

## REVISED GUIDELINES ATTACHMENTS: COMPLIANCE OPTIONS

### ATTACHMENT 1. BUILD ON-SITE OPTION

#### I. Introduction

This attachment to the Revised Guidelines provides more information on how Developers may satisfy their inclusionary housing obligation by building Inclusionary Units on-site dispersed throughout their Residential Development and either transferring or renting those units to eligible households. Definitions for capitalized terms may be found in the Revised Guidelines and the IHO.

#### II. Build On-Site Obligation (SJMC Sections 5.08.400, 5.08.410)

Developers of for sale projects that elect to build on-site may choose to provide either for sale or rental inclusionary units. Developers of rental projects that elect to build on-site must provide inclusionary rental units.

##### A. Build Inclusionary For Sale Units consistent with the following standard:

Transfer at least fifteen percent (15%) of the units built within their Residential Development to income-qualified buyers. These units must be made available for purchase at an Affordable Sales Price based on the income limit for households earning no more than 110 percent (110%) of the Area Median Income (AMI) adjusted for family size, as shown in the table contained in 25 Cal. Code Reg. 6932, as amended from time to time. The Income Limit and Affordable Sales Price will be determined by the City for each inclusionary home as described in Appendix B of these Guidelines. Such Inclusionary Units may be sold to households earning no more than one hundred twenty percent (120%) of the AMI. The City annually publishes limits that pertain to income and affordable rent or sales price and posts these on its [website](#).

##### B. Build Inclusionary Rental Units consistent with one of the following standards:

Standard One. Make available for rent in the Residential Development the following:

1. At least five percent (5%) of the total Dwelling Units in the Residential Development at an Affordable Rental Rate to Households earning no more than one hundred percent (100%) of the AMI, adjusted for family size;
2. At least five percent (5%) of the total Dwelling Units in the Residential Development at an Affordable Rental Rate to households earning nor more than sixty percent (60%) of the AMI, adjusted for family size; and
3. At least five percent (5%) of the total Dwelling Units in the Residential Development at an Affordable Rental Rate to Households earning nor more than fifty percent (50%) of the AMI, adjusted for family size.

Standard Two: Make available for rent in the Residential Development the following:

1. At least ten percent (10%) of the units in the Residential Development at an Affordable Rental Rate to Households earning no more than thirty percent (30%) of the AMI, adjusted for family size.

*When computing the number of units required to satisfy the on-site obligation, resulting fractions of one-half (1/2) or greater shall be rounded up to the next highest whole number, and fractions of less than one-half (1/2) shall be rounded down to the next lowest whole number.*

**III. Build On-Site Incentives (SJMC Section 5.08.450)**

The Developer of a Residential Development providing all required Inclusionary Units upon the same site as the market rate units pursuant to SJMC Section 5.08.400 may, at the Developer's sole option and concurrently with the submittal of the Affordable Housing Compliance Plan, and the earlier of the zoning or Planning Permit application, submit a written request for a density bonus, waivers or incentives pursuant to California Government Code Section 65915 et seq. and [SJMC Chapter 20.190](#), if the Residential Development includes the provision of Inclusionary Units within the Residential Development that meets the minimum thresholds for a density bonus pursuant to California Government Code Section 65915 et seq.

The Developer of a project providing Inclusionary Units on-site may request a density bonus based on those Inclusionary Units, consistent with Chapter 20.190, provided the units meet the Density Bonus requirements.

**IV. Affordable Housing Compliance Plan Application**  
(SJMC Sections 5.08.120, 5.08.155, 5.08.320, 5.08.420, 5.08.610)

Developers who elect the Build On-Site Compliance Option must provide the information required by Section 4 of the Revised Guidelines.

**V. Inclusionary Housing Agreement**  
(SJMC Sections 5.08.195, 5.08.420, 5.08.460, 5.08.600, 5.08.610, 5.08.710)

See the requirements of Section 5 of the Revised Guidelines.

**VI. Timing of Construction and Marketing of Inclusionary Units**  
(SJMC Sections 5.08.460, 5.08.610)

On-Site Inclusionary Units must be developed and made available for occupancy either prior to or concurrent with the Market Rate Units. Construction must also be consistent with the phasing plan for Inclusionary Units in relation to Market Rate Units. Where new construction is needed, the City shall not issue more than six (6) Building Permits for Market Rate Units per Inclusionary Unit Building Permit issued, and may only approve final inspections for single-family detached homes, or issue Certificates of Occupancy for all other types of residences, until at least fifteen percent (15%) of such final inspections or Certificates of Occupancy have been approved or issued for the

Inclusionary Units. Where new construction is not needed, the City shall not issue more than five (5) Building Permits for Market Rate Units per authorization of occupancy for each Inclusionary Unit at an Affordable Housing Cost, and may not approve final inspections for market rate single-family detached homes, or issue Certificates of Occupancy for all other types of market rate residences, until it has authorized occupancy in at least twenty percent (20%) of the Inclusionary Units at an Affordable Housing Cost. Further, the City may not issue Building Permits, or approve final inspections or issue Certificates of Occupancy, for more than ninety percent (90%) of the Market Rate Units within the Residential Development (or construction phase) until it has issued Building Permits or authorized occupancy for all the Inclusionary Units within the project.

A marketing plan for the Inclusionary Units is also required, including a commitment to provide the Inclusionary Units to the public in a nondiscriminatory and equitable manner, consistent with the obligation to Affirmatively Further Fair Housing, while ensuring that any preference policy does not result in a disparate impact on any protected class. Such a plan should provide for concurrent marketing and the sale or rental of both the Inclusionary Units and Market Rate Units.

## **VII. Standards for Inclusionary Housing Units (SJMC Section 5.08.470)**

The Inclusionary Units shall have a comparable square footage and the same bedroom count and bedroom count ratio as the Market Rate Units. Square footage will be considered comparable if the total average square footage of Inclusionary Units is at least 85% of the total average square footage of the Market Rate Units for each unit by bedroom type (i.e., the average square footage for 3-bedroom Inclusionary Units must be at least 85% of the average square footage for 3-bedroom Market Rate Units).

The quality of exterior design and overall quality of construction of the Inclusionary Units must be consistent with the exterior design of the Market Rate Units. Inclusionary Units may have different interior finishes and features than the Market Rate Units in the Residential Development, provided the finishes and features are functionally equivalent to the Market Rate Units and are durable and of good quality. Functional equivalency includes the architectural style, detailing and, the quality of materials and the size of structures.

In addition, Inclusionary Units must be dispersed throughout the project site with the Market Rate Units and not clustered together. When the Residential Development is comprised of attached townhouses, row houses or multi-family buildings, the Inclusionary Units shall be located so as to avoid a geographic concentration, defined as where the Inclusionary Units are clustered in (a) one area of the Residential Development away from the Market Rate Units, (b) in a separate building from the Market Rate Units, and/or (c) all on one floor or one side of a building.

NOTE: Developers may be able to select the Partnership for Clustered Units compliance option instead of the Build On-Site option in their Compliance Plan if they cannot disperse the affordable units as required

due to the type of financing needed, but they must comply with the additional requirements of the Partnership for Clustered Units option. See the provisions outlined in Attachment 6 – Partnership for Clustered Units