**

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Sue Vannucci  
City Clerk

**APPROVED AS TO FORM:**

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Ann M. Siprelle  
City Attorney