

ATTACHMENT 9: ACQUIRE & REHABILITATE EXISTING DWELLING UNITS

I. Introduction

This attachment to the Revised Guidelines provides more information on how Developers may satisfy their inclusionary housing obligation through the acquisition and rehabilitation of existing Market Rate Units and conversion to Inclusionary Units affordable to Low or Very Low-Income Households only. Definitions for capitalized terms may be found in the IHO and the Revised Guidelines.

II. Qualifying Criteria for Rehabilitated Unit (SJMC Section 5.08.550)

In order to be eligible to be considered a “Rehabilitated Unit,” the City Manager or their designee must determine that the proposed unit meets all the following criteria:

- A. The value of the rehabilitation work must equal or exceed twenty-five percent (25%) of the value of the Dwelling Unit prior to rehabilitation, inclusive of land value. The Developer will be required to submit the following reports to the Housing Department:
 1. Property appraisal (including land) prior to rehabilitation (as determined by a California Licensed Residential Appraiser using the Comparable Approach Method);
 2. Property appraisal (including land) that assumes the rehabilitation cost (as determined by a California Licensed Residential Appraiser); and
 3. Project rehabilitation cost estimate and description submitted by a licensed contractor or architect.
- B. The proposed site for the Rehabilitated Units must be zoned for Residential Development at a density to accommodate at least the number of Rehabilitated Units and have a General Plan designation that authorizes residential uses.
- C. The use of the proposed site of the Rehabilitated Units shall not constitute a nonconforming use.
- D. The Rehabilitated Units shall comply with all current applicable Building and Housing Codes.
- E. A geological hazards review must have been completed to the satisfaction of the City indicating the site free of all such hazards.
- F. The property is not currently restricted for affordable housing.
- G. A Physical Needs Assessment to the satisfaction of the City shall be performed on each Dwelling Unit to be acquired and rehabilitated, the property upon which it is located, and any associated common area; all items identified in the Physical Needs Assessment needing repair, replacement and maintenance at the time

of the Assessment or that will likely require repair or replacement within three (3) years of the Assessment shall be completed prior to the acceptance of the units as Rehabilitated Units.

- H. The bedroom mix of the Rehabilitated Units must be substantially the same as the bedroom mix of the Market Rate Units in the Residential Development.
- I. Rehabilitated Units must be provided according to the IHO requirements based on tenure. For-Sale Rehabilitated Units must be provided to satisfy the IHO requirements for For-Sale Residential Developments; Rental Rehabilitated Units must be provided to satisfy the IHO requirements for Rental Residential Developments.
- J. Acquisition of the site must be completed prior to the acceptance of the Dwelling Units as Rehabilitated Units.

If the Developer demonstrates to the City that a Dwelling Unit qualifies as a “Rehabilitated Unit,” and the City approves that the unit is eligible, the Developer may then use that Rehabilitated Unit to satisfy their inclusionary housing obligations for that Residential Development.

III. Rehabilitation Units Required

Developers must provide two (2) Rehabilitated Units for each one (1) Inclusionary Unit required by the IHO for the Residential Development. Therefore, a Developer planning to use only Rehabilitated Units to satisfy their IHO obligations must provide the number of Rehabilitated Units equal to forty percent (40%) of the total number of Dwelling Units in the Residential Development.

When computing the number of units required to satisfy the IHO 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.

At least 50% of those Rehabilitated Units shall be affordable to Very Low Income Households. For example, if the Residential Development has 100 units, the off-site requirement would be 5 units restricted to 80% of AMI, 5 units restricted to 60% of AMI and 10 Very Low Income Inclusionary Units restricted to 50% of AMI. If the Developer wishes to provide Rehabilitated Units to satisfy the inclusionary obligation, then 10 Rehabilitated Inclusionary Units restricted to 80% of AMI; 10 Rehabilitated Inclusionary Units restricted to 60% of AMI; and 20 Very Low Income Rehabilitated Inclusionary Units are required.

Rehabilitated Units must comply with all requirements for off-site Inclusionary Units per **Attachment 2**. See also, Appendices A and B for income qualification,

Affordable Sales Price and Affordable Rental Rate calculations, and minimum unit standards.

IV. Affordable Housing Compliance Plan Application

(SJMC Sections 5.08.120, 5.08.155, 5.08.320.H, 5.08.420, 5.08.610)

Developers who elect the Acquire and Rehabilitation Compliance Option must provide the information required by Section 4 of the Revised Guidelines, as well as the following additional requirements:

- A. Affirming that the Developer intends to acquire and rehabilitate existing units consistent with the standards in Sections II and III and that the Developer will provide and pay for the notice to and relocation of existing residents in the residential units to be rehabilitated.
- B. Detailed information about the Rehabilitated Unit(s), the property upon which it is located, and any associated common area, including:
 - 1. Year built,
 - 2. Total number of units,
 - 3. Identification of the specific units proposed to be rehabilitated for the purpose of satisfying Developer's Inclusionary Housing Obligation,
 - 4. Unit type (e.g. townhouse, detached single-family) and tenure (e.g. For-Sale or Rental),
 - 5. Number of bedrooms and bathrooms,
 - 6. Site plan(s) before and after rehabilitation, if different,
 - 7. Acquisition schedule,
 - 8. Rehabilitation schedule, and
 - 9. Information sufficient to demonstrate that the proposed acquisition and rehabilitation units would qualify as Rehabilitated Units, as described in Section II of this Attachment, including appraisals, construction plans and estimates, a Physical Needs Assessment.
- C. Schedule for transfer of the site, including estimated dates for commencement and completion of rehabilitation consistent with the criteria in Part II.
- D. A draft relocation plan for existing residents of the Rehabilitated Units, in compliance with the requirements of the Tenant Protection Ordinance (see Section V below for a summary of requirements) California Relocation Assistance Law, GC Section 7260 *et seq.*
- E. A reliable financing mechanism for the ongoing administration, management and monitoring of the Rehabilitated Units.
- F. A description of how a capital reserve for repair, replacement and maintenance shall be maintained for the term of the affordability restriction, with provision for sufficient initial capitalization and periodic contributions to the capital reserve.

G. Information regarding the planned financing and the planned timing of both the Residential Development and the Rehabilitation of the Rehabilitated Units (including acquisition and rehabilitation), sufficient to show that the Rehabilitation Units are likely to be completed at about the same time as the Residential Development.

H. Contact information for the qualified relocation consultant engaged by Developer.

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. The Inclusionary Housing Agreement shall incorporate and include the approved Affordable Housing Compliance Plan, containing all information relating to the Rehabilitated Units to further document the Developer's intent to use such Rehabilitated Units to satisfy its obligation. The Agreement shall also stipulate that the Developer must comply with all applicable laws regarding notice to and relocation of existing residents, and that the Developer will cover all costs associated with the relocation of any existing residents in the units to be rehabilitated. The Inclusionary Housing Agreement shall be recorded against both the Residential Development and the property containing the Rehabilitated Units.

VI. Timing

The rehabilitation of the Dwelling Units shall be completed prior to or concurrently with the Market Rate Residential Development pursuant to SJMC Section 5.08.460.

VII. Tenant Noticing and Relocation

The Developer is responsible for complying with all state and local laws regarding requirements for relocation of existing residents. The Developer should engage a qualified relocation consultant prior to the submittal of the compliance plan.

Additionally, under the Tenant Protection Ordinance, a property owner who intends to rehabilitate units must follow the procedures in SJMC Section 17.23.1250 regarding substantial rehabilitation which includes noticing, relocation benefits and the right to return. The Developer is responsible for all costs associated with noticing and relocation.

A summary of the City's Tenant Protection Ordinance, including the noticing and relocation requirements, is available here: <http://www.sjhousing.org/rent>, or by email at: RSP@sanjoseca.gov