

ARTICLE VII

Housing

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CHAPTER 18.210 -AFFORDABLE HOUSING CONTROLS

Sections:

- 18.210.010 - Purpose and Intent
- 18.210.020 - Definitions
- 18.210.040 - Administrative Fees
- 18.210.050 - Affordability Controls
- 18.210.060 - Duration
- 18.210.070 - Occupancy Restrictions
- 18.210.080 - Locals Preference
- 18.210.090 - Affordable Housing Agreement
- 18.210.100 - In-Lieu Affordable Housing Fee

18.210.010 – Purpose and Intent

The purpose of this chapter is to establish regulations and controls on affordable units required by Chapters 18.214 and 18.216 and affordable units which are provided in order to receive density bonuses, incentives, and/or concessions per Chapter 18.212. This Chapter is intended to regulate or control the rent and sales price of affordable units, occupancy, and preferences for locals, and to establish a procedure by which such regulations and controls are recorded on affordable units.

18.210.020 - Definitions

The following are definitions of special terms and phrases used in this Article. Other general definitions are provided in Chapter 18.220 (Definitions / Glossary).

“Above Moderate Income Household” means a household earning a gross income of no greater than one hundred sixty percent (160%) of the median income.

“Affordable Rent” means monthly rent, including utility costs, does not exceed one-twelfth of 30 percent of the maximum annual income for a household of the applicable income level (Very Low, Low, Moderate, Above Moderate) as calculated pursuant to Section 18.210.050(A).

“Affordable Sales Price” means a sales price, including taxes, insurance, dues, and utility costs, that results in a monthly housing cost (including mortgage, insurance and home association costs, if any) that does not exceed one-twelfth of 35 percent of the maximum annual income for a household of the applicable income (Very Low, Low, Moderate, Above Moderate) as calculated pursuant to pursuant to Section 18.210.050(B). Above moderate income affordable units may only be approved pursuant to Section 18.214.040(C)(1)(a) or Section 18.214.040(D).

“Affordable Units” means those dwelling units which are required to be rented at an affordable rent or to be purchased at an affordable sales price and subject to occupant affordability requirements. Affordable units include, but are not limited to, inclusionary housing units.

“Alternative Equivalent Action” means a proposal to meet the requirements of inclusionary housing and/or employee housing by an alternative means.

“Area Median Income” or “Median Income” means the median income, with adjustments for household size, applicable to Nevada County as published annually pursuant to Section 6932, Title 25 of the Federal Code of Regulations (or its successor provision) by the United States Department of Housing and Urban Development, and as affirmed by the Community Development Director annually. (Median income is the income level that indicates that one-half of the household incomes are higher than the median income level and one-half of the household incomes are lower than the median income level.)

The presumed household size is an important factor in determining the affordable rent or affordable sales price. For the purposes of defining median income, the household size shall be presumed to be:

- One person in a studio unit
- Two persons in a one-bedroom unit
- Three persons in a two-bedroom unit
- One additional person for each additional bedroom thereafter

“Inclusionary Housing Unit” means a dwelling unit that must be offered at affordable rent or affordable sales price as part of a residential development project.

“Low-Income or Lower-Income Household” means a household earning a gross annual income of no greater than eighty percent (80%) of the median income.

“Market Rate Unit” means a dwelling unit in a residential or mixed-use development that is not restricted in terms of rent or sales price.

“Moderate Income Household” means a household earning a gross income of no greater than one hundred twenty percent (120%) of the median income.

“Residential Development Project” means a project for the construction or placement of any dwelling unit in a permanent location, including dwelling units in a mixed-use project, or the subdivision of land which is planned, designed, or used for residential purposes, including the subdivision of land for sale of vacant residential lots .

“Utilities” include sewage collection and treatment, water, electricity, trash collection, and natural or propane gas.

“Very Low Income Household” means a household earning a gross income of no greater than fifty percent (50%) of the median income.

18.210.040 – Administrative Fees

The Council may by resolution establish reasonable fees and deposits for the administration of this Chapter.

18.210.050 – Affordability Controls

A. Affordable Rent. Affordable rent shall be calculated as follows:

1. The monthly rent shall not exceed one-twelfth of 30% of the maximum annual income for a household of the applicable income level.
2. Monthly rent shall include, but not be limited to, the monthly cost of rent or lease and utility costs based on utility allowances defined annually by the Community Development Director.

B. Affordable Sales Price. The affordable sales price shall be calculated as follows:

1. The monthly housing cost shall not exceed one-twelfth of 35% of the maximum annual income for a household of the applicable income level.
2. Monthly housing cost shall include, but not be limited to, loan or mortgage payment (principle and interest), property taxes, mortgage insurance, homeowner association dues, homeowners insurance, and utility costs based on utility allowances defined annually by the Community Development Director.

C. Resale Affordable Sales Price. The maximum affordable sales price on the resale of an affordable unit shall be the higher of the sales price as calculated in Subsection B or the seller's purchase price, adjusted for the percentage increase in median income since the seller's purchase, plus the value of substantial structural or permanent fixed improvements to the building which create additional bedrooms.

D. Sales to Non-Qualifying Household.

1. If the developer or owner cannot sell the unit to a qualifying household at the affordable sales price or resale affordable sales price within a reasonable period of time, the Town shall have the right to purchase or assign its right to purchase such affordable unit at the maximum price which could be charged to an eligible household.
2. If the Town or its assignee does not purchase the unit within a reasonable period of time, the developer or owner may sell the unit.

18.210.060 - Duration

The affordability controls and other restrictions consistent with the requirements of this Chapter shall be in effect for perpetuity.

18.210.070 - Occupancy Restrictions

- A. **Rental Units.** Any person who occupies a rental affordable unit shall occupy that unit as his or her principal residence.
- B. **Ownership Units.** An owner who purchases an affordable unit for sale shall occupy that unit as his or her principal residence.
- C. **Exceptions.** The Community Development Director, on a case-by-case basis, may approve an exception to the occupancy restrictions in cases of changes of title due to unique circumstances (e.g., death, divorce), changes in tenant income, and other hardships.

18.210.080 - Locals Preference

Preference shall be given to locals in regards to availability to purchase or rent affordable units.

18.210.090 - Affordable Housing Agreement

- A. **Agreement Required.** An affordable housing agreement shall be recorded for affordable housing required by the Town pursuant to Chapters 18.214 and 18.216 or for affordable housing offered by a developer for a development project in which density bonuses, incentives, and/or concessions have been granted by the Town pursuant to Chapter 18.212. The agreement shall be recorded with the Nevada County Recorder prior to the issuance of a temporary or final certificate of occupancy or the recordation of a parcel or final map for the affordable housing.
- B. **Agreement Information.** The affordable housing agreement shall include, but not be limited to, the following:
 1. A description of the development, including whether the affordable units will be offered for rent or for purchase;
 2. The number, size, and location of the affordable units, or any approved alternative;
 3. Density bonuses, incentives, and/or concessions granted by the Town, if any;
 4. Provisions and/or documents for initial sales price or rent, resale restrictions, occupancy restrictions, locals preference, deeds of trust, rights of first refusal, and rental restrictions;
 5. Provisions for monitoring the ongoing affordability of the affordable units, and the process for marketing units, and qualifying prospective households for income eligibility;
 6. Deed restriction acceptable to the Town;
 7. Any information required by the housing plan approved by the review authority;
 8. Any other pertinent information required by the Community Development Director.
- C. **Agreement Approval.** The affordable housing agreement shall be consistent with the housing plan approved by the review authority and comply with the requirements of the chapters of this Article. The agreement shall be approved by the Community Development Director prior to recordation of the agreement with the Nevada County Recorder.

18.210.100 - In-Lieu Affordable Housing Fee

The Town Council shall by resolution adopt an in-lieu affordable housing fee for the purposes of Chapters 18.214 and Chapter 18.216. The resolution shall set forth the methodology and criteria for determining the fee and shall establish a procedure for the annual review and update of the fee.

CHAPTER 18.212 – DENSITY BONUSES, CONCESSIONS AND INCENTIVES

Sections:

- 18.212.010 - Purpose of Chapter
- 18.212.020 - Density Bonus
- 18.212.030 - Concessions and Incentives for Cost Reduction
- 18.212.040 - Concessions and Incentives for Physical Development
- 18.212.050 - Eligibility for Bonus, Concessions and/or Incentives
- 18.212.060 - Bonus, Concessions and/or Incentives for Very Low Income Residential Project
- 18.212.070 - Bonus, Concessions and/or Incentives for Lower Income Residential Project
- 18.212.080 - Bonus, Concessions and/or Incentives for Moderate Income Residential Project
- 18.212.090 - Bonus, Concessions and/or Incentives for Condominium Conversion Residential Project
- 18.212.100 - Bonus, Concessions and/or Incentives for Senior Citizen Residential Project
- 18.212.110 - Bonus, Concessions and/or Incentives for Land Donation Residential Project
- 18.212.120 - Bonus, Concessions and/or Incentives for Child Care Residential Project
- 18.212.130 - Bonus, Concessions and/or Incentives for Transitional Residential Project
- 18.212.140 - Bonus, Concessions and/or Incentives for 100 Percent Affordable Projects
- 18.212.150 - Bonus, Concessions and/or Incentives for Student Housing Projects
- 18.212.160 - Development Bonus for Partnered Commercial Projects

18.212.010 - Purpose of Chapter

As required by State law (Government Code Section 65915), this Chapter offers density bonus, concessions and incentives to developers for providing housing that is affordable to the types of households and qualifying residents identified in Section 18.32.020 (Eligibility for Bonus, Concessions and Incentives), below. The Town shall provide the applicant density bonuses, concessions, and/or incentives as prescribed in this Chapter. In offering these bonuses, concessions and incentives, this Chapter is intended to implement the requirements of State law (Government Code Sections 65302, 65913, and 65915, et seq.) If any section of this chapter conflicts with Government Code Section 65915 or other applicable State law, State law shall supersede this chapter.

18.212.020 – Density Bonus

A density bonus shall mean a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the Town. Maximum allowable residential density shall mean the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.

- A. Request.** In order to be eligible for a density bonus, the applicant shall file a request with the required land use permit application identifying the requested density bonus. With review of the associated land use permit application, the Town shall notify the applicant of the following:
1. The amount of density bonus for which the applicant is eligible

2. If the applicant requests a parking ratio pursuant to this section, the parking ratio for which the applicant is eligible; and
3. If the applicant requests incentives or concessions or waivers or reductions of the development standards, the applicant shall be notified if adequate information has been provided to make a determination as to those requests.

B. Calculations and location.

1. Any density bonus granted for a residential project shall not be included when determining the total number of housing units for the purpose of calculating the percentage of affordable housing units.
2. All density calculations resulting in fractional units shall be rounded up to the next whole number.
3. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels.
4. The density bonus shall be permitted in geographic areas of the proposed residential development other than the areas where the units for the target households are located.
5. Each residential project is entitled to only one density bonus. Where a residential project qualifies for a state density bonus under more than one category as described in Section 18.212.050 (Eligibility for Bonus, Concessions and/or Incentives), the category pursuant to which the density bonus shall be granted shall be elected by the applicant, and density bonuses from more than one category may not be combined.
6. Density bonus units authorized by this section shall not be included when determining the number of units required to qualify for the density bonus. When calculating the required number of units necessary to qualify for the density bonus, any calculations resulting in fractional dwelling units shall be rounded to the next whole number.

C. Inclusionary housing. The units approved by a density bonus granted for a residential project shall not be subject to the inclusionary requirements of Chapter 18.214 (Inclusionary Housing). The affordable housing inclusionary and workforce housing requirements of Chapter 18.214 (Inclusionary Housing) and Chapter 18.216 (Workforce Housing) shall be included in the count for eligibility for a density bonus if the units meet the affordability criteria outlined in this section. In general, if the inclusionary housing requirements have been met, a density bonus would be available. For example, a project that is allocating 15% of the units to very low income units, as required by the inclusionary housing ordinance, would be allowed a 50% density bonus (Section 18.212.060 – Bonus, Concessions and/or Incentives for Very Low Income Residential Project).

D. General Plan and Development Code Consistency. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

- E. **Maximum Cumulative for Density Bonus.** The cumulative total of all density bonuses granted under this Chapter shall not exceed 50% over the otherwise maximum allowable residential density, except as otherwise provided in this Chapter.
- F. An applicant shall be ineligible for a density bonus or any other incentives or concessions if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other public form of rent or price control; occupied by lower or very low income households, unless the housing development replaces those units pursuant to Government Code Section 65915.
- G. **Findings and Decision.** The review authority shall grant a density bonus over the otherwise maximum allowable residential density as of the date of application by the applicant to the Town in accordance with this Chapter, unless the review authority makes the following finding based upon substantial evidence:
 - 1. The density bonus is not consistent with the applicable provisions of Section 65915 of the Government Code and this Development Code.

18.212.030 – Concessions and Incentives for Cost Reduction

- A. **Request.** An applicant may request incentives pursuant to this section only when the residential project is eligible for, and the applicant requests a density bonus, pursuant to Section 18.212.020 (Density Bonus). In order to be eligible for a concession or incentive in accordance with this section, the applicant shall file a request in conjunction with the required land use permit application and density bonus request identifying the requested density bonus, along with the factual and legal basis for the request, the requested incentive(s), any requested waivers, reductions, or modifications of development standards requested by the applicant. The applicant shall also provide written documentation showing that the concession or incentive is necessary to provide for affordable housing costs or rents.
- B. **Allowed concessions and incentives.** The following may be allowed as a concession or incentive in accordance with this section:
 - 1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceeds the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required and results in identifiable, financially sufficient, and actual cost reductions to provide for affordable housing costs or rents. An applicant may be required to submit a pro forma that demonstrates that any requested incentive results in identifiable, financially sufficient, and actual cost reductions to the residential project. The cost of reviewing any required

pro forma data, including but not limited to the cost to the Town of hiring a consultant to review the pro forma, shall be borne by the applicant;

2. Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located; and
3. Other regulatory incentives or concessions proposed by the developer or the Town that result in identifiable, financially sufficient, and actual cost reductions.

The Town may, but is not required to, provide direct financial incentives for the housing development, including the provision of publicly owned land, by the Town, or the deferment of fees or dedication requirements.

C. General Plan and Development Code consistency. The granting of a density bonus shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.

D. Findings and decision. The review authority shall grant a concession(s) and/or incentive(s), unless the review authority makes one or more of the following findings based upon substantial evidence:

1. The concession or incentive is not consistent with the applicable provisions of Section 65915 of the Government Code;
2. The concession or incentive does not result in identifiable, financially sufficient, and/or actual cost reductions;
3. The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units;
4. The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households;
5. The concession or incentive would have an adverse impact on any real property that is listed in the California Register of Historical Resources;
6. The concession or incentive would be contrary to state or federal law.

18.212.040 – Concessions and Incentives for Physical Development

- A. Request.** In order to be eligible for a parking reduction concession or a development standard waiver or modification in accordance with this section, the applicant shall file a request in conjunction with the required land use permit application and density bonus request identifying the requested incentive(s), any requested waivers, reductions, or modifications of development standards. For a development standard waiver or modification concession, the applicant shall also provide written documentation showing that the application of the development standard will have the effect of physically precluding the construction of the proposed residential project at the densities or with the concessions or incentives permitted by this Chapter and showing the waiver or modification of the development standard is necessary to make the housing units physically feasible.
- B. Parking reduction.** The review authority shall reduce the off-street parking requirements for the residential project as follows:
1. One off-street space for each studio or one-bedroom unit;
 2. One and one-half off-street spaces for each two- or three-bedroom unit;
 3. Two and one-half off-street spaces for each unit with four or more bedrooms;
 4. These off-street parking requirements are inclusive of accessible and guest parking;
 5. If the total number of parking spaces required for the residential project is other than a whole number, the number shall be rounded up to the next whole number;
 6. The residential project may provide the off-street parking through tandem parking or uncovered parking;
 7. These off-street parking requirements apply to the entire project including market rate units;
 8. A developer may request a reduction in the required parking demand to 0.5 space per unit, inclusive of parking for persons with a disability and guests, if the project is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, and a development includes at least 11 percent (11%) very low income units or at least 20 percent (20%) low-income units.
 9. A developer may request that the Town impose no minimum parking requirement for a development if the following applies:
 - a. The development consists solely of rental units, exclusive of a managers unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and the development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14

of the Health and Safety Code. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day; or

- b. The development consists solely of rental units, exclusive of a managers unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, and either of the following applies:
 - i. The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development;
 - ii. The development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
10. If the Town or an independent consultant has conducted an area-wide or jurisdiction-wide parking study in the last seven years, then the Town may impose a higher vehicular parking ratio not to exceed the ratio described in Subsection B(1) through (4), based on substantial evidence found in the parking study that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market rate and subsidized developments, and the lower rates of car ownership for low income and very low income individuals, including seniors and special needs individuals. The Town shall pay the costs of any new study and shall make findings supporting the need for the higher ratio.

These parking reductions are exclusive of concessions and incentives approved pursuant to Section 18.212.030 (Concessions and Incentives). The applicant may request additional parking concessions or incentives beyond those provided by this section.

C. Development standard waiver or modification concession.

1. Development standard. A development standard includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an on-site open space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.
2. An applicant may seek a waiver of any development standards that will physically preclude the construction of a residential project with the requested density bonus and incentives permitted by this chapter. The applicant shall bear the burden of demonstrating that the development standards that are requested to be waived will have the effect of physically precluding the construction of the residential project with the density bonus and incentives.
3. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of concessions or incentives to which the applicant is entitled pursuant to Section 18.212.030 (Concessions and Incentives).

- D. Findings and decision.** The review authority shall grant a waiver or modification to a development standard, unless the review authority makes one or more of the following findings based upon substantial evidence:
1. The waiver or modification of the development standard is not consistent with the applicable provisions of Section 65915 of the Government Code;
 2. The application of the development standard will not have the effect of physically precluding the construction of the proposed residential project at the densities or with the concessions or incentives permitted by this Chapter;
 3. The waiver or modification of the development standard would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households;
 4. The waiver or modification of the development standard would have an adverse impact on any real property that is listed in the California Register of Historical Resources;
 5. The waiver or modification of the development standard would be contrary to State or Federal law.

18.212.050 - Eligibility for Bonus, Concessions and/or Incentives

In order to be eligible for a density bonus, concessions and/or incentives as provided for by this Chapter, a proposed residential project shall comply with the following.

- A. Consist of five or more dwelling units;
- B. Be designed and constructed to comply with one or more of the following:
 1. A minimum of five percent (5%) of the total number of proposed dwelling units are for very low income households, as defined in Health and Safety Code Section 50105. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Very Low Income Residential Project”.
 2. A minimum of ten percent (10%) of the total number of proposed dwelling units are for lower income households, as defined in Health and Safety Code Section 50079.5. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Lower Income Residential Project”.
 3. A minimum of ten percent (10%) of the total number of proposed dwelling units in a condominium project as defined in Government Code Section 65915(g) or a planned development as defined in Civil Code Section 1351(k) are for persons and families of moderate income as defined in Health and Safety Code Section 50093 and all units in the development are offered to the public for purchase. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Moderate Income Residential Project”.

4. For a proposed residential project to convert apartments to a condominium project, a minimum of 33% of the total number of proposed condominium units are for persons and families of low or moderate income as defined in Health and Safety Code Section 50093 or a minimum of 15% of the total number of proposed condominium units are for lower income households as defined in Health and Safety Code Section 50079.5. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Condominium Conversion Residential Project”.
5. The proposed residential project is a senior citizen housing development as defined in Section 51.3 of the Civil Code or a mobile home park that limits residence based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Senior Citizen Housing Residential Project”.
6. The applicant donates land to the Town of Truckee or its designee in accordance with Section 18.212.110.A (Additional Eligibility). Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Land Donation Residential Project”.
7. The applicant constructs a child care facility as part of a proposed very low, lower, or moderate income residential project in accordance with Section 18.212.120.A (Additional Eligibility). Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Child Care Residential Project”.
8. A minimum of ten percent (10%) of the total number of proposed dwelling units in a housing development are for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Transitional Residential Project.”
9. One hundred percent (100%) of the total units, exclusive of a manager’s unit or units, are available to lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “100 Percent Affordable Residential Project.”
10. Twenty percent (20%) of the total units are in a housing development are for lower income students. All units in the housing development will be used exclusively for undergraduate, graduate or professional students enrolled full time in an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Student Housing Project.”
11. A commercial development has entered into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing. A minimum of thirty percent (30%) of the total units

of the partnered housing shall be for low-income households or at least fifteen percent (15%) of the total units are for very low-income households. Projects that comply with this requirement shall hereafter be referred to in this Chapter as “Partnered Commercial Project.”

C. Comply with all applicable provisions of this Development Code.

18.212.060 – Bonus, Concessions and/or Incentives for Very Low Income Residential Project

The granting of a density bonus, concession and/or incentive for a proposed Very Low Income Residential Project shall comply with the following.

A. Additional Eligibility. In addition to the requirements of Section 18.212.050.B.1, a Very Low Income Residential Project shall comply with all of the following in order to be eligible for a density bonus, concessions and/or incentives:

1. The applicant shall agree to the continued affordability of all very low income density bonus units for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
2. The units targeted for very low income households shall be affordable at a rent calculated in accordance with Section 18.210.050.A (Affordable Rent) or at a sales price calculated in accordance with Section 18.210.050.B (Affordable Sales Price).
3. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement).

B. Density Bonus. The review authority shall grant a density bonus for a Very Low Income Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density increase shall be consistent with Table 7-1, unless the applicant requests a lesser density increase; and

**TABLE 7-1
DENSITY BONUS PERCENTAGE ALLOWANCE
FOR VERY LOW INCOME RESIDENTIAL PROJECTS**

Very Low Income Units in Project	Density Bonus Allowed
5%	20%
6%	22.5%
7%	25%
8%	27.5%
9%	30%
10%	32.5%
11%	35%
12%	38.75%

13%	42.5%
14%	46.25%
15%	50%

2. If the applicant requests a density bonus for a Very Low Income Residential Project in accordance with this section, the applicant shall not be eligible for a density bonus per Sections 18.212.070 (Bonus, Concessions and/or Incentives for Lower Income Residential Project), 18.212.080 (Bonus, Concessions and/or Incentives for Moderate Income Residential Project), or 18.212.100 (Bonus, Concessions and/or Incentives for Senior Citizen Residential Project).

C. Concession or Incentive. The review authority shall grant concessions and/or incentives for a Very Low Income Residential Project in accordance with Section 18.212.030 (Concessions and Incentives) and the following:

1. The review authority shall grant the following number of incentives or concessions:
 - a. One incentive or concession for projects that include at least five percent (5%) of the dwelling units for very low income households;
 - b. Two incentives or concessions for projects that include at least ten percent (10%) of the dwelling units for very low income households;
 - c. Three incentives or concessions for projects that include at least 15 percent (15%) of the dwelling units for very low income households.

D. Other Concessions. The review authority shall grant other concessions for a Very Low Income Residential Project in accordance with Section 18.212.040 (Concessions and Incentives for Physical Development).

18.212.070 – Bonus, Concessions and/or Incentives for Lower Income Residential Project

The granting of a density bonus, concession and/or incentive for a proposed Lower Income Residential Project shall comply with the following.

A. Additional Eligibility. In addition to the requirements of Section 18.212.050.B.2, a Lower Income Residential Project shall comply with all of the following in order to be eligible for a density bonus, concessions and/or incentives:

1. The applicant shall agree to the continued affordability of all lower income density bonus units for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
2. The units targeted for lower income households shall be affordable at a rent that does not exceed 30% of 60% of the area median income as calculated in accordance with Section 18.210.050.A (Affordable Rent) or shall be affordable at a sales price that does not exceed 30% of 70% of the area median income as calculated in accordance with Section 18.210.050.B (Affordable Sales Price).

3. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement).

B. Density Bonus. The review authority shall grant a density bonus for a Lower Income Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density increase shall be consistent with Table 7-2, unless the applicant requests a lesser density increase; and

**TABLE 7-2
DENSITY BONUS PERCENTAGE ALLOWANCE
FOR LOWER INCOME RESIDENTIAL PROJECTS**

Lower Income Units in Project	Density Bonus Allowed
10%	20%
11%	21.5%
12%	23%
13%	24.5%
14%	26%
15%	27.5%
17%	30.5%
18%	32%
19%	33.5%
20%	35%
21%	38.75%
22%	42.5%
23%	46.25%
24%	50%

2. If the applicant requests a density bonus for a Lower Income Residential Project in accordance with this section, the applicant shall not be eligible for a density bonus per Sections 18.212.060 (Bonus, Concessions and/or Incentives for Very Low Income Residential Project), 18.212.080 (Bonus, Concessions and/or Incentives for Moderate Income Residential Project), or 18.212.100 (Bonus, Concessions and/or Incentives for Senior Citizen Residential Project).

C. Concession or Incentive. The review authority shall grant concessions and/or incentives for a Lower Income Residential Project in accordance with Section 18.212.030 (Concessions and Incentives) and the following:

1. The applicant shall receive the following number of incentives or concessions:
 - a. One incentive or concession for projects that include at least ten percent (10%) of the dwelling units for lower income households;
 - b. Two incentives or concessions for projects that include at least 17 percent (17%) of the dwelling units for lower income households;
 - c. Three incentives or concessions for projects that include at least 24 percent (24%) of the dwelling units for lower income households.

- D. Other Concessions.** The review authority shall grant other concessions for a Lower Income Residential Project in accordance with Section 18.212.040 (Concessions and Incentives for Physical Development).

18.212.080 – Bonus, Concessions and/or Incentives for Moderate Income Residential Project

The granting of a density bonus, concession and/or incentive for a proposed Moderate Income Residential Project shall comply with the following.

- A. Additional Eligibility.** In addition to the requirements of Section 18.212.050.B.3, a Moderate Income Residential Project shall comply with all of the following in order to be eligible for a density bonus, concessions and/or incentives:

1. The applicant shall agree to the following:
 - a. The initial occupant of the moderate income units are persons and families of moderate income as defined in Section 50093 of the Health and Safety Code.
 - b. Upon resale of the unit, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation.
 - c. Upon resale of the unit, the Town shall recapture any initial subsidy and its proportionate share of appreciation. The initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value. The proportionate share of appreciation from the initial sale price shall be equal to the ratio of the Town's initial subsidy to the fair market value of the home at the time of initial sale.
2. The units targeted for moderate income households shall be affordable at a sales price that does not exceed 35% of 110% of the area median income as calculated in accordance with Section 18.210.050.B (Affordable Sales Price).
3. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement).

- B. Density Bonus.** The review authority shall grant a density bonus for a Moderate Income Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density increase shall be consistent with Table 7-3, unless the applicant requests a lesser density increase.

**TABLE 7-3
DENSITY BONUS PERCENTAGE ALLOWANCE
FOR MODERATE INCOME RESIDENTIAL PROJECTS**

Percentage Moderate- Income Units	Percentage Density Bonus
10%	5%
11%	6%
12%	7%
13%	8%
14%	9%
15%	10%
16%	11%
17%	12%
18%	13%
19%	14%
20%	15%
21%	16%
22%	17%
23%	18%
24%	19%
25%	20%
26%	21%
27%	22%
28%	23%
29%	24%
30%	25%
31%	26%
32%	27%
33%	28%
34%	29%
35%	30%
36%	31%
37%	32%
38%	33%
39%	34%
40%	35%
41%	38.75%
42%	42.5%
43%	46.25%
44%	50%

2. If the applicant requests a density bonus for a Moderate Income Residential project in accordance with this section, the applicant shall not be eligible for a density bonus per Sections 18.212.060 (Bonus, Concessions and/or Incentives for Very Low Income Residential Project), 18.212.070 (Bonus, Concessions and/or Incentives for Lower Income Residential Project), or 18.212.100 (Bonus, Concessions and/or Incentives for Senior Citizen Residential Project).

C. Concession or Incentive. The review authority shall grant concessions and/or incentives for a Moderate Income Residential Project in accordance with Section 18.212.030 (Concessions and Incentives) and the following:

1. The applicant shall receive the following number of incentives or concessions:
 - a. One incentive or concession for projects that include at least ten percent (10%) of the dwelling units for moderate income households;
 - b. Two incentives or concessions for projects that include at least 20 percent (20%) of the dwelling units for moderate income households;
 - c. Three incentives or concessions for projects that include at least 30 percent (30%) of the dwelling units for moderate income households.

D. Other Concessions. The review authority shall grant other concessions for a Moderate Income Residential Project in accordance with Section 18.212.040 (Concessions and Incentives for Physical Development).

18.212.090 – Bonus, Concessions and/or Incentives for Condominium Conversion Residential Project

The granting of a density bonus, concession and/or incentive for a proposed Condominium Conversion Residential Project shall comply with the following.

A. Additional Eligibility. In addition to the requirements of Section 18.212.050.B.4, a Condominium Conversion Residential Project shall comply with all of the following in order to be eligible for a density bonus, concessions and/or incentives:

1. The applicant shall be ineligible for a density bonus or other incentives if the apartments proposed for conversion constituted a residential development for which a density bonus or other concessions or incentives were provided under this Chapter.
2. The units targeted for moderate income or lower income households shall be affordable at a sales price calculated in accordance with Section 18.210.050.B (Affordable Sales Price) and shall continue to be affordable to subsequent purchasers who are persons and families of moderate or lower income households.
3. The applicant shall agree to other reasonable conditions imposed by the review authority on the granting of the density bonus or other incentives.
4. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement).

B. Preliminary Proposal. Prior to the submittal of any formal requests for subdivision map approvals, an applicant may submit to the Town a preliminary proposal requesting a response from the Town on how the Town will comply with the provisions of this section. The Town Council shall approve a written response on the means of compliance with this section and notify the applicant within 90 days of receipt of the preliminary proposal.

C. Density Bonus or other Incentives. The review authority shall grant a density bonus or equivalent incentives for a Condominium Conversion Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density increase shall be 25% over the number of units to be converted, up to a maximum of 35% unless the applicant requests a lesser density increase. The increase in units shall be provided within the existing structure or structures proposed for conversion; or
2. In lieu of granting a density increase, the review authority shall grant the applicant other incentives, such as reduction or waiver of development standards, of equivalent financial value to a density increase.

18.212.100 – Bonus, Concessions and/or Incentives for Senior Citizen Residential Project

The granting of a density bonus, concession and/or incentive for a proposed Senior Citizen Residential Project shall comply with the following.

A. Additional Eligibility. In addition to the requirements of Section 18.212.050.B.5, a Senior Citizen Residential Project shall comply with all of the following in order to be eligible for a density bonus, concessions and/or incentives:

1. The applicant shall agree to the continued operation of the proposed residential project as a senior citizen housing development as defined in Section 51.3 of the Civil Code or mobile home park for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.
2. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement).

B. Density Bonus. The review authority shall grant a density bonus for a Senior Citizen Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density increase shall be 20% of the number of senior housing units, unless the applicant requests a lesser density increase.
2. If the applicant requests a density bonus for a Senior Citizen Residential Project in accordance with this section, the applicant shall not be eligible for a density bonus per Sections 18.212.060 (Bonus, Concessions and/or Incentives for Very Low Income Residential Project), 18.212.070 (Bonus, Concessions and/or Incentives for Lower Income Residential Project), or 18.212.080 (Bonus, Concessions and/or Incentives for Moderate Income Residential Project).

C. Concession or Incentive. A Senior Citizen Residential Project is not eligible for a concession or incentive as set forth in Section 18.212.030 (Concessions and Incentives).

- D. Other Concessions.** The review authority shall grant other concessions for a Senior Citizen Residential Project in accordance with Section 18.212.040 (Concessions and Incentives for Physical Development).

18.212.110 – Bonus for Land Donation Residential Project

The granting of a density bonus, concession and/or incentive for a proposed Land Donation Residential Project shall comply with the following.

- A. Additional Eligibility.** In addition to the requirements of Section 18.212.050.B.6, a Land Donation Residential Project shall comply with all of the following in order to be eligible for a density bonus:
1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.
 2. The land being donated and transferred shall comply with all of the following:
 - a. The developable acreage and zoning classification of the land are sufficient to permit construction of units affordable to very low income households in an amount not less than 10% of the number of residential units of the proposed residential development;
 - b. The land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in Section 65583.2.c.3 of the Government Code, and is or will be served by adequate public facilities and infrastructure;
 - c. No later than the date of approval of the final subdivision map, parcel map, or the residential development application, the land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the land, except that the Town may subject the proposed development to subsequent design review to the extent authorized by Section 65583.2(i) of the Government Code if the design is not reviewed by the Town prior to the time of transfer;
 - d. The land is transferred to the Town or to a housing developer approved by the Town. The Town may require the applicant to identify and transfer the land to the housing developer;
 - e. The land shall be within the boundary of the proposed residential development, or if approved by the Town, within one-quarter mile of the boundary of the proposed residential development; and
 - f. A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.
 3. The land and affordable units shall be subject to a deed restriction which shall be recorded on the property at the time of dedication. The deed restriction shall ensure the continued affordability of the units as follows:

- a. The deed restriction shall be for a period of 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; and
 - b. The units shall be affordable for very low income households at a rent calculated in accordance with Section 18.210.050.A (Affordable Rent) or at a sales price calculated in accordance with Section 18.210.050.B (Affordable Sales Price) and.
4. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement).
- B. Density Bonus.** The review authority shall grant a density bonus for a Land Donation Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:
- 1. The amount of the density bonus shall be 15% plus an increase of 1% for each 1% increase above 10% in the land donation described in Subsection A.2.a, up to a maximum of 35%, unless the applicant requests a lesser density increase, see Table 7-4.

**TABLE 7-4
DENSITY BONUS PERCENTAGE ALLOWANCE
FOR LAND DONATION RESIDENTIAL PROJECTS**

Percentage Very Low Income	Percentage Density Bonus
10%	15%
11%	16%
12%	17%
13%	18%
14%	19%
15%	20%
16%	21%
17%	22%
18%	23%
19%	24%
20%	25%
21%	26%
22%	27%
23%	28%
24%	29%
25%	30%
26%	31%
27%	32%
28%	33%
29%	34%
30%	35%

- C. Concession or Incentive and Other Concessions.** A Land Donation Residential Project is not eligible for a concession or incentive as set forth in Section 18.212.030 (Concessions and Incentives) and is not eligible for other concessions as set forth in Section 18.212.040 (Concessions and Incentives for Physical Development).

18.212.120 – Bonus, Concessions and/or Incentives for Child Care Residential Project

The granting of a density bonus, concession and/or incentive for a proposed Child Care Residential Project shall comply with the following.

- A. Additional Eligibility.** In addition to the requirements of Section 18.212.050.B.7, a Child Care Residential Project shall comply with all of the following in order to be eligible for a density bonus, concessions and/or incentives:
1. The child care facility shall comply with all of the following:
 - a. The child care facility shall not be a family day care home, but may include, but not be limited to, an infant center, preschool, extended day care facility, and school-age child care center;
 - b. The child care facility shall be located on the premises of, as part of, or adjacent to, the residential project;
 - c. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Section 65915(c) of the Government Code; and
 - d. Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to Section 65915(b) of the Government Code;
 3. The land and affordable units shall be subject to a deed restriction which shall be recorded on the property at the time of dedication. The deed restriction shall ensure the continued affordability of the units as follows:
 - a. The deed restriction shall be for a period of 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; and
 - b. The units shall be affordable for very low income households at a rent calculated in accordance with Section 18.210.050.A (Affordable Rent) and or at a sales price calculated in accordance with Section 18.210.050.B (Affordable Sales Price) and.
 4. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement) which includes the above requirements.
- B. Density Bonus, Concession or Incentive.** Unless the Town Council finds, based upon substantial evidence that the community has adequate child care facilities, the review authority

shall grant a density bonus or concession or incentive for a Child Care Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density increase shall be an amount of square feet of residential floor space that is equal to or greater than the amount of square feet of floor space in the child care facility, up to a maximum of 35% inclusive of all density bonuses provided under this Chapter; or
2. In lieu of granting a density increase, the review authority shall grant a concession or incentive, in addition to any other concession and/or incentive allowable under this Chapter that contributes significantly to the economic feasibility of the construction of the child care facility.

18.212.130 – Bonus, Concessions and/or Incentives for Transitional Residential Projects

The granting of a density bonus, concession and/or incentive for a proposed Transitional Residential Project shall comply with the following.

A. Additional Eligibility. In addition to the requirements of Section 18.212.050.B.8, a Transitional Residential Project shall comply with all of the following in order to be eligible for a density bonus, concessions and/or incentives:

1. The land and affordable units shall be subject to a deed restriction which shall be recorded on the property at the time of dedication. The deed restriction shall ensure the continued affordability of the units as follows:
 - a. The deed restriction shall be for a period of 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; and
 - b. The units shall be affordable for very low income households at a rent calculated in accordance with Section 18.210.050.A (Affordable Rent) and the or at a sales price calculated in accordance with Section 18.210.050.B (Affordable Sales Price) and.
2. The applicant shall enter into and record an affordable housing agreement as set forth in Section 18.210.090 (Affordable Housing Agreement) which includes the above requirements.

B. Density Bonus, Concession or Incentive. The review authority shall grant a density bonus or concession or incentive for a Transitional Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density bonus shall be 20% of the number of the units designated for the transitional foster youths, disabled veterans, and/or homeless persons as defined in Section 18.212.050.B.8.

2. If the applicant requests a density bonus for a Transitional Residential Project in accordance with this section, the applicant shall not be eligible for a density bonus per Sections 18.212.060 (Bonus, Concessions and/or Incentives for Very Low Income Residential Project), 18.212.070 (Bonus, Concessions and/or Incentives for Lower Income Residential Project), or 18.212.080 (Bonus, Concessions and/or Incentives for Moderate Income Residential Project).

C. Concession or Incentive. A Transitional Residential Project is not eligible for a concession or incentive as set forth in Section 18.212.030 (Concessions and Incentives).

D. Other Concessions. The review authority shall grant other concessions for a Transitional Residential Project in accordance with Section 18.212.040 (Concessions and Incentives for Physical Development).

18.212.140 – Bonus, Concessions and/or Incentives for 100 Percent Affordable Projects

The granting of a density bonus, concession and/or incentive for a proposed 100 Percent Affordable Income Residential Project shall comply with the following.

A. Additional Eligibility. In addition to the requirements of Section 18.212.050.B.9, a 100 Percent Affordable Residential Project shall comply with the following in order to be eligible for a density bonus, concessions and/or incentives:

1. Rents for all units in the development, including both base density and density bonus units, shall be as follows:
 - a. The rent for at least 20 percent of the units in the development shall be set at an affordable rent, as defined in Section 50053 of the Health and Safety Code.
 - b. The rent for the remaining units in the development shall be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state of federal low-income housing tax credits from the California Tax Credit Allocation Committee.

B. Density Bonus. The review authority shall grant a density bonus for a 100 Percent Affordable Residential Project in accordance with Section 18.212.020 (Density Bonus) and the following:

1. The amount of the density increase shall be 80 percent of the number of units for lower income households.
2. If the housing development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, no maximum controls on density may be imposed.

C. Concession or Incentive. The review authority shall grant concessions and/or incentives for a 100 Percent Affordable Residential Project in accordance with Section 18.212.030 (Concessions and Incentives) and the following:

1. The applicant shall receive the following number of incentives or concessions:
 - a. Four incentives or concessions; and
 - b. If the project is located within a half-mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, the applicant shall also receive a height increase of up to three additional stories, of 33 feet.

D. Other Concessions. A housing development that receives a waiver from any maximum controls on density shall not be eligible for, and shall not receive, a waiver or reduction of development standards, other than as expressly provided in this subsection.

18.212.150 – Bonus, Concessions and/or Incentives for Student Housing Projects

The granting of a density bonus, concession and/or incentive for a proposed Student Housing Project shall comply with the following.

A. Additional Eligibility. In addition to the requirements of Section 18.212.050.B.10, a Student Housing Project shall comply with the following in order to be eligible for a density bonus, concessions and/or incentives:

1. The developer shall, as a condition of receiving certificate of occupancy, provide evidence to the Town that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this requirement is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in the institution of higher education to fill all units in the student housing development.
2. The applicable 20 percent units will be used for lower income students. “Lower income students” mean students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government.
3. The rent provided in the applicable units of the development for lower income student shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy type unit.
4. The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (d) of Section 103577 of the Health and Safety Code, or

institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless.

- B. Density Bonus.** The review authority shall grant a density bonus for a Student Housing Project in accordance with Section 18.212.020 (Density Bonus).
- C. Concession or Incentive.** The review authority shall grant concessions and/or incentives for a Student Housing Project in accordance with Section 18.212.030 (Concessions and Incentives).

18.212.160 – Development Bonus for Partnered Commercial Projects

The granting of a development bonus for a proposed Partnered Commercial Project shall comply with the following.

- A. Additional Eligibility.** In addition to the requirements of Section 18.212.050.B.11, a Partnered Commercial Project shall comply with all of the following in order to be eligible for a development bonus:
1. “Partner” shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.
 2. Housing shall be constructed on the site of the commercial development or on a site that is all of the following:
 - a. Within the boundaries of the Town of Truckee.
 - b. In close proximity to public amenities including schools and employment centers.
 - c. Located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code;
 2. The commercial developer shall contribute affordable housing in one of the following manners:
 - a. The commercial developer may directly build the units;
 - b. The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing; or
 - c. The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.

3. If the developer of the affordable units does not commence with construction of those housing units in accordance with the timelines in the agreement for partnered housing, the Town of Truckee may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction off the affordable units.

B. Development Bonus. The review authority shall grant a development bonus for a Partnered Commercial Project in accordance with and the following:

1. The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the Town of Truckee, that may include, but are not limited to any of the following:
 - a. Up to a 20 percent increase in maximum allowable intensity in the General Plan;
 - b. Up to a 20 percent increase in maximum allowable floor area ratio;
 - b. Up to a 20 percent increase in maximum height requirements;
 - c. Up to a 20 percent reduction in minimum parking requirements;
 - d. Use of a limited-use/limited application elevator for upper floor accessibility; or
 - c. An exception to a standard within this Development Code.

C. Concession or Incentive. The affordable housing project associated with the Partnered Commercial Project may seek the density bonuses, concession, and incentives as set forth within this Chapter.

CHAPTER 18.214 - INCLUSIONARY HOUSING

Sections:

- 18.214.010 - Purpose and Intent
- 18.214.030 - Administrative Fees
- 18.214.040 - Inclusionary Housing Requirements
- 18.214.050 - Development Requirements
- 18.214.060 - Density Bonuses, Incentives, and Concessions
- 18.214.070 - Affordability Controls
- 18.214.080 - Inclusionary Housing Plan
- 18.214.090 - Adjustments and Waivers

18.214.010 - Purpose and Intent

- A. The purpose of this chapter is to establish an inclusionary requirement or an in-lieu fee for residential development projects to mitigate the impacts caused by these development projects on the additional demand for more affordable housing and rising land prices for limited supply of available residential land.
- B. It is intended to implement the Housing Element of the General Plan to provide a permanent supply of affordable housing to meet the needs of very-low, low-, and moderate-income residents, particularly those who live or work in Truckee, while maintaining the Town's character and improving the social and economic quality of life for Truckee residents.

18.214.030 - Administrative Fees

The Council may by resolution establish reasonable fees for the administration of this Chapter.

18.214.040 - Inclusionary Housing Requirements

- A. **Inclusionary Housing Required.** All residential development projects not exempt under Subsection F shall include or provide inclusionary housing as set forth in this chapter. Residential development projects shall include the subdivision of land which is planned, designed, or used for residential purposes, including the subdivision of land for the sale of vacant residential lots. The subdivision of land for the sale of vacant residential lots shall be required to comply with the requirements of this section; subdivisions of seven or more parcels shall comply with the inclusionary housing construction requirements of Subsection B or the alternative equivalent proposal requirements of Subsection D, and subdivisions of six or less parcels shall comply with the in-lieu affordable housing fee requirements of Subsection E.
- B. **Number of Inclusionary Units.** Fifteen percent (15%) of all new dwelling units in a residential development project shall be affordable units which shall be constructed and completed not later than the related market rate units. For fractions of affordable units, the developer may elect, at his or her option, to construct the next higher whole number of affordable units, perform an equivalent alternative which has received the approval of the review authority pursuant to Subsection D, or pay the in-lieu specified in Subsection E for such fraction.

For purposes of calculating the number of affordable units required by this section, any additional residential units authorized as a density bonus under California Government Code Section 65915 et seq. shall not be counted in determining the required number of inclusionary units.

C. Affordability of Inclusionary Units.

1. For ownership residential development projects, the inclusionary units may be available for sale or for rent. The inclusionary units shall be available at affordable rents or affordable sales price as follows:
 - a. For ownership inclusionary units, 100% of the units shall be affordable to moderate income households, or one-third of the units shall be affordable to low income households, one-third shall be affordable to moderate income households, and one-third shall be affordable to above moderate income households.
 - b. For rental inclusionary units, 100% of the units shall be affordable to low income households, or one-third of the units shall be affordable to very low income households, one-third shall be affordable to low income households, and one-third shall be affordable to moderate income households.
2. For rental residential development projects, the inclusionary units shall be available for rent at affordable rents as follows:
 - a. 100% of the units shall be affordable to low income households, or one-third of the units shall be affordable to very low income households, one-third shall be affordable to low income households, and one-third shall be affordable to moderate income households.
3. These requirements are minimum requirements and will not preclude a residential development project from providing additional affordable units or affordable units with lowers rents or sales prices than required by this Chapter. The income targets for determining the rent or sale price may be modified through an alternative equivalent action.

D. Alternative Equivalent Proposal.

1. A developer of a residential development project may propose to meet the requirements of Subsection B and/or Subsection C by an alternative equivalent action, subject to review and approval by the review authority of the project unless Streamlined Residential Review (Chapter 18.79) is requested. A proposal for an alternative equivalent action may include, but is not limited to, the construction of inclusionary units on another site within the Truckee region; the dedication and conveyance of land to the Town or its designee; purchase of inclusionary housing credits from other residential development projects with excess affordable units; and acquisition and enforcement of required rental and/or sales price restrictions on existing standard market-rate dwelling units. A proposal for an alternative equivalent action may also address, but is not limited

to, tenure of units, higher or lower rents or sales prices, and a lesser or greater number of affordable units.

2. An alternative equivalent proposal shall be considered on a case by case basis by the review authority and may be approved at the review authority's sole discretion, if the review authority finds that such alternative will further affordable housing opportunities in the Truckee region to an equal or greater extent than compliance with the express requirements of Subsection B. For dedications of land, the review authority shall find that the land is suitable for the construction of affordable housing and is of equivalent or greater value than is produced by applying the express requirements of Subsection B.
3. Projects requesting Streamlined Residential Review (Chapter 18.79) are not eligible for an alternative equivalent proposal.

E. In-Lieu Affordable Housing Fee.

1. A developer of a residential development project may propose to meet the requirements of Subsection B by submitting at the time of application for a discretionary or building permit, whichever comes first, a request to pay the in-lieu fee.
2. Such proposals for payment of an in-lieu affordable housing fee shall be considered on a case by case basis by the review authority and may be approved at the review authority's sole discretion, if the review authority finds that the payment of the in-lieu fee will further affordable housing opportunities in the Truckee region to an equal or greater extent than compliance with the express requirements of Subsection B.
3. Notwithstanding the requirements of Subsection 2, the payment of an in-lieu affordable housing fee for a residential development project of less than seven units or subdivision lots shall be at the discretion of the developer.
4. The amounts, calculation, and timing of payment of the affordable housing in-lieu fee shall be established by resolution of the Town Council.

F. Exemptions. The following residential development projects shall be exempt from the requirements of this Chapter:

1. The construction of one single family dwelling unit on a single family lot.
2. The construction of an accessory dwelling unit in accordance with Section 18.58.025.
 1. The construction of two attached units on one parcel on a multi-family lot in which the total number of dwelling units on the lot does not exceed two. If additional dwelling units are subsequently constructed on the lot, the single family dwelling unit and two attached units shall be included and calculated towards the inclusionary requirement of Subsection B.
 4. The construction of dwelling units in a mixed use project in which the units will be restricted to affordable housing.

5. The reconstruction or replacement of any multi-family residential dwelling unit that has been involuntarily destroyed due to a catastrophic event in accordance with Section 18.130.060.
6. The conversion of residential units into condominiums or other common interest subdivision.
7. Residential development projects that are the subject of a development agreement currently in effect with the Town and approved prior to the effective date of this Chapter where such agreement expressly precludes the Town from requiring compliance with this Chapter.
8. Residential development projects which have received approval of the land use and development permit application prior to the effective date of this Chapter.

18.214.050 - Development Requirements

- A. Location of Inclusionary Units.** Inclusionary units may be built on site within the residential development project or offsite.
- B. Timing of Development.** Inclusionary units shall generally be constructed and offered for sale or rent in accordance with this Chapter concurrently with or prior to completion of market rate units within the residential development project or phase thereof. As used in this Chapter, “concurrently” means that a proportionate share of inclusionary units, including a proportionate share of units by income affordability, must be substantially completed by the time 50% of the market rate units within a residential development project are sold. The review authority at its own discretion may approve an alternative timing plan if the review authority finds the alternative timing plan will further affordable housing opportunities in the Town to an equal or greater extent and the completion of the inclusionary units is secured by a performance bond or other similar security.
- C. Building Types and Exterior Appearance.** Exterior building materials and finishes for inclusionary units shall be of the same type and quality as for the market rate units of the project. The building types for inclusionary units shall be the same as for market rate units. For example, if the market rate units are attached two-unit buildings, the inclusionary housing units are also required to be attached as part of a two-unit building. The living area for the inclusionary units may only be up to 20% smaller than the average living area of all of the market rate units. The review authority may approve building types for inclusionary units that are different than market rate units (e.g., multi-family affordable units for a single family residential development project) if the project is not a “multi-family residential project” or “new single-family residential subdivision” as defined by Section 18.25.020.A or the applicants elect the Flexible Design Review option of 18.25.030.B, and, in both cases, the review authority finds the inclusionary units are compatible with the design and character of the development and neighborhood.
- D. Common Amenities.** On-site inclusionary units shall have access to all on-site amenities available to market rate units.

- E. Interior Quality.** Inclusionary units may have different interior finishes, amenities, and features than the market rate units provided the interior finishes, amenities, and features are durable, of good quality, and consistent with contemporary standards for new housing.
- F. Maximum Allowed Average Living Area.** In order to ensure an adequate supply of housing to meet the housing needs of all segments of the community, residential subdivisions located in the RM, DRM, and DRH zoning districts shall be required to limit the maximum allowed average living area consistent with the following:
1. Projects with 30 percent of their total units affordable to very low-, low-, or moderate-income households are exempt from this requirement;
 2. Projects in a zoning district with a maximum allowable density less than six dwelling units per acre are exempt from this requirement;
 3. For projects with less than 30 percent of the total units available to affordable households, the maximum allowed average living area shall be consistent with Table 7-1 below. Examples of small, medium, and large projects are shown in Table 7-2.

TABLE 7-5

MAXIMUM AVERAGE LIVING AREA

Affordable Units Provided (% of total units restricted to very low-, low-, or moderate-income households)	Maximum Allowed Average Living Area Size (sq. ft.)
30% and above	None
26-29 %	2,000
21-25 %	1,815
16-20 %	1,650
15%	1,500

TABLE 7-6

MAXIMUM AVERAGE LIVING AREA EXAMPLES

	Number of Market Rate Units	Number of Affordable Units	% of Affordable Units Provided	Maximum Allowed Average Living Area Size (sq. ft.)
Small Size Project	4	1	20%	1,650
Formula	Divide the total number of affordable units by the total number of units within the project to determine the percentage of affordable units provided; 1 affordable /5 units =20%			
Medium Size Project	15	5	25%	1,815
Formula	Divide the total number of affordable units by the total number of units within the project to determine the percentage of affordable units provided; 5 affordable /20 units =25%			
Large Size Project	144	56	28%	2,000
Formula	Divide the total number of affordable units by the total number of units within the project to determine the percentage of affordable units provided; 56 affordable /200 units =28%			

18.214.060 -Density Bonuses, Incentives, and Concessions

Density bonuses, incentives, and concessions shall be allowed in accordance with Chapter 18.212 (Density Bonuses, Incentives, and Concessions).

18.214.070 - Affordability Controls

Inclusionary units shall be restricted in accordance with Chapter 18.210 (Affordable Housing Controls).

18.214.080 - Inclusionary Housing Plan

- A. Plan Required.** An inclusionary housing plan shall be submitted with the land use and development permit application for residential development projects. The inclusionary housing plan shall be reviewed as part of the land use and development permit application and shall be approved prior to or concurrently with the approval of the land use and development permit application.
- B. Request for Determination.** A developer of a residential development project may submit a “Request for Determination of Complying with Inclusionary Housing Requirements” prior to submittal of a land use and development permit application. The request shall include all information required for an Inclusionary Housing Plan and any other information deemed necessary by the Community Development Director. The review authority may consider the request and provide comments to the developer on whether the request complies with this Chapter, may comply if revisions are made, or does not comply. Any comments provided by the review authority on the request shall not bind the review authority on any future actions on the Inclusionary Housing Plan and/or land use and development permit application.
- C. Plan Information.** The Inclusionary Housing Plan shall include, but not be limited to, the following information in addition to information otherwise required by the Development Code:
1. A site plan and typical floor plans depicting the location, structure, proposed tenure (rental or ownership), story and floor layout, and size of the proposed market rate and inclusionary units;
 2. The calculations used to determine the number of required inclusionary units;
 3. The income level targets for each inclusionary unit;
 4. The mechanisms that will be used to assure that the inclusionary units will remain affordable;
 5. A phasing plan for the construction and completion of the market rate and inclusionary units;
 6. A description of any requested density bonuses, incentives, and/or concessions;
 7. A marketing plan for the process by which qualified households will be reviewed and selected to either purchase or rent inclusionary units;
 8. Any information necessary to properly describe the alternative equivalent action, if proposed;
 9. Any other pertinent information requested by the Community Development Director.

- D. Plan Approval.** The Inclusionary Housing Plan shall be approved by the review authority of the land use and development permit application and included as part of the residential development project as a condition of approval of the land use and development permit.
- E. Plan Modifications.** Any request for a modification to an approved Inclusionary Housing Plan shall be processed, reviewed, and acted upon in accordance with Section 18.84.070 of the Development Code.
- F. Inclusionary Housing Agreement.** An agreement implementing the provisions of the approved inclusionary housing plan shall be prepared, approved, and recorded in accordance with Section 18.210.090.

18.214.090 - Adjustments and Waivers

- A. Developer Request.** A developer for a residential development project subject to the requirements of this chapter may request of the review authority a reduction, adjustment, or waiver of the requirements based upon a showing of substantial evidence that there is no economically feasible way to comply with the requirements or that compliance with the requirements will not reasonably achieve the purposes for which the ordinance was enacted. Any decision of the review authority must be supported by findings in the administrative record which articulate the reasons for the granting of the waiver, reduction, or adjustment and the evidence in the administrative record supporting the decision to do so.
- B. Developer Burden.** The developer in the request shall set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver. The developer shall bear the burden of presenting substantial evidence to support the request including comparable technical information to support the developer's position.
- C. Timing.** To receive an adjustment or waiver, the developer shall submit the request prior to or concurrently with the submittal of the land use and development permit application for the residential development project. The review authority shall consider and take action on the request prior to or concurrently with taking action on the land use and development permit application for the residential development project.

Inclusionary Housing

18.214

CHAPTER 18.216 - WORKFORCE HOUSING

Sections:

- 18.216.010 – Purpose and Intent
- 18.216.030 – Administrative Fees
- 18.216.040 – Workforce Housing Requirements
- 18.216.050 – Development Requirements
- 18.216.060 – Bonuses, Incentives, and Concessions
- 18.216.070 – Affordability Controls
- 18.216.080 – Workforce Housing Plan
- 18.216.090 – Adjustments and Waivers

18.216.010 – Purpose and Intent

- A. The purpose of this chapter is to establish a workforce housing requirement and an in-lieu fee for commercial, industrial, and other non-residential development projects to mitigate the impacts caused by these development projects on the additional demand for more affordable housing.
- B. It is intended to implement the Housing Element of the General Plan to ensure an adequate supply of housing to meet the housing needs of all segments of the community and provide a permanent supply of affordable housing to meet the needs of very-low, low-, and moderate-income workers generated by new commercial, industrial, institutional, recreational, and residential resort projects.
- C. It is intended to implement Housing Program 1.3.4 of the Housing Element of the General Plan to balance the need for workforce housing for commercial, industrial, and other non-residential development with the other goals and policies of the General Plan including the goals and policies of the Economic Development Element.
- D. It is intended for the Town Council to conduct an annual review of this Chapter and its implementation to consider whether amendments are needed.

18.216.030 – Administrative Fees

The Council may by resolution establish reasonable fees for the administration of this Chapter.

18.216.040 – Workforce Housing Requirements

A. Workforce Housing Required. All commercial, industrial, institutional, recreational, residential resort, and other non-residential projects not exempt under Subsection G shall include or provide workforce housing as set forth in this Chapter.

B. Number of Workforce Housing Units.

1. A development project shall calculate the amount of full-time equivalent employees generated by the project in accordance with Section C.1 of this chapter, and construct and complete workforce housing unit(s) for employees calculated for the project as set forth in Paragraph 2. For fractions of workforce housing units, the developer may elect, at his or her option, to construct the next higher whole number of affordable units, perform an equivalent alternative which has received the approval of the review authority pursuant to Subsection E, or pay the in-lieu fee specified in Subsection F for such fraction.
2. The number of workforce housing units to be constructed and completed for a development project, shall be calculated based on a portion of the full-time equivalent employees generated by the project, in accordance with Section C.1, as follows:

**TABLE 7-7
WORKFORCE HOUSING REQUIREMENTS**

Project Size	Commercial Project¹	Industrial Project¹	Employee Generation	Workforce Housing Requirement
Smallest Project	3,500 s.f. or less	7,000 s.f.	Less than 7 FTEE	Exempt
Small Project	3,501 s.f. to 9,999 s.f.	7,001 s.f. to 19,999 s.f.	Equal to or more than 7 FTEE, but less than 20 FTEE	3.5% of FTEE
Medium Project	10,000 s.f. to 19,999 s.f.	20,000 s.f. to 39,000 s.f.	Equal to or more than 20 FTEE, but less than 40 FTEE	7% of FTEE
Large Project	20,000+ s.f.	40,000+ s.f.	Equal to or more than 40 FTEE	14% of FTEE

¹Square footages are provided as examples. Workforce housing requirements are based on the FTEE, as calculated in accordance with Section C.1.

Note: How to calculate the required workforce housing units:

- Determine the amount of FTEE proposed to be generated in accordance with Section C.1;
- Determine size of the project based on FTEE generation in Table 7-7; and
- Multiply the FTEE by the applicable Workforce Housing Requirement.

3. All workforce housing units shall have at least one bedroom, and 50% or more of the workforce housing units shall have two or more bedrooms.
4. The review authority, at its discretion, may reduce the number of required workforce housing units if the units have more than two bedrooms and/or are specialized

dwellings (e.g., dormitories) and the review authority finds that the units will accommodate an equal or greater number of employees than compliance with the express requirements of Subsection 4.

5. For mixed use projects subject to the requirements of Chapter 18.214 (Inclusionary Housing), the Inclusionary Housing requirements and Workforce Housing requirements are cumulative. The requirements shall be added together and implemented rather than applied separately.

C. Employee Generation. For the purposes of this Chapter, employees generated by a development project shall be calculated as follows:

1. The standard number of full-time equivalent employees (FTEE) generated by a land use type shall be:

Land Use	FTEE
Commercial including retail, service, office, and restaurant	1 FTEE per 500 s.f. of gross floor space
Industrial, not including uses with substantial outdoor work or activity areas	1 FTEE per 1,000 s.f. of gross floor space
Visitor Lodging	As determined by review authority based upon comparison with similar businesses
Uses Not Listed	As determined by review authority based upon comparison with similar businesses

2. A developer of a development project may submit an independent calculation of the number of employees generated by the proposed development to be used in place of the employee generation rates. Approval of the resulting calculation shall be at the discretion of the review authority. Seasonal full-time employees will be counted as 0.50 of a full-time equivalent employee. Part-time employees will be counted based on the number of hours worked per hour for a 40-hour work week (e.g., a part-time worker who works 30 hours per week would be counted as a 0.75 FTEE).

D. Affordability of Workforce Housing Units.

Workforce housing units shall be deed restricted to require two components:

1. Component 1: Employee preference. Employees of the nonresidential business for which the workforce housing units are required shall have first right-of-refusal with the following requirements:
 - a. Prohibit short-term rentals (for both whole units and portions of the unit);

- b. Require the unit to be a primary residence;
 - c. Require a six month initial lease; and
 - d. Require annual monitoring.
2. Component 2: If employees of the nonresidential business for which the workforce housing units are required do not rent the workforce housing units, then 100% of the units shall be affordable to low income households, or one-third of the units shall be affordable to very low income households, one-third shall be affordable to low income households, and one-third shall be affordable to moderate income households and shall have the following requirements:
- a. Prohibit short-term rentals (for both whole units and portions of the unit);
 - b. Require the unit to be a primary residence;
 - c. Require a six month initial lease; and
 - d. Require annual monitoring.

These requirements are minimum requirements and will not preclude a development project from providing additional affordable units or affordable units with lower rents or sales prices than required by this Chapter. The income targets for determining the rent price may be modified through an alternative equivalent action.

F. Alternative Equivalent Proposal.

1. A developer of a development project may propose to meet the requirements of this Chapter by an alternative equivalent action, subject to review and approval by the review authority of the project, unless Streamlined Residential Review (Chapter 18.79) is requested. A proposal for an alternative equivalent action may include, but is not limited to, the following:
 - a. **Land Donation or Dedication to the Town.** Donation or dedication of land to the Town for affordable housing is allowed. Land donation or dedication of land shall be equal in value to or more than the requirements of the Code. The Town may partner to construct affordable housing on the property or sell the property to create funds for future housing projects. Requirements for consideration:
 - (1) An assessed value report of the developable land with feasibility study will be required to ensure that the land is equal in value to or more than the requirements of the Code.
 - (2) If affordable housing units are required (rather than an in-lieu fee), a pro forma for the potential affordable housing project will be required to ensure that the value of the land is equal to or more than the requirement. A peer review may be required by the Town at the applicant's expense.

- (3) The Town Council shall be the review authority for acceptance of a land donation.

b. Purchase housing credits from the open market.

(1) Two options:

- a. Developments that are building or have built housing voluntarily can sell their housing credits to developers who are required to build workforce housing. Non-residential developers may partner with projects that have residential units that are not otherwise required for inclusionary or workforce housing requirements. They may purchase the affordable housing “rights” and apply a deed restriction to the units.
- b. Developers can buy existing market rate housing units in the open market and deed-restrict them. The unit would be required to be income-restricted. If it is income-restricted and the developer does not want to be tied to the unit, the units may be sold with the deed restriction.

(2) Requirements:

- a. The unit(s) would be required to be deed restricted by income consistent with Section 18.216.040.D for rental units or Section 18.216.040.E.1.d;
- b. No existing long-term rentals shall be displaced;
- c. Prohibit short-term rentals (for both whole units and portions of the unit);
- d. Require the unit to be a primary residence;
- e. Require a six month initial lease; and
- f. Require annual monitoring.

(3) Timing:

- a. If developers partner with another developer that has an existing residential unit, the unit should be identified and an agreement with the homeowner shall be submitted as part of the land use application. Proof of a deed restriction shall be required prior to building permit issuance.
- b. If a new unit is proposed to be constructed, an agreement with the property owner shall be submitted as part of the land use permit application. The building permit for the unit shall be submitted prior to or concurrent with the building permit for the non-residential project.

(4) Calculation for housing:

- a. All housing units shall have at least one bedroom, and 50% or more of the workforce housing units shall have two or more bedrooms; and
- b. If a property has a primary home and a secondary home and both will be deed restricted, then the developer shall be credited with two units.
- c. **Accessory dwelling unit partnership.** Developers can partner with homeowners who have or want a legal accessory dwelling unit on their property. Through the partnership, the developer can either pay the homeowner to deed restrict their existing unit or the developer can help construct a new unit on a property. Requirements for consideration:
 - (1) Requirements for deed restriction:
 - (a) The unit(s) would be required to be deed restricted by income consistent with Section 18.216.040.D;
 - (b) Prohibit short-term rentals (for both whole units and portions of the unit);
 - (c) Require the unit to be a primary residence;
 - (d) Require a six month initial lease; and
 - (e) Require annual monitoring.
 - (2) Timing:
 - (a) If developers partner with a homeowner that has an existing legal accessory dwelling unit, the unit should be identified and an agreement with the homeowner shall be submitted as part of the land use application. Proof of a deed restriction shall be required prior to building permit issuance.
 - (b) If a new accessory dwelling unit is proposed to be constructed, an agreement with the homeowner shall be submitted as part of the land use permit application. The building permit for the accessory dwelling unit shall be submitted prior to or concurrent with the building permit for the non-residential project.
- d. **Ownership units.** Ownership units can be considered for any project instead of rental units.
 - (1) For ownership units, 100% of the units shall be affordable to moderate income households, or one-third of the units shall be affordable to low income households, one-third shall be affordable to moderate income households, and one-third shall be affordable to above moderate income households. Deed-restrictions shall be required to be recorded on the units.
 - (2) All workforce housing units shall have at least one bedroom, and 50% or more

of the workforce housing units shall have two or more bedrooms.

2. An alternative equivalent proposal shall be considered on a case-by-case basis by the review authority and may be approved at the review authority's sole discretion, if the review authority finds that such alternative will further affordable housing opportunities in the Truckee region to an equal or greater extent than compliance with the express requirements of Subsections B and D. In making these findings, the review authority may consider the type of non-residential use(s) being proposed in the development project and whether workforce housing constructed within or adjacent to the development project would be compatible with such uses. The alternatives provided within Section 18.216.040.E provide assurance to developers that the review authority can support these alternatives. The alternatives can be modified or new alternatives can be proposed for review and approval by the review authority.
3. Projects requesting Streamlined Residential Review (Chapter 18.79) are not eligible for an alternative equivalent proposal.

F. In-Lieu Affordable Housing Fee.

1. A developer of a development project may propose to meet the requirements of Subsections B and D by submitting at the time of application for a discretionary or building permit, whichever comes first, a request to pay the in-lieu fee.
2. Such proposals for payment of an in-lieu affordable housing fee shall be considered on a case by case basis by the review authority and may be approved at the review authority's sole discretion, if the review authority finds that the payment of the in-lieu fee will further affordable housing opportunities in the Truckee region to an equal or greater extent than compliance with the express requirements of Subsections B and D.
3. Notwithstanding the requirements of Subsection 2, the payment of an in-lieu affordable housing fee for a development project which generates less than 20 full-time equivalent employees or 10 very low, low, and moderate income category employees shall be at the discretion of the developer.
4. The amounts, calculation, and timing of payment of the affordable housing in-lieu fee shall be established by resolution of the Town Council.

G. Exemptions. The following development projects shall be exempt from the requirements of this Chapter:

1. Residential development projects which do not include a resort, commercial, or community amenity use that will generate employees.
2. Development projects that generate less than seven full-time equivalent employees as determined in accordance with Subsection C.
3. The conversion of non-residential floor space from one use to another use whereby the new use generates the same or less number of full-time equivalent employees than the previous use.

4. Development projects that are the subject of a development agreement currently in effect with the Town or approved prior to the effective date of this Chapter where such agreement expressly precludes the Town from requiring compliance with this Chapter.
5. Development projects which have received approval of the land use and development permit application prior to the effective date of this Chapter, except the development project shall comply with any conditions regarding affordable housing that were imposed at the time of approval of the land use and development permit.

18.216.050 – Development Requirements

- A. **Location of Workforce Housing Units.** Workforce housing units shall be built on site within or adjacent to the development project, or offsite in close proximity to the development project, along or near a major transportation corridor with public transit, and/or near a major service center.
- B. **Timing of Development.** Workforce housing units shall generally be constructed and offered for sale or rent in accordance with this Chapter concurrently with or prior to completion of the development project or phase thereof. As used in this Chapter, “concurrently” means that a proportionate share of workforce housing units, including a proportionate share of units by income affordability, must be substantially completed by the time 50% of the development project is occupied. The review authority at its own discretion may approve an alternative timing plan if the review authority finds the alternative timing plan will further affordable housing opportunities in the Town to an equal or greater extent and the completion of the workforce housing units is secured by a performance bond or other similar security.
- C. **Building Types and Exterior Appearance.** Workforce housing units shall have exteriors that are visually and architecturally consistent with and similar to market rate units in the neighborhood. Exterior building materials and finishes for workforce housing units shall be of the same type and quality as for market rate units. The building types for workforce housing units shall be compatible with the design and character of the development and neighborhood.
- D. **Interior Quality.** Workforce units may have different interior finishes, amenities, and features than the market rate units provided the interior finishes, amenities, and features are durable, of good quality, and consistent with contractor grade for new housing.

18.216.060 – Bonuses, Incentives, and Concessions

The following bonuses, incentives, and concessions shall be made available to development projects constructing all of their workforce housing on site and/or offsite.

- A. **Floor Area Ratio.** The development project shall receive an increase in floor area ratio of 0.05, or 2,200 square feet per acre, above that normally allowed by the zoning district applicable to the parcel. Residential floor space shall not be counted toward the maximum

allowed floor area ratio.

- B. Priority Processing.** The development project shall be given priority over other types of projects and permits by all Town departments in the processing of land use and development permit applications and building permit applications, and in inspections of the project during the construction process.
- C. Regulatory Concessions.** The review authority, at its own discretion, may reduce regulatory standards of the Development Code and Public Improvement and Engineering Standards (e.g., parking spaces, lot coverage) if the review authority finds that any reduction in the regulatory standards is necessary for the project proposal to accommodate the workforce housing units, will not have an substantial, adverse impact on the neighborhood or surrounding area, and will not result in hazards to the public health or safety, in compliance with Chapter 18.212 (Density Bonuses, Concessions, and Incentives).
- D. Deferral of Town Impact Fees.** Town impact fees, including impact fees for the Truckee Fire Protection District and the Truckee Donner Recreation and Parks District, required at the time of issuance of a building permit shall be deferred for all portions of the project, including non-residential floor space, to the issuance of the temporary or final certificate of occupancy, whichever occurs first.
- E. Reduction of Town Impact Fees and Permit Fees.** The review authority may reduce or waive Town impact fees, including impact fees for the Truckee Fire Protection District and the Truckee Donner Recreation and Parks District, and Town permit fees in accordance with Town Council policy adopted by resolution.

18.216.070 – Affordability Controls

Workforce housing units shall be restricted in accordance with Chapter 18.210 (Affordable Housing Controls).

18.216.080 – Workforce Housing Plan

- A. Plan Required.** A workforce housing plan shall be submitted with the land use and development permit application for development projects. The workforce housing plan shall be reviewed as part of the land use and development permit application and shall be approved prior to or concurrently with the approval of the land use and development permit application.
- B. Request for Evaluation.** A developer of a development project may submit a “Request for Evaluation of Complying with Workforce Housing Requirements” prior to submittal of a land use and development permit application. The request shall include all information required for a Workforce Housing Plan and any other information deemed necessary by the Community Development Director. The review authority may consider the request and provide comments to the developer on whether the request complies with this Chapter, may comply if revisions are made, or does not comply. Any comments provided by the review authority on the request shall not bind the review authority on any future actions on the Workforce Housing Plan and/or land use and development permit application.

- C. Plan Information.** The Workforce Housing Plan shall include, but not be limited to, the following information in addition to information otherwise required by the Development Code:
1. A site plan and typical floor plans depicting the location, size, structure, proposed use(s), and story and floor layout of the proposed non-residential development;
 2. A site plan and typical floor plans depicting the location, structure, proposed tenure (rental or ownership), story and floor layout, and size of the proposed workforce housing units;
 3. The calculations used to determine the number of required workforce housing units, including floor space of non-residential development, employee generation rates, and employees credited for each workforce housing unit;
 4. The income level targets for each workforce housing unit;
 5. The mechanisms that will be used to assure that the workforce housing units will remain affordable;
 6. A phasing plan for the construction and completion of the non-residential development and the workforce housing units;
 7. A description of any requested bonuses, incentives, and/or concessions, in compliance with Chapter 18.212 (Density Bonuses, Concessions, and Incentives);
 8. A marketing plan for the process by which qualified households will be reviewed and selected to either purchase or rent workforce housing units;
 9. A description of any provisions providing preference for employees employed by the project to the proposed workforce housing units.
 10. A description of private and public transit services available to the workforce housing residents and a description of the residents' access to transit facilities and services including walking distance and pedestrian improvements between the workforce housing and transit facilities;
 11. Any information necessary to properly describe the alternative equivalent action, if proposed. If an alternative equivalent proposal is requested, the applicant shall provide justification that shows that the alternative equivalent proposal meets the intent and purpose of this chapter; and
 12. Any other pertinent information requested by the Community Development Director.
- D. Plan Approval.** The Workforce Housing Plan shall be approved by the review authority of the land use and development permit application and included as part of the development project as a condition of approval of the land use and development permit.
- E. Plan Modifications.** Any request for a modification to an approved Workforce Housing Plan shall be processed, reviewed, and acted upon in accordance with Section 18.84.070 of the Development Code.
- F. Workforce Housing Agreement.** An agreement implementing the provisions of the approved workforce housing plan shall be prepared, approved, and recorded in accordance with Section 18.210.090.

18.216.090 – Adjustments and Waivers

- A. Developer Request.** A developer for a development project subject to the requirements of this chapter may request of the review authority a reduction, adjustment, or waiver of the requirements based upon a showing of substantial evidence that there is no economically feasible way to comply with the requirements or that compliance with the requirements will not reasonably achieve the purposes for which the ordinance was enacted in compliance with Chapter 18.212 (Density Bonuses, Concessions, and Incentives). Any decision of the review authority must be supported by findings in the administrative record which articulate the reasons for the granting of the waiver, reduction, or adjustment and the evidence in the administrative record supporting the decision to do so.
- B. Developer Burden.** The developer in the request shall set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver. The developer shall bear the burden of presenting substantial evidence to support the request including comparable technical information to support the developer's position.
- C. Timing.** To receive an adjustment or waiver, the developer shall submit the request prior to or concurrently with the submittal of the land use and development permit application for the development project. The review authority shall consider and take action on the request prior to or concurrently with taking action on the land use and development permit application for the development project.

Workforce Housing

18.216

CHAPTER 18.218 - REASONABLE ACCOMMODATION

Sections:

- 18.218.010 – Purpose and Intent
- 18.218.020 – Applicability
- 18.218.030 – Application Requirements
- 18.218.040 – Review Authority and Procedure
- 18.218.050 – Findings and Decision
- 18.218.060 – Appeal

18.218.010 – Purpose and Intent

In accordance with the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts), it is the purpose of this Chapter to provide reasonable accommodations in the Town's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling. This Chapter provides a formal procedure for persons with disabilities seeking equal access to housing under the Acts to request reasonable accommodation in the application of the Town's land use regulations and establishes relevant criteria to be used when considering such requests.

18.218.020 – Applicability

A request for reasonable accommodation may be made by any person with a disability, their representative, or by an entity acting on behalf of a person or persons with disabilities to provide or secure equal access to housing, when the application of a zoning law or other land use regulation, policy, or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment, or anyone who has a record of such impairment. This Chapter is intended to apply to those persons who are defined as disabled under the Acts.

A request for reasonable accommodation may include a modification or exception to the regulations, policies, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability with equal opportunity to housing of their choice. Requests for reasonable accommodation shall be made in the manner prescribed by Section 18.218.030 (Application Requirements).

18.218.030 – Application Requirements

- A. Application.** Requests for reasonable accommodation shall be submitted on an application form provided by the Community Development Department, or in the form of a letter to the Community Development Director, and shall contain the following information:
1. The applicant's name, address, and telephone number;
 2. The street address and assessor's parcel number of the property for which the request is being made;

3. The current actual use of the property;
4. The basis for the claim that the individual (or group of individuals, if application is made by an entity acting on behalf of a person or persons with disabilities) is considered disabled under the Acts;
5. The Development Code provision, regulation, or policy from which reasonable accommodation is being requested;
6. Why the requested accommodation is necessary to make the specific property accessible to the individual or group of individuals;
7. Any other information that the Community Development Director reasonably concludes is necessary to determine the findings required by Section 18.218.050 (Findings and Decision), as long as any request for information regarding the disability of the individual(s) complies with the Acts and the privacy rights of the individual(s) affected.

- B. Concurrent Processing.** If the project for which the request for reasonable accommodation is being made also requires some other land use permit approval, then the applicant shall file the request concurrently with the application for land use permit approval.
- C. Fee.** No fee shall be required for a request for reasonable accommodation, but if the project requires a land use permit, then the prescribed fee shall be paid for all other land use permits.

18.218.040 – Review Authority and Procedure

- A. Community Development Director.** Requests for reasonable accommodation shall be reviewed by the Community Development Director, or his/her designee, if no approval is sought other than the request for reasonable accommodation. The Director shall make a written determination within 45 days and either approve, approve with modifications, or deny a request for reasonable accommodation in accordance with Section 18.218.050 (Findings and Decision).
- B. Other Review Authority.** Requests for reasonable accommodation submitted for concurrent review with another land use permit shall be reviewed by the authority reviewing the land use permit in compliance with the applicable review procedure for the land use permit. The review authority shall make a written determination and either approve, approve with modifications, or deny a request for reasonable accommodation in accordance with Section 18.218.050 (Findings and Decision).

18.218.050 – Findings and Decision

- A. Findings.** The written decision to approve, approve with modifications, or deny a request for reasonable accommodation will be consistent with the Act. The review authority may approve a reasonable accommodation only if all of the following findings can be made:
1. The housing which is the subject of the request will be used by an individual or a group of individuals considered disabled under the Acts, and that the accommodation requested is necessary to provide the individual or group of individuals with a disability(ies) under the Acts with an equal opportunity to use and enjoy a dwelling;

2. The requested reasonable accommodation will not impose an undue financial or administrative burden on the Town;
3. The requested reasonable accommodation will not require a fundamental alteration in the nature of a Town program or law, including but not limited to the General Plan land use designation and zoning district;
4. The requested reasonable accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

B. Conditions of Approval and Alternatives. In making these findings and approving a request for reasonable accommodation, the review authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings and/or approve alternative reasonable accommodations if the alternative accommodations provide an equivalent level of benefit and are suitable based on the circumstances of the particular case.

18.218.060 – Appeal

A decision by the review authority to approve, approve with modifications, or deny a request for reasonable accommodation may be appealed in accordance with Chapter 18.140 (Appeals).

Reasonable Accommodation

18.218