Whitefish Legacy Homes: Program Administration

The purpose of this program administration document is to 1) provide the technical procedures to deliver the affordable housing required by the Whitefish Legacy Homes Program and 2) establish procedures for the City of Whitefish, staff, boards, or committees, the Legacy Homes Coordinator, and any agent of the City (Whitefish Housing Authority) to implement and administer the requirements of the Whitefish Legacy Homes Program. Appendix A contains all relevant tables, which may be updated on an annual basis.

HOUSING MITIGATION PLAN: SUBMITTAL REQUIREMENTS

Housing Mitigation Plans are required by the City for all residential developments described in §11-1A, Whitefish Legacy Homes Program regulations. Housing Mitigation Plans will be prepared and submitted by the developer concurrent with the application request for the development permit (subdivision, conditional use permit [CUP] or planned unit development [PUD]). Once projects are approved by City Council, the details described in the Housing Mitigation Plan become conditions of the development permit approval. Housing Mitigation Plans for projects approved by staff using an administrative CUP process will also become a condition of the permit.

A Housing Mitigation Plan must include all the following, as applicable:

- Total number of market rate and Legacy units
- Square footage of total development and each unit
- Details regarding how the requirements of the Legacy Homes Program will be met, including unit types, sizes, number of bedrooms, amenities, heating systems and estimated utility costs, target income category, initial sales prices or rental prices, homeowner's association (HOA) structure and fees, if applicable
- Site plan, unit designs, and amenities
- Incentives utilized by the project
- Average lot size and square footage of market rate and Legacy units
- Location of Legacy units within the project by type and size; justification for clustering of Legacy units, if proposed
- Exemption within a development's Covenants, Conditions and Restrictions (CC&Rs) for Legacy Homes providing an exemption from the minimum square footage
- Proposed production schedule of market rate and Legacy units, including issuance of building permits
- If applicable, any proposed alternative methods of compliance with these Policies and Procedures, demonstrating how the alternative meets or exceeds the Legacy Homes Program requirements and helps the City achieve its housing goals as established in the Strategic Housing Plan
- Standardized deed restriction provided by the City
- Any other information deemed relevant by the Legacy Homes Coordinator
A Housing Mitigation Plan template is available for use or applicants may generate their own document provided all the required information is included.

REVIEW PROCESS:

1. **Pre-Submission Conference**
   Prior to submitting any development request to which the Legacy Homes Program applies or Site Review Meeting, the applicant must schedule a pre-submission conference with Planning and Building Department staff and the Legacy Homes Coordinator. At this meeting, applicants must provide the number and type of units proposed and how they intend to comply with the Legacy Homes Program. The City and the Legacy Homes Coordinator will describe the requirements of the program, the needs of the City and go over the Housing Mitigation Plan template.

2. **Review of Housing Mitigation Plan**
   After submittal of a land use permit, the Housing Mitigation Plan will be reviewed by staff of the Planning and Building Department, in coordination with the Legacy Homes Coordinator. Following review, staff will either a) accept the Housing Mitigation Plan if it meets the Legacy Homes Program requirements and make a recommendation to City Council for approval of the Plan, b) approve the Housing Mitigation Plan for administrative land use permits, or c) not accept the Housing Mitigation Plan if it does not meet the Legacy Homes Program requirements and refer it back to the applicant with written comments regarding the Plan's deficiencies. If the identified deficiencies are not adequately addressed by the applicant, Planning staff will only approve or recommend approval by Council with conditions added to address the deficiencies.

3. **Resubmittal of Housing Mitigation Plans**
   If a Housing Mitigation Plan has been disapproved, an applicant may resubmit a development permit application with a revised Plan addressing and correcting the deficiencies identified by staff.

4. **Revisions to Housing Mitigation Plans After Approval**
   If the applicant wishes to modify or amend an approved Housing Mitigation Plan due to changes in the development proposal as it proceeds through the development review process or for other reasons, the developer must submit a new or amended Housing Mitigation Plan for approval by City Council. A substantive change requiring Council approval may include but is not limited to reduction in the size of the affordable units, change in the timing or phasing of construction or a change in the method of complying with the requirements of the regulations. If the changes are minor and not substantive, Planning staff may approve the modification administratively. Minor changes include modifications to the specific location of Legacy units within a development. For projects using the administrative CUP process, the amended Housing Mitigation Plan will be approved by Planning staff in consultation with the Legacy Homes Coordinator.
5. Noncompliance with Conditions of Housing Mitigation Plan

Failure to comply with the approved Housing Mitigation Plan is a failure to comply with the conditions of the development approval and may result in the revocation of the development approval.

LEGACY HOMES PROGRAM REQUIREMENTS

1. Number of Legacy Homes in a Development

If a developer proposes to subdivide residential lots or construct residential housing, twenty percent (20%) of the gross number of residential lots or housing units in a development must be Legacy Homes. Exemptions are listed in the Regulations (§11-1A2E). The applicant for a development permit is required to produce the Legacy Homes on-site. The type of units to be constructed must be proposed in the Housing Mitigation Plan and will become a condition of approval. In developments where both Legacy and market rate residential units will be constructed, the balance of ownership versus rental units, the type of units (single family attached, detached, or multi-family), and the number of bedrooms offered per unit will be proportional between the Legacy and market rate units.

2. Providing Fractions of Ownership or Rental Units

When the calculation to determine the number of units required by Legacy Homes Program, as described above, results in a fraction of a home, an in-lieu-fee (ILF) may be paid for the fraction. To calculate the fee, multiply the number of proposed units by 20% and the resulting number is the number of fractional units required. The resulting number is multiplied by the associated ILF rate. The ILF calculator used to determine the fee is found in Appendix A.

If the calculation results in a whole number and a fraction (or just a fraction), the whole number resulting from the formula is the number of Legacy units required to be constructed and the remaining fraction may be satisfied with the ILF. The fee will be the associated rate from Appendix A multiplied by the remaining fraction.

The ILFs are not and will not be used as an alternate means of compliance, except as outlined below in Alternatives That May Be Considered. The fees must be paid prior to issuance of a building permit or recording of a final subdivision plat. The proceeds of the fee will be credited to the Whitefish Housing Authority (WHA) Affordable Housing Fund approved by the City Council.

NUMBER OF UNITS EXAMPLE:
A proposal to build eight single-family attached townhomes would require $8 \times 0.2 = 1.6$ Legacy townhomes for ownership. A proposal to build five single-family attached townhomes and eight rental units would be required to provide one Legacy ownership townhome and 1.6 Legacy rental units.

FRACTIONAL EXAMPLE:
The 0.6 in the previous example would be eligible for an in-lieu fee. A project with 4 units x 20% = 0.8 units. This project would be eligible to pay the in-lieu fee at 0.8 of the full rate.
3. **Timing of Compliance**

**RENTAL UNITS**

A proportion of the required number of Legacy Home rental units in a single project must be leased as each building or phase of the project is offered for rent. A phase is defined as a group of units which is completed and ready for occupancy within a period of one year. This requirement will be reflected in each Housing Mitigation Plan providing for on-site rental housing. In developments where Council has approved an ILF as an alternative means of compliance, the ILF is due upon approval of the development request and prior to the issuance of a building permit.

**OWNERSHIP**

For ownership units, the Legacy Homes must be made available for sale at the same time and in proportion to the market rate homes in the project which are made available for sale. This requirement will be reflected in the Housing Mitigation Plan providing ownership units. In developments where Council has approved an ILF as an alternative means of compliance, the ILF is due upon approval of the development request and prior to final plat.

4. **Alternatives that May Be Considered**

The expectation is that 20% of the housing units produced in a development will be Legacy Homes and the Legacy Homes will be constructed on site and interspersed with the market rate residential units. Even if the intention is to subdivide only and sell individual vacant lots, the developer is expected to provide Legacy Homes on site. The developer of a subdivision with no market rate homes is required to provide a financial guarantee for each Legacy unit required that will be released upon issuance of the certificate of occupancy for each unit. Alternatives may be considered as described below.

Additionally, there may be situations when the Legacy Home units are either not compatible with other uses on the proposed development site or the development site is not appropriate for Legacy Homes due to distance from services or characteristics of the property that would make Legacy housing impractical. In these situations, the City may consider alternative means of compliance with the Legacy Homes Program. However, any alternatives are approved at the discretion of the City Council and are not guaranteed. High levels of property tax, high homeowner's association dues, a predominance of short-term rental use, or a location far from schools, transit, or shopping are potential characteristics that would support a developer's proposal for alternative means of compliance with Legacy Homes Program requirements. Alternatives that may be considered are described below, however, this is not an all-inclusive list and the developer also may, at his or her own risk, propose an alternative means of compliance with the Legacy Homes Program not listed below. A combination of alternatives may be considered.
a. Off-Site Housing

In situations where the provision of the Legacy Homes off-site is preferable to providing units on-site, an off-site location may be considered at the discretion of the City Council if the developer can demonstrate how the alternative option meets the City’s housing goals established in the Strategic Housing Plan better than the on-site requirement. A developer may also propose to partner with another developer who already has an approved land use permit and could construct additional Legacy units as part of that project. When Legacy units are provided off-site from market rate units, unit size, quality, design, and construction shall be determined by the Housing Mitigation Plan approved by the City as part of the development permit approval process. The ratio of Legacy units required relative to market rate units in a project remains 20:80 when the off-site option is used.

b. In Lieu Fees

For other than fractional units, fees in lieu of providing Legacy units may be considered at the discretion of the City Council when the proposed development location and building off-site are both inappropriate for Legacy Homes. Fees for units are assessed at 1.5 times the Legacy Homes Program rate (the fee would be in lieu of providing 30% Legacy units rather than 20%). For example, in a 10-unit subdivision the developer would pay a fee equivalent to three units in lieu of providing two Legacy units.

Fees are calculated using the ILF calculator provided in Appendix A and are based upon publication of the Area Median Income (AMI) for Flathead County by the U.S. Department of Housing and Urban Development (HUD). An administrative charge of 10% is included to cover the costs associated with the furtherance of affordable housing initiatives.

The ILF is due upon approval of the development request and prior to the issuance of a building permit or at the time of final plat. An applicant may propose an alternative to this timing requirement, subject to the Council's approval.

c. Land in Lieu

A developer who is subdividing property and selling parcels but is not a builder of residential homes or apartments may propose to provide land in lieu of the required Legacy Homes. The appraised value of the property to be dedicated must be of equal or greater value than the ILF that would otherwise be required. Additionally, the property to be dedicated must help further the goals of the Legacy Homes Program and provide a greater overall public benefit than if the required Legacy Homes were constructed within the development. It is the responsibility of the developer to propose a means of compliance with the Legacy Homes Program that City Council will consider and approve at its discretion. Considerations may include but are not limited to
whether the parcel is served by existing infrastructure, adjacent land uses, and proximity to services.

d. Clustering
There may be special circumstances when clustering the Legacy units on the development site will be considered if clustering will enhance a sense of neighborhood, the market units are used as short-term rentals, the housing provided would be close to trails, bus stops, or places of employment, or the clustered Legacy Homes will otherwise exceed the requirements of the Legacy Homes Program. If Legacy units are not compatible with the proposed future development site, it is the responsibility of the developer or property owner to propose alternatives acceptable to the City.

5. Incentives for Developers Meeting and Exceeding the Legacy Requirements
As a partial offset to the cost of providing Legacy housing as part of a market-rate development requiring a CUP, the Legacy Homes Program provides incentives that effectively reduce certain development standards by-right (below).

A developer providing required Legacy units, an ILF, or other approved alternative method of compliance receives the following incentives:

- Reduce Parking Requirements for 2+ Bedroom Units by 20%
- Increase Maximum Building Height by 5 feet limited to a maximum of three (3) floors \(^1\)
- Increase Maximum Lot Coverage by 10%
- Increase Density by 20%

**EXAMPLE:**

In the WR-3 (low density multi-family residential) zoning district, the incentives would provide the following benefits for a one-acre site with an 8-plex and a 6-plex proposed (seven 2-bedroom, four 1-bedroom, and three studio):

<table>
<thead>
<tr>
<th></th>
<th>District Development Standard</th>
<th>Reduced Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required # parking spaces</td>
<td>26</td>
<td>23</td>
</tr>
<tr>
<td>Max building height</td>
<td>35 feet</td>
<td>40 feet with a maximum of three (3) floors (^1)</td>
</tr>
<tr>
<td>Max lot coverage</td>
<td>40% = 0.4 acres = 17,424 sf</td>
<td>44% = 0.44 acres = 19,166 sf</td>
</tr>
<tr>
<td>Max density</td>
<td>14 units/gross acre</td>
<td>16.8 units/gross acre (two more units could be added)</td>
</tr>
</tbody>
</table>

\(^1\) Projects in the WB-3 Zoning District are not eligible for this incentive.
A land developer subdividing and providing Legacy units, an ILF, or other approved alternative method of compliance will receive the following incentives:

- Reduce Lot Size by 20%
- Increase Density by 20%
- Reduce Lot Width by 10%
- Increase Lot Coverage by 10%

**EXAMPLE:**

In the WR-1 (one-family residential) zoning district these incentives would provide the following benefits for a two-acre site with an eight-lot subdivision proposed:

<table>
<thead>
<tr>
<th></th>
<th>District Development Standard</th>
<th>Reduced Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum lot size</td>
<td>10,000 sf</td>
<td>8,000 sf</td>
</tr>
<tr>
<td>Max density</td>
<td>4 units/gross acre = 8 lots</td>
<td>4.8 units/gross acre = 9 lots</td>
</tr>
<tr>
<td>Minimum lot width</td>
<td>60 feet</td>
<td>54 feet</td>
</tr>
<tr>
<td>Max lot coverage</td>
<td>35% = 3500 sf/10,000 sf lot</td>
<td>38.5% = 3080 sf/8,000 sf lot or 3850 sf/10,000 sf lot</td>
</tr>
</tbody>
</table>

The number of units used to determine density cannot be rounded up. If the subdivision application was for four lots per acre, the extra density allowed would be 4.8 units/gross acre, but an additional lot would not be permitted because it would increase density by greater than 20% to 5 units/acre.

A developer using the PUD process may use by-right either set of incentives based on the project needs but may not use both. Should the developer need or want reductions in these standards beyond what is offered by-right, or in other development standards, the request needs to be made through the PUD process and therefore require City Council approval. The density bonus provided for in the PUD chapter (§11-2S-3) may be used if the project meets the community benefit criteria (§11-2S-6). Note the provision of affordable housing in a project with a PUD required by the Legacy Homes Program is not considered a community benefit for the purposes of meeting the criteria.
TYPES OF HOUSING:

Rental Housing

Legacy Home Program (LHP) rental units must be marketed, leased, and occupied according to these criteria:

1. Eligible Renters

WHA will screen rental applicants for income and residency eligibility and maintain a list of eligible renters for LHP units. In general, households earning incomes of between 60% and 80% AMI will be eligible to rent Legacy Homes; however, the range of incomes allowed for eligible households will be somewhat broader to ensure there are enough renters for the Legacy Homes produced. The range of eligible household incomes will be established by the WHA but will capped at 100% AMI. Priority will be given to households with at least one household member who is employed in the City of Whitefish, then to those with members employed within the 59937-zip code area, and finally to those with employment outside the 59937-zip code area. Further program eligibility criteria may be established or modified by WHA.

2. Rental Rates

The monthly rent of an LHP unit being rented pursuant to a Housing Mitigation Plan is provided in the calculator available in Appendix A under the rental price distribution table. There must be no side agreement obligating the Legacy tenant to pay the property owner for any add-on features or services. Security deposits may not exceed the sum of two months' rent at the Legacy Home rental rate for a unit and in no case can the security deposit be a larger percentage of rent than what is required for market rate units.

Legacy Home rental rates are based on AMIs for Flathead County as established by HUD using Montana Board of Housing (MBOH) methodology. Rental housing is affordable when housing expenses (including rent and utilities) are no more than 30% of a households' income. Since AMI varies by household size, the following assumptions about the number of people in a household are made for LHP rental units with different numbers of bedrooms:

<table>
<thead>
<tr>
<th># Bedrooms</th>
<th># People in Household</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>4.5</td>
</tr>
</tbody>
</table>

The price provided in the table below assumes the landlord pays all utilities. If heat, electric, or water utilities are not included in the rental price, the monthly rate will be reduced accordingly (Appendix A for calculator). Prices will be updated annually following HUD’s updates to AMI for Flathead County.
### Legacy Rental Unit Price Distribution

<table>
<thead>
<tr>
<th>AMI</th>
<th>0BR</th>
<th>1BR</th>
<th>2BR</th>
<th>3BR</th>
</tr>
</thead>
<tbody>
<tr>
<td>60%</td>
<td>$732</td>
<td>$784</td>
<td>$941</td>
<td>$1,086</td>
</tr>
<tr>
<td>70%</td>
<td>$854</td>
<td>$914</td>
<td>$1,097</td>
<td>$1,267</td>
</tr>
<tr>
<td>80%</td>
<td>$976</td>
<td>$1,045</td>
<td>$1,254</td>
<td>$1,448</td>
</tr>
</tbody>
</table>

3. **Recording of Deed Restrictions**

The developer will cause to be recorded at Flathead County Clerk and Recorder, a deed restriction that fulfills the requirements of this section regarding controls placed on the occupancy and rental of the LHP unit. The effect of recording said deed restriction is to create, in accordance with state law, an obligation that runs with the property. The Legacy Homes Coordinator/City Attorney will provide a template deed restriction to be used.

4. **Adjustment of LHP Rental Rates**

The Legacy Homes Coordinator will review and adjust the rent in each income range and for each unit size based on annual updates to AMI and using the MBOH methodology. The Legacy Homes Coordinator will publish the new rents immediately upon adoption of a Resolution approved by the City Council.

5. **Minimum Requirements for Legacy Home Rental Units**

LHP rental units will be built to conform to local, state and federal laws according to the following guidelines concerning design, equipment, and physical features.

a. **Floor size**

Legacy Home rental units must be constructed according to the minimum and average requirements for square footage of habitable residential space shown in the table below. The size of each unit type may vary within a development, but no unit may be smaller than the minimum size, and the size of all units by type must meet the average size shown below.

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Minimum Square Feet</th>
<th>Average Square Feet of all units/type in development</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Bedroom (Studio)</td>
<td>350</td>
<td>450</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>550</td>
<td>650</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>725</td>
<td>825</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>900</td>
<td>1000</td>
</tr>
</tbody>
</table>

Minimum floor areas of habitable residential space include partitions, closets, heated utility rooms, halls and stairways but exclude attics, porches, unfinished basements, garages and unheated storage space.

b. **Equipment and hookups**

Each LHP rental unit must include a new ENERGY STAR® kitchen range and refrigerator; hookups for a clothes washer, dryer, or laundry on site.
c. Design and location
The proposed design and location of the Legacy Home rental units within the development will be reviewed by Planning staff, in consultation with the Legacy Homes Coordinator, and approved by City Council or Planning staff in order to achieve spatial integration, dispersion throughout and compatible exterior architectural and landscaping appearance with the market units in the development.

6. Mix of Unit Types
The mix of LHP rental units must match the mix of market rate rental units but may be modified annually by the City to meet the needs identified in the Workforce Housing Needs Assessment, Strategic Housing Plan, or any housing needs identified subsequent to adoption of those documents.

7. Marketing to and Certifying Tenants for Legacy Rental Units
The WHA will certify tenants who are income eligible to rent LHP units and will maintain a list of eligible tenants. Marketing of the LHP units is the responsibility of the developer or property manager. The WHA may assist with marketing but will not be responsible for a unit being vacant because of insufficient marketing or any other reason. Reviews, background checks, decision to rent or not rent, execution of rental leases, and the day to day management of the rental units will be the responsibility of the developer/property manager or their designee or successor.

The WHA will establish and maintain an equitable process for allocating rights to lease the rental units, including waiting lists when demand exceeds supply.

8. Certification of income after occupancy
The income of tenants will be recertified by the WHA upon lease renewal, or no more often than once per year. Based on its findings, the WHA will determine whether the lease will be renewed.

9. Terms of compliance
Rental housing developments subject to the Legacy Homes Program requirements must maintain required occupancy rules and rental rates in LHP units for a period of 90 years after the date of issuance of a certificate of occupancy for the entire development or portions thereof. Subsequent 90-year deed restrictions must be renewed any time the property changes hands. This requirement is applicable to successors in title by means of a deed restriction. A City-approved deed restriction template must be used.

Ownership Housing
This section covers all requirements specific to Legacy Homes ownership.

1. Eligible Buyers
Following are general eligibility criteria for purchasers of Ownership Housing, although further program eligibility criteria may be established or modified by WHA. Ownership Legacy Homes created through the Legacy Homes Program will be sold to and occupied by an eligible owner-occupant household. An eligible owner-occupant household will be certified by the WHA no
more than 90 days prior to a purchase contract being executed for a Legacy Home. Such certification is valid for 12 months following the execution of the purchase contract. If the 12 months elapses before closing of the unit for which the Legacy Home buyer is under contract, the household's eligibility will be re-certified and valid for an additional 90-day period.

2. **Income**
Legacy Homes will be targeted for households earning 80.1% AMI to 120% AMI. However, the range of incomes allowed for eligible households will be somewhat broader to ensure there are enough buyers for the Legacy Homes produced. The range of eligible household incomes will be established by the WHA but will capped at 150% AMI. The AMI is updated annually by HUD and is provided in Appendix A for the current year.

3. **Liquid Assets**
Eligible purchasers must not have more than two times their annual income in liquid assets, excluding retirement funds, college savings funds, and funds in Health Savings Accounts.

4. **Characteristics of Legacy Ownership Units**
The type of housing unit (single-family detached or attached, duplex, triplex, townhome, etc.) and the number of bedrooms offered (not necessarily the square footage) must match the market units offered in a development. If the development provides a mix of unit types, the Legacy units must proportionately match the mix among market units acknowledging that rounding may be required (round down for 0.4 units or less, round up for 0.5 units or more). For example, a development of market rate townhomes must provide townhomes for the Legacy units. Exceptions may be allowed if all market units are single-family detached homes, in which case up to half of the required Legacy units may be attached single family homes (triplexes, townhomes). If the project is a subdivision only in which the developer plans to sell lots but not build market rate units, the Legacy unit types and numbers of bedrooms required will be based on the needs identified at time of the City's annual update to the program.

The mix of the number of bedrooms offered in Legacy units will mirror the mix of bedrooms offered in the market rate units, provided the mix is responsive to the needs and demographics of Whitefish residents as established in an up to date market study and the performance of previous housing developments. The City reserves the right to adjust the mix once some Legacy Homes have been built in the community and the performance of various bedroom mixes established. Three-bedroom units satisfy the Legacy Homes requirement for market units with four or more bedrooms. The sizes of the Legacy units may vary in a development, but no unit may be smaller than the minimum square footage (SF), and the size of all units must at a minimum average the SF, listed below.

<table>
<thead>
<tr>
<th># Bedrooms</th>
<th>Minimum SF</th>
<th>Minimum Average SF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Studio</td>
<td>400</td>
<td>500</td>
</tr>
<tr>
<td>1 Bedroom</td>
<td>700</td>
<td>1,000</td>
</tr>
<tr>
<td>2 Bedrooms</td>
<td>800</td>
<td>1,150</td>
</tr>
<tr>
<td>3 Bedrooms</td>
<td>1,100</td>
<td>1,300</td>
</tr>
</tbody>
</table>
When a Homeowner's Association's CC&Rs define a minimum square footage for homes in the development, an exemption for Legacy Homes and their smaller square footages must be made.

When phased construction is planned for a development, the proportion of Legacy units must be constructed in proportion to the market rate units constructed during each phase of development. In a 10-unit development in which five units will be constructed in each of two phases, one Legacy unit must be constructed in each phase. If the development will be constructed in one phase, a financial assurance or some other guarantee that the Legacy units be completed concurrently with market units is required.

Legacy Homes must meet the requirements of the City of Whitefish land development regulations and building codes. Legacy units must be architecturally compatible with surrounding development. Exterior finishes must be substantially compatible and consistent with the materials and finishes used on the market rate units. A minimum of 20 square feet of storage space must be provided.

Legacy units must meet mandatory minimum building codes for insulation and air sealing. Electric resistance or wood heat is not allowed except when all market rate units are using the same heating system. The design must address livability, maintenance, health, safety, climate, lifestyle, and the needs of the types of households the units are intended to serve. Balconies, decks and private yards similar to the market rate units are required to enhance livability of the Legacy units.

5. Pricing of New Housing for Ownership

The initial sales price of the Legacy ownership homes is the lesser of either 80% of the appraised market value of the home, or the price shown in the price distribution table below. The Legacy Homes must be priced in a spectrum consistent with unit size, location, and market demand, with the average price of Legacy Homes affordable to households earning 100% of AMI ($219,503 for a 2-bedroom home). The following assumptions about the number of people in a household are made for Legacy ownership units with different numbers of bedrooms:

<table>
<thead>
<tr>
<th># Bedrooms</th>
<th># People in Household</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>1</td>
<td>1.5</td>
</tr>
<tr>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>3</td>
<td>3.5</td>
</tr>
</tbody>
</table>

Variables that affect the initial target sales price of a Legacy ownership unit include the mortgage interest rate, the amount of the down payment, the term of the mortgage, and the portion of the monthly mortgage payment that goes towards principal and interest. These variables will be updated annually as needed. The distribution of target prices is shown in the table below and the calculator for determining the prices is provided in Appendix A.
### Legacy Ownership Units Initial Sales Price Distribution (if lower than 80% of appraised value)

<table>
<thead>
<tr>
<th>AMI</th>
<th>0BR</th>
<th>1BR</th>
<th>2BR</th>
<th>3BR</th>
</tr>
</thead>
<tbody>
<tr>
<td>80%</td>
<td>$144,754</td>
<td>$154,987</td>
<td>$175,603</td>
<td>$196,218</td>
</tr>
<tr>
<td>90%</td>
<td>$162,848</td>
<td>$174,361</td>
<td>$197,553</td>
<td>$220,745</td>
</tr>
<tr>
<td>100%</td>
<td>$180,942</td>
<td>$193,734</td>
<td>$219,503</td>
<td>$245,273</td>
</tr>
<tr>
<td>110%</td>
<td>$199,036</td>
<td>$213,107</td>
<td>$241,454</td>
<td>$269,800</td>
</tr>
<tr>
<td>120%</td>
<td>$217,130</td>
<td>$232,481</td>
<td>$263,404</td>
<td>$294,327</td>
</tr>
</tbody>
</table>

The maximum price for units restricted at 120% of AMI would be $263,404 for a 2-bedroom home or $294,327 for a 3-bedroom home. The actual sale price will include the following costs to the buyer as described on the settlement sheet for the sale:

- The sale price of the home
- Any sales commission which is payable by the buyer
- Any monthly fee such as a homeowner's association fee or common area fee
- Any other settlement cost charged to the buyer which in Whitefish is normally charged to the seller

### 6. Adjustment of New Legacy Home Prices

The Legacy home prices approved by Council by Resolution annually will remain in effect until the updated AMIs are published by HUD, after which time the prices may be adjusted as set forth in these administrative procedures unless otherwise amended by Council.

Beginning in 2020 and annually thereafter, the Legacy Homes Coordinator will review and adjust the Legacy Home price for each income range and for each unit size based on annual updates to AMI. The Legacy Homes Coordinator will publish new Legacy Home prices immediately upon adoption of a Resolution approved by the City Council.

Nothing herein prevents the City Council from amending the Legacy Homes Program ordinance without such recommendations from the Legacy Homes Coordinator.

### 7. Deed Restrictions for Ownership Housing

All deed restrictions applicable to Legacy ownership homes must include resale restrictions binding future buyers and sellers to the applicable conditions set forth in this Program Administration as updated annually and will be in a form approved by the Legacy Homes Coordinator and the Whitefish City Attorney.

The Legacy Homes will be deed restricted for a term of 90 years subject to renewal of the 90-year term anytime the property changes ownership.

### 8. Recording of Deed Restrictions

The developer or any owner selling a Legacy Home must cause to be recorded with the Flathead Clerk and Recorder’s Office, simultaneous with the recording of the deed of sale, deed restriction that fulfills the requirements of this section regarding controls placed on the occupancy and
resale of Legacy Homes. The effect of recording said deed restriction is to create, in accordance with state law, an obligation that runs with the property. The Legacy Homes Coordinator/City Attorney will provide a template deed restriction to be used for the transaction. Initial affordability will be achieved by including in the Housing Mitigation Plan the terms of an escrow instruction requiring certification of Legacy Homes Program compliance by an escrow agent.

9. Rental Prohibition
Legacy Homes may not be rented to a second party, except at the discretion of and as approved in writing by the Legacy Homes Coordinator for instances in which the owner is under duress by reason of unemployment, family medical emergencies, inability to sell the home for an amount equal to or greater than the original sale price, or other unique circumstances of family hardship such as military deployment. In providing written permission, the Legacy Homes Coordinator will specify a limit on the rental not to exceed 24 months.
RESPONSIBILITY FOR ADMINISTRATION

1. **Legacy Homes Coordinator/Whitefish Housing Authority**

The Legacy Homes Coordinator and the WHA are responsible for the following functions regarding administration of the Whitefish Legacy Homes Program:

   a. Facilitate flow of information and communication among City staff, WHA, and applicants for development.
   b. Set, review, adjust and publish Legacy Home rental rates and housing prices based on available AMI and other variables for Flathead County.
   c. Review the individual Housing Mitigation Plans in coordination with City staff to determine if each plan can be approved by staff or recommended for approval by the City Council. If Plans are found to be deficient, the Legacy Homes Coordinator and City staff will work with the developer to resolve deficiencies.
   d. Track "available" and "in progress" Legacy Homes.
   e. Manage all prior affordable housing agreements and the prior affordable housing program.
   f. Act as the primary resource to prospective and active Legacy Home buyers and renters in the Legacy Housing Program by:
      1) Developing and implementing public education and information activities including workshops, newsletters and public presentations.
      2) Providing technical assistance.
      3) Screening and qualifying households eligible to purchase or rent Legacy Home units.
      4) Maintaining lists of pre-qualified households and matching qualified households with available housing units.
      5) Assisting with marketing of Legacy rental and ownership homes.
      6) Monitoring compliance of renters with Legacy Homes eligibility criteria.
      7) Providing information to home purchasers and owners regarding allowed appreciation of deed restricted units and determining resale values of Legacy Homes.
      8) Determining allowable annual increases in rent for Legacy Homes based on MBOH methodology.

2. **Planning and Building Department**

This City department or its designees will be responsible for the following functions regarding administration of the Legacy Homes Program:

   a. Require applicants to prepare a Housing Mitigation Plan concurrently and as part of the development review process.
   b. Work with applicants to ensure the Legacy Homes proposed in the Housing Mitigation Plans follows the Legacy Homes Program Administration and helps the City meet its goals for housing as outlined in the 2017 Strategic Housing Plan.
c. Recommend to City Council approval or disapproval of Housing Mitigation Plans, including proposals for ILF contributions, clustered units, and off-site housing units.
d. For administrative CUPs, review and approve Housing Mitigation Plans as part of development approval process.
e. Monitor developer compliance with Legacy Homes Programs regulations through completion of construction, and in the event of noncompliance, requesting that the City Manager direct action by appropriate departments regarding the department's responsibility for administering the Legacy Homes Program.

3. **City Council**
The City Council will be responsible for approving Housing Mitigation Plans as part of the standard development permitting process. Council is also responsible for adopting any updates to this Program Administration document including changes to AMI or affordable rates and evaluating whether the housing goals are being met.
APPENDIX A: 2019 Home Prices, Rental Prices and In Lieu Fee

2019 Home Price Distribution:

<table>
<thead>
<tr>
<th>AMI%</th>
<th>0BR</th>
<th>1BR</th>
<th>2BR</th>
<th>3BR</th>
</tr>
</thead>
<tbody>
<tr>
<td>80%</td>
<td>$144,754</td>
<td>$154,987</td>
<td>$175,603</td>
<td>$196,218</td>
</tr>
<tr>
<td>90%</td>
<td>$162,848</td>
<td>$174,361</td>
<td>$197,553</td>
<td>$220,745</td>
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<tr>
<td>100%</td>
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<td>$193,734</td>
<td>$219,503</td>
<td>$245,273</td>
</tr>
<tr>
<td>110%</td>
<td>$199,036</td>
<td>$213,107</td>
<td>$241,454</td>
<td>$269,800</td>
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<tr>
<td>120%</td>
<td>$217,130</td>
<td>$232,481</td>
<td>$263,404</td>
<td>$294,327</td>
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2019 Rental Price Distribution²:

<table>
<thead>
<tr>
<th>AMI%</th>
<th>0BR</th>
<th>1BR</th>
<th>2BR</th>
<th>3BR</th>
</tr>
</thead>
<tbody>
<tr>
<td>60%</td>
<td>$732</td>
<td>$784</td>
<td>$941</td>
<td>$1,086</td>
</tr>
<tr>
<td>70%</td>
<td>$854</td>
<td>$914</td>
<td>$1,097</td>
<td>$1,267</td>
</tr>
<tr>
<td>80%</td>
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<td>$1,045</td>
<td>$1,254</td>
<td>$1,448</td>
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</table>

2019 Fee in Lieu of Providing Units:

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<thead>
<tr>
<th>FRACTIONAL UNIT FEE:</th>
<th>WHOLE UNIT FEE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$77,954.00</td>
<td>$116,930.00</td>
</tr>
</tbody>
</table>

² Can be adjusted if utilities are not included in the rental price.