

ORDINANCE NO. 1335

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
ADDING CHAPTER 17.47
RE: INCLUSIONARY HOUSING

The City Council of the City of Daly City, DOES ORDAIN as follows:

SECTION 1. A new Chapter 17.47 of Title 17 of the Daly City Municipal Code entitled “Inclusionary Housing” is hereby adopted to read as follows:

"Chapter 17.47

INCLUSIONARY HOUSING

17.47.010 Purpose.

- A. The purpose of this Chapter is to:
1. Encourage the development and availability of housing affordable to a broad range of households with varying income levels within the City as mandated by State Law, California Government Code Sections 65580 and following;
 2. Promote the City’s goal to add affordable housing units to the City’s housing stock in proportion to the overall increase in new jobs and housing units;
 3. Offset the demand on housing that is created by new development and mitigate environmental and other impacts that accompany new residential and Commercial Development by protecting the economic diversity of the City’s housing stock, reducing traffic, transit and related air quality impacts, promoting jobs/housing balance and reducing the demands placed on transportation infrastructure in the region;
 4. Implement Policy 5.3 of the Housing Element to encourage economic integration in housing;
 5. Implement Programs 7, 8 and 13 of the Housing Element.

17.47.020 Applicability.

This ordinance applies to developments in all areas of the city except for Redevelopment Project Areas.

17.47.030 Findings.

The City Council finds and determines:

- A. Lack of access to affordable housing has a direct impact upon the health, safety and welfare of the residents of the City. The City will not be able to contribute to the attainment of State housing goals or to retain a healthy environment without additional affordable housing. The housing problem has an impact upon a broad range of income groups including many who are not impoverished by standards other than those applicable to California's and the City's housing markets, and no single housing program will be sufficient to meet the housing need.
- B. A lack of new Inclusionary Units will have a substantial negative impact on the environment and economic climate because:
 - 1. Housing will have to be built elsewhere, far from employment centers and therefore commutes will increase, causing increased traffic and transit demand and consequent noise and air pollution; and
 - 2. City businesses will find it more difficult to attract and retain the workers they need. Inclusionary housing policies contribute to a healthy job and housing balance by providing more affordable housing close to employment centers.
- C. The California Legislature has required each local government agency to develop a comprehensive, long-term general plan establishing policies for future development. As specified in the Government Code (at Sections 65300, 65302(c), and 65583(c)), the plan must:
 - 1. "encourage the development of a variety of types of housing for all income levels, including multifamily rental housing;"
 - 2. "[a]ssist in the development of adequate housing to meet the needs of low- and moderate-income households;" and
 - 3. "conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action."
- D. The citizens of the City seek a well-planned, aesthetically pleasing and balanced community, with housing affordable to Very Low-, Low- and Moderate-Income Households. Affordable housing should be available throughout the City, and not restricted to a few neighborhoods and areas.
- E. Federal and state funds for the construction of new affordable housing are insufficient to fully address the problem of affordable housing within the City. Nor has the private housing market provided adequate housing opportunities affordable to Moderate-, Low- and Very Low-Income Households.

- F. The City is aware that there may be times when the inclusionary housing requirements make market-rate housing more expensive. In weighing all the factors, including the significant need for affordable housing, the City has made the decision that the community's interests are best served by the adoption of the inclusionary housing ordinance.

17.47.040 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

- A. "Affordable Rent" means monthly rent that does not exceed one-twelfth of 30 percent of the maximum annual income for a Household of the applicable income level (Moderate-, Low or Very Low-Income) at the presumed household size.
- B. "Affordable Ownership Cost" means a sales price that results in a monthly housing cost (including mortgage, insurance and home association costs, if any) that does not exceed one-twelfth of 30 percent of the maximum annual income for a Household of the applicable income (Moderate-, Low- or Very Low- Income) at the presumed household size.
- C. "Area Median Income" means the median Household income as provided in Section 50093(c) of the California Health and Safety Code.
- D. "City" means the City of Daly City.
- E. "City Manager" means the City Manager of the City or his or her designee.
- F. "Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a Residential or Commercial Development.
- G. "Household" means one person living alone or two or more persons sharing residency whose income is considered for housing payments.
- H. "Inclusionary Housing Plan" means a plan for a residential or Commercial Development submitted by a Developer as provided by Section 17.47.100(B).
- I. "Inclusionary Housing Agreement" means a written agreement between Developer and the City as provided by Section 17.47.100(C).
- J. "Inclusionary Unit" means a dwelling unit that must be offered at Affordable Rent or available at an affordable housing cost to Moderate-, Low- and Very Low-Income Households.
- K. "Low-Income Household" means a Household whose annual income does not exceed the qualifying limits set for "lower income households" in Section 50079.5 of the California Health & Safety Code.

L. “Market-rate Unit” means a dwelling unit in a Residential Development that is not an Inclusionary unit.

M. “Moderate-Income Household” means a Household whose income does not exceed the qualifying limits set for “persons and families of low or moderate income” in Section 50093 of the California Health & Safety Code.

N. “Occupancy Standard” means the minimum household size upon which qualification and pricing for Inclusionary units is based.

O. “Off-Site Unit” means an Inclusionary Unit that will be built separately or at a different location than the main development.

P. “On-Site Unit” means an Inclusionary Unit that will be built as part of the main development.

Q. “Presumed Household Size” means the household size that is presumed to live in a unit of a particular bedroom count. The presumed household size will be used for determining the presumed incomes adjusted for household size that are available for supporting housing payments of price restricted units.

R. “Residential Development” means the construction of any residential dwelling units where the tentative map, parcel map or, for project not processing a map, the building permit was received after October 24, 2007.

S. “Very Low-Income Household” means a Household whose income does not exceed the qualifying limits set for “very low income households” in Section 50105 of the California Health & Safety Code.

17.47.050 Residential Development.

For all Residential Developments of **5** or more units, at least 10 percent of the total units must be Inclusionary Units restricted for occupancy by Moderate-, Low- or Very Low-Income Households. The number of Inclusionary Units required for a particular project will be determined only once, at the time of tentative or parcel map approval, or, for developments not processing a map, prior to issuance of a building permit. If a change in the subdivision design results in a change in the total number of units, the number of Inclusionary Units required will be recalculated to coincide with the final approved project.

A. Calculation.

1. For purposes of calculating the number of affordable units required by this Section, any additional units authorized as a density bonus under California Government Code Section 65915(b)(1) or (b)(2) will not be counted in determining the required number of Inclusionary Units.
2. In determining the inclusionary obligation of a proposed development, any fractional unit obligation will be rounded up to

the nearest whole number or be subject to the pro-rata share of the City's per unit in-lieu fee.

B. Number of Inclusionary Units. The number of required Inclusionary units shall be determined by the tenancy of the units and the targeted income levels for the units.

1. Rental developments require at least 20 percent affordable units for households whose income does not exceed 60 percent of the area median, or 10 percent affordable units for Very Low Income households (household income does not exceed 50 percent of the area median).
2. Ownership developments require at least 20 percent affordable units for households whose income does not exceed 100 percent of the area median) or 10 percent affordable units for Low Income households (household income does not exceed 60 percent of the area median).

17.47.060 Exemptions.

The requirements of this Chapter do not apply to:

A. The reconstruction of any structures that have been destroyed by fire, flood, earthquake or other act of nature provided that the reconstruction of the site does not increase the number of residential units by 5 or more units.

B. Developments that already have more units that qualify as affordable to Moderate-, Low- and Very Low-Income Households as this Chapter requires.

C. Housing constructed by other government agencies.

17.47.070 Affordable Housing Standards.

Inclusionary Units built under this Chapter must conform to the following standards:

A. Design. Except as otherwise provided in this Chapter, Inclusionary Units must be dispersed throughout a Residential Development and be comparable in infrastructure (including sewer, water and other utilities), construction quality and exterior design to the Market-rate Units. Inclusionary Units may be smaller in aggregate size and have different interior finishes and features than Market-rate Units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. The number of bedrooms must be the same as those in the Market-rate Units, except that if the Market-rate Units provide more than four bedrooms, the Inclusionary Units need not provide more than four bedrooms.

B. Timing. All Inclusionary Units must be constructed and occupied concurrently with or prior to the construction and occupancy of Market-rate Units or development. In phased developments, Inclusionary Units may be constructed and occupied in proportion to the number of units in each phase of the Residential Development.

C. Duration of Affordability Requirement. Inclusionary Units produced under this ordinance must be legally restricted to occupancy by Households of the income levels for which the units were designated for a minimum of 55 years.

D. Occupancy Standards. Priority for occupancy shall be for households meeting the following size requirements:

1. 1 bedroom units – no minimum restriction.
2. 2 bedroom units – minimum two person occupancy.
3. 3 bedroom units – minimum three person occupancy.

E. Maintenance Standards. All housing units (rental and ownership) developed pursuant to this ordinance will be kept in good repair and properly maintained. Minimum standards of maintenance are provided in the Implementing Guidelines as adopted by resolution by the City Council.

17.47.080 In-Lieu Fees

For certain residential developments the requirements of this Chapter may be satisfied by paying an in-lieu fee to the Affordable Housing Trust Fund as provided in Section 17.47.150. The fee will be set by the City Council and reviewed on an annual basis. The fee will be equivalent to the City's estimated average cost to create one unit of affordable housing.

A. Eligibility for In-Lieu Payment Option and Calculation of In-Lieu Payment

1. For ownership developments of 5 to 20 units, the developer may opt to satisfy his/her inclusionary obligation by payment of an in-lieu fee equivalent to 15 percent times the published per unit in-lieu fee times the total number of units in the development, as follows.
2. For rental developments of 5 to 10 units, the developer may opt to satisfy his/her inclusionary obligation by payment of an in-lieu fee equivalent to 15 percent times the published per unit in-lieu fee times the total number of units in the development.

(total number of units) X (published in-lieu fee) X 15% = Required in-lieu fee payment

B. Timing of Payment. The fee must be paid prior to issuance of a building permit for the Development or the permit will be null and void. For phased developments, payments may be made for each portion of the Development prior to issuance of a Building Permit for that phase.

C. Effect of No Payment. No final inspection for occupancy will be completed for any corresponding Market-rate Unit in a Residential Development unless fees required under this Section have been paid in full to the City.

D. Fractional in-lieu fees. The pro-rata share of an in-lieu fee will be charged for fractional affordable housing obligations.

17.47.090 Alternatives.

A. Developer Proposal. A Developer may propose an alternative means of compliance in an Inclusionary Housing Plan as provided in Section 17.47.100 according to the following provisions.

1. *Off-Site Construction.* Inclusionary Units may be constructed off-site if the City Manager finds that the proposed off-site units will have equivalent or greater benefit to the City.
2. *Land Dedication.* In lieu of building Inclusionary Units, a Developer may choose to dedicate land to the City suitable for the construction of Inclusionary Units that the City Manager reasonably determines to be of equivalent or greater benefit than is produced by applying the City's in-lieu payment option fee to the Developer's inclusionary obligation.
3. *Combination.* The City Manager may accept any combination of on-site construction, offsite construction, in-lieu fees and land dedication that at least equal the cost of providing Inclusionary Units on-site as would otherwise be required by this Chapter.

B. Discretion. The City Manager may approve, conditionally approve or reject any alternative proposed by a Developer as part of an Inclusionary Housing Plan. Any approval or conditional approval must be based on a finding that the purposes of this Chapter would be better served by implementation of the proposed alternative(s). In determining whether the purposes of this Chapter would be better served under the proposed alternative, the City Manager should consider

1. whether implementation of an alternative would overly concentrate Inclusionary Units within any specific area and, if so, must reject the alternative unless the undesirable concentration of Inclusionary Units is offset by other identified benefits that flow from implementation of the alternative in issue; and
2. the extent to which other factors affect the feasibility of prompt construction of the Inclusionary Units on the property, such as costs and delays, the need for an appraisal, site design, zoning, infrastructure, clear title, grading and environmental review.

17.47.100 Compliance Procedures.

A. General. Approval of an Inclusionary Housing Plan and implementation of an approved Inclusionary Housing Agreement is a condition of any tentative map, parcel map or building permit for any Development for which this Chapter applies. This Section does not apply to exempt projects or to projects where the requirements of the Chapter are satisfied by payment of a fee under Sections 17.47.080.

B. Inclusionary Housing Plan. The City Manager must approve, conditionally approve or reject the Inclusionary Housing Plan within 60 days of the date of a complete application for that approval. If the Inclusionary Housing Plan is incomplete, the Inclusionary Housing Plan will be returned to the Developer along with a list of the deficiencies or the information required. No application for a tentative map, parcel map or building permit to which this Chapter applies may be deemed complete until an Inclusionary Housing Plan is submitted to the City Manager. At any time during the review process, the City Manager may require from the Developer additional information reasonably necessary to clarify and supplement the application or determine the consistency of the proposed Inclusionary Housing Plan with the requirements of this Chapter. The Inclusionary Housing Plan must include:

1. The location, structure (attached, semi-attached, or detached), proposed tenure (for sale or rental), and size of the proposed market-rate, commercial space and/or Inclusionary Units and the basis for calculating the number of Inclusionary Units;
2. A floor or site plan depicting the location of the Inclusionary Units;
3. The income levels to which each Inclusionary Unit will be made affordable;
4. The mechanisms that will be used to assure that the units remain affordable for the desired term, such as resale and rental restrictions, deeds of trust, and rights of first refusal and other documents;
5. For phased Development, a phasing plan that provides for the timely development of the number of Inclusionary Units proportionate to each proposed phase of development as required by Section 17.47.070(B) of this Chapter.
6. Any alternative means designated in Section 17.47.090 proposed for the Development along with information necessary to support the findings required by Section 17.47.090 for approval of such alternatives; and
7. Any other information reasonably requested by the City Manager to assist with evaluation of the Plan under the standards of this Chapter.

C. Inclusionary Housing Agreement. The forms of the Inclusionary Housing Agreement, resale and rental restrictions, deeds of trust, rights of first refusal and other documents authorized by this subsection, and any change in the form of any such document which materially alters any policy in the document, must be approved by the City Manager or his or her designee prior to being executed with respect to any Residential Development or Affordable Housing Proposals. The form of the Inclusionary Housing Agreement will vary, depending on the manner in which the provisions of this

Chapter are satisfied for a particular development. All Inclusionary Housing Agreements must include, at minimum, the following:

1. Description of the development, including whether the Inclusionary Units will be rented or owner-occupied;
2. The number, size and location of Very Low-, Low- or Moderate-Income Units;
3. Inclusionary incentives by the City (if any), including the nature and amount of any local public funding;
4. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions;
5. Provisions for monitoring the ongoing affordability of the units, and the process for qualifying prospective resident Households for income eligibility; and any additional obligations relevant to the compliance with this Chapter.

D. Recording of Agreement. Inclusionary Housing Agreements that are acceptable to the City Manager must be recorded against owner-occupied Inclusionary Units and residential projects containing rental Inclusionary Units. Additional rental or resale restrictions, deeds of trust, rights of first refusal and/or other documents acceptable to the City Manager must also be recorded against owner-occupied Inclusionary Units. In cases where the requirements of this Chapter are satisfied through the development of Off-Site Units, the Inclusionary Housing Agreement must simultaneously be recorded against the property where the Off-Site Units are to be developed.

17.47.110 Eligibility for Inclusionary Units.

A. General Eligibility. No Household may occupy an Inclusionary Unit unless the City or its designee has approved the Household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by an Inclusionary Housing Agreement or resale restriction. If the City or its designee maintains a list or identifies eligible Households, initial and subsequent occupants will be selected first from the list of identified Households, to the maximum extent possible, in accordance with any rules approved by the City Manager. If the City has failed to identify a Household as an eligible buyer for the initial sale of an Inclusionary Unit that is intended for owner occupancy 90 days after the unit receives a completed final inspection for occupancy, upon 90 additional days' notice to the City and on satisfaction of such further conditions as may be included in City-approved restrictions (which may include a further opportunity to identify an eligible buyer), the owner may sell the unit at a market price, and the unit will not be subject to any requirement of this Chapter thereafter.

B. Conflict of Interest. The following individuals are ineligible to purchase or rent an Inclusionary Unit:

1. City employees and officials (and their immediate family members) who have policy-making authority or influence regarding City housing

programs and do not qualify as having a remote interest as provided by California Government Code Section 1091;

2. The Project Applicant and its officers and employees (and their immediate family members); and (iii) the Project Owner and its officers and employees (and their immediate family members).

C. Occupancy. Any Household who occupies a rental Inclusionary Unit or purchases an Inclusionary Unit must occupy that unit as a principal residence.

17.47.120 Owner-Occupied Units.

A. Initial Sales Price. The initial sales price of the Inclusionary Unit must be set so that the eligible Household will pay an Affordable Ownership Cost.

B. Transfer. Renewed restrictions will be entered into on each change of ownership, with a 55-year renewal term, upon transfer of an owner-occupied Inclusionary Unit prior to the expiration of the 55-year affordability period.

C. Resale. The maximum sales price permitted on resale of an Inclusionary Unit designated for owner-occupancy shall be the lower of:

1. fair market value or
2. the current affordable purchase price for the unit based on current income limits (see Section 17.47.040 “Definitions”), and the City’s schedule of affordable home prices that is adopted and reviewed by the Daly City Council.

D. Maintenance of Unit. The owner of the inclusionary unit will be responsible to maintain their unit to “Housing Maintenance Standards” adopted by resolution by the City Council. A property inspection will be carried out by City staff prior to sale of the unit and the costs of identified required repairs to the unit will be deducted from the owner’s allowable sales price.

E. Changes in Title. Title in the Inclusionary Unit may change due to death, marriage and divorce. Except as otherwise provided by this Subsection, if a change in title is occasioned by events that change the financial situation of the Household so that it is no longer income eligible, then the property must be sold to an income-eligible Household within 180 days. Upon the death of one of the owners, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the Household. Upon the death of a sole owner or all owners and inheritance of the Inclusionary Unit by a non-income-eligible heir of one or more owners, there will be a one year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible Household.

F. Annual certifications. The owner of the Inclusionary Unit shall certify annually that the unit is their primary residence.

17.47.130 Rental Units.

Rental units will be offered to eligible Households at an Affordable Rent. The owner of rental Inclusionary Units shall certify each tenant Household's income to the City or City's designee at the time of initial rental and annually thereafter. The owner must obtain and review documents that demonstrate the prospective renter's total income, such as income tax returns or W-2s for the previous calendar year, and submit such information on a form approved by the City.

A. Selection of Tenants. Owners may fill vacant units through their own selection process, provided that they publish notices of the availability of Inclusionary Units according to guidelines proposed by the owner and subject to City approval.

B. Annual Report. The owner shall submit an annual report summarizing the occupancy of each Inclusionary Unit for the year, demonstrating the continuing income-eligibility of the tenant. The City Manager may require additional information if he or she deems it necessary.

C. Subsequent Rental to Income-Eligible Tenant. The owner shall apply the same rental terms and conditions to tenants of Inclusionary Units as are applied to all other tenants, except as required to comply with this Chapter (for example, rent levels, occupancy restrictions and income requirements) or with other applicable government subsidy programs. Discrimination against persons receiving housing assistance is prohibited.

D. Changes in Tenant Income. If, after moving into an Inclusionary Unit, a tenant's Household income exceeds the limit for that unit, the tenant Household may remain in the unit as long as his or her Household income does not exceed 140 percent of the income limit. Once the tenant's income exceeds 140 percent of the income limit, the following shall apply:

1. If the tenant's income does not exceed the income limits of other Inclusionary Units in the Residential Development, the owner may, at the owner's option, allow the tenant to remain in the original unit and re-designate the unit as affordable to Households of a higher income level, as long as the next vacant unit is re-designated for the income category previously applicable to the tenant's Household. Otherwise, the tenant shall be given one year's notice to vacate the unit. If during the year, an Inclusionary Unit becomes available and the tenant meets the income eligibility for that unit, the owner shall allow the tenant to apply for that unit.
2. If there are no units designated for a higher income category within the Development that may be substituted for the original unit, the tenant shall be given one year's notice to vacate the unit. If within that year, another unit in the Residential Development is vacated, the owner may, at the owner's option, allow the tenant to remain in the original unit and raise the tenant's rent to market-rate and designate the newly vacated unit as an Inclusionary Unit affordable at the income-level previously applicable to the unit converted to market rate. The newly vacated unit must be comparable in size

(for example, number of bedrooms, bathrooms, square footage, etc.) as the original unit.

17.47.140 Adjustments, Waivers.

The requirements of this Chapter may be adjusted or waived if the Developer demonstrates to the City Manager that there is not a reasonable relationship between the impact of a proposed Residential Development and the requirements of this Chapter, or that applying the requirement of this Chapter would take property in violation of the United States or California Constitutions.

A. Timing. To receive an adjustment or waiver, the Developer must make a showing when applying for a first approval for the Residential Development, and/or as part of any appeal that the City provides as part of the process for the first approval.

B. Considerations. In making a determination on an application to adjust or waive the requirements of this Chapter, the City Manager may assume each of the following when applicable:

1. that the Developer is subject to the inclusionary housing requirement or in lieu fee;
2. that the Developer will be obligated to provide the most economical Inclusionary Units feasible in terms of construction, design, location and tenure; and
3. that the Developer is likely to obtain other housing subsidies where such funds are reasonably available.

C. Decision and Further Appeal. The City Manager, upon legal advice provided by or at the behest of the City Attorney, will determine the application and issue a written decision. The City Manager's decision may be appealed to the City Council in the manner and within the time set forth in Section 8.16.300.

D. Modification of Plan. If the City Manager, upon legal advice provided by or at the behest of the City Attorney, determines that the application of the provisions of this Chapter lacks a reasonable relationship between the impact of a proposed residential project and the requirements of this Chapter, or that applying the requirement of this Chapter would take property in violation of the United States or California Constitutions, the Inclusionary Housing Plan shall be modified, adjusted or waived to reduce the obligations under this Chapter to the extent necessary to avoid an unconstitutional result. If the City Manager determines no violation of the United States or California Constitutions would occur through application of this Chapter, the requirements of this Chapter remain applicable.

17.47.150 Affordable Housing Trust Fund.

A. Trust Fund. There is hereby established a separate Affordable Housing Trust Fund ("Fund"). This Fund shall receive all fees contributed under Sections 17.47.050, 17.47.080 and 17.47.090 and may also receive monies from other sources.

B. Purpose and Limitations. Monies deposited in the Fund must be used to increase and improve the supply of housing affordable to Moderate-, Low-, and Very Low-Income Households in the City. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this Section.

C. Administration. The fund shall be administered by the City Manager, who may develop procedures to implement the purposes of the Fund consistent with the requirements of this Chapter and any adopted budget of the City.

D. Expenditures. Fund monies shall be used in accordance with City's Housing Element, Redevelopment Plan, or subsequent plan adopted by the City Council to construct, rehabilitate or subsidize affordable housing or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, prehome ownership co-investment, pre-development loan funds, participation leases or other public-private partnership arrangements. The Fund may be used for the benefit of both rental and owner-occupied housing.

E. City Manager's Annual Report. The City Manager shall report to the City Council and Planning Commission on the status of activities undertaken with the Fund as provided by Section 66006(b) of the California Government Code. The report shall include a statement of income, expenses, disbursements and other uses of the Fund. The report should also state the number and type of Inclusionary Units constructed or assisted during that year and the amount of such assistance. The report will evaluate the efficiency of this Chapter in mitigating City's shortage of affordable housing and recommend any changes to this Chapter necessary to carry out its purposes, including any adjustments to the number of units to be required.

17.47.160 Enforcement.

A. Penalty for Violation. It shall be a misdemeanor to violate any provision of this Chapter. Without limiting the generality of the foregoing, it shall also be a misdemeanor for any person to sell or rent to another person an affordable unit under this Chapter at a price or rent exceeding the maximum allowed under this Chapter or to sell or rent an affordable unit to a Household not qualified under this Chapter. It shall further be a misdemeanor for any person to provide false or materially incomplete information to the City or to a seller or lessor of an Inclusionary Unit to obtain occupancy of housing for which he or she is not eligible. Any such violation constituting a misdemeanor under this Chapter may in the discretion of the enforcing authority, be charged and prosecuted as an infraction.

B. Legal Action. The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Chapter, including:

1. actions to revoke, deny or suspend any permit, including a Building Permit, certificate of occupancy, or discretionary approval;
2. actions to recover from any violator of this Chapter civil fines, restitution to prevent unjust enrichment from a violation of this Chapter, and/or enforcement costs, including attorneys' fees;

3. eviction or foreclosure; and
4. any other appropriate action for injunctive relief or damages.

Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any person, owner, Household or other party from the requirements of this Chapter.

17.47.170 Minimum Requirements.

The requirements of this Chapter are minimum and maximum requirements, although nothing in this Section limits the ability of a private person to waive his or her rights or voluntarily undertake greater obligations than those imposed by this Chapter.

17.47.180 Administrative Costs.

Developers of affordable ownership units and owners of affordable rental units subject to this ordinance will be required to pay an administrative fee to the City of Daly City. The fee will be adopted by the City Council and subject to annual review.

SECTION 2: Severability.

If any provision of this Ordinance is held by any court or by any Federal or State agency of competent jurisdiction, to be invalid as conflicting with any Federal or State law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision thereof which had previously been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding.

SECTION 3: Environmental Determination.

The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption within CEQA's categorical exemption for activities involving regulation of activities.

SECTION 4: Publication/Summary

Pursuant to the provisions of Government Code Section 36933, a summary of this ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post it in the City Clerk's office a certified copy of this

ordinance. Within fifteen (15) days after the adoption of this ordinance, the City Clerk shall (1) publish the summary and (2) post in the City Clerk's office a certified copy of the full text of this ordinance along with the names of those City Council members voting for and against this ordinance or otherwise voting. This ordinance shall become effective thirty (30) days from and after its adoption.

Introduced this _____ day of _____, 2007.

Passed and adopted as an Ordinance of the City of Daly City at a regular meeting of the City Council of the City of Daly City held on the _____ day of _____, 2007, by the following vote:

AYES, Councilmembers _____

NOES, Councilmembers _____

Absent, Councilmembers: _____

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

MAYOR OF THE CITY OF DALY CITY