

## ARTICLE XIII. INCLUSIONARY HOUSING

### Sec. 16-13-10. Purpose and objectives.

- (a) Promote the construction of housing that is affordable to the community's workforce;
- (b) Retain opportunities for people that work in the City to also live in the City;
- (c) Maintain a balanced community that provides housing for people of all income levels; and
- (d) Ensure that housing options continue to be available for very low-income, low-income, mode rate, and middle-income residents, for special needs populations and for a significant proportion of those who work or live in the City.

(Ord. No. 2018-14 , § 1, 10-2-2018)

### Sec. 16-13-20. General inclusionary housing requirements.

- (a) Any application brought under the annexation or planned development sections of this Code; condominium plats of any size; duplex conversion subdivisions; and minor and major subdivision sections of this Code, as well as multi-family residential projects of five (5) or more units are required to include at least sixteen and seven-tenths (16.7) percent of the total number of residential dwelling units as affordable dwelling units, pursuant to requirements set forth in this Article, and subject to the following standards:
  - (1) The prices for sale or rents charged for permanently affordable priced dwelling units shall not exceed a price that is affordable to a household earning the applicable percentage of Area Median Income (AMI) for Chaffee County as defined annually by the Colorado Housing Finance Authority (CHFA), at the time such unit is sold or rented, and as further specified in Sections 16-13-60 and 16-13-70.
  - (2) Affordable dwelling units shall be permanently restricted unless a different timeframe is required as a part of a Low Income Housing Tax Credit project.
  - (3) If the calculation for inclusionary housing results in a fraction of a dwelling unit, the fraction of the unit shall be provided as a complete affordable unit or a fee-in-lieu shall be provided per Section 16-13-40.
  - (4) The proportion of required affordable units, whether for-sale or rental, shall follow the proportion of for-sale and rental market rate units, unless otherwise approved by the decision-making body. For example, if the project includes one hundred (100) percent for-sale units, then one hundred (100) percent of the required affordable units shall be for-sale units. If the project includes fifty (50) percent for-sale units and fifty (50) percent rental units, that same percentage of for-sale and rental affordable units shall be provided.
- (b) Units built as affordable in the project should be comparable to the market rate housing units in exterior finish and design and integrated into the overall project.
- (c) Income Eligibility Required. No person shall sell, rent, purchase or lease an affordable dwelling unit created pursuant to this Article except to a program eligible household. A private owner of a single affordable unit may rent the unit in accordance with the provisions of this Article as set forth in Section 16-13-60 "Program Requirements for For-Sale Units." All sales, rentals, purchases and leases shall comply with the provisions of this Article.

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- (d) Deed Restriction Required. No person offering an affordable dwelling unit for rent or sale pursuant to this Article shall fail to lawfully reference in the grant deed conveying title of any such unit, and record with the Chaffee County Clerk and Recorder, a deed restriction in a form provided and approved by the City Attorney and applicable Housing Authority. Such deed restriction shall reference applicable contractual arrangements, deed restrictions and resale restrictions as are necessary to carry out the purposes of this Article.
  - (e) Good Faith Marketing Required. All sellers or owners of affordable dwelling units shall engage in good faith marketing and public advertising efforts each time an affordable dwelling unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance to become informed of the availability of such units.
  - (f) Required Agreements. Those applicants creating residential developments under this Chapter shall enter into an inclusionary housing development agreement with the City Council. Such agreements may be part of a development agreement, annexation agreement or subdivision agreement and shall document how the applicant will meet the requirements of this Article including:
    - (1) Defining the inclusionary housing development, including the total number of units; the total number of affordable housing units required; and the total number of affordable housing units provided;
    - (2) The application of allowed density, parking and development standards allowed for projects that provide one hundred (100) percent of the inclusionary housing requirements, as provided in Section 16-13-50;
    - (3) Design standards to assure the affordable units will be comparable to market rate units and are integrated into the development;
    - (4) The requirement that each required affordable housing unit must receive its certificate of occupancy before development of every sixth market-rate housing unit within the development, unless an alternative schedule is approved by the City; and
    - (5) The deed restrictions and additional agreements, in a form acceptable to the City, as necessary to carry out the purposes of this Article.
  - (g) Accessory dwelling units shall not be considered inclusionary housing for the purpose of compliance with the requirements of this Article.
  - (h) An applicant shall not be eligible to submit for a building permit until the applicable affordable housing agreement is approved by the City Council and such agreement is recorded with the Chaffee County Clerk and Recorder. Additionally, a property shall not receive a certificate of occupancy until the required deed restrictions are recorded with the Chaffee County Clerk and Recorder.

(Ord. No. 2018-14 , § 1, 10-2-2018; Ord. No. 2022-05 , § 6, 4-5-2022; Ord. No. 2023-10 , § 2, 7-5-2023)

### **Sec. 16-13-30. Options for satisfaction of inclusionary housing requirement.**

An applicant may seek an alternative to providing the required percentage of affordable housing under this Article by any of the following methods:

- (a) Providing the Required Housing Off-Site. This may be met only through the dedication of land to the City or a qualified non-profit housing developer for the required development of such units as approved by the City, with the guarantee that the land to be dedicated will allow for, and be developed with a minimum number of twenty-five (25) percent of the total units in the subject development as affordable housing.
- (b) Dedicating Land Within the Project. Provided it is large enough and located appropriately to accommodate at least the minimum number of required affordable units, land within a project may be

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dedicated to the City or a qualified non-profit housing developer for the required development of such units, as approved by the City. The units to be built within the project shall be comparable to the market rate housing units in exterior finish and design to blend into the overall project. Each lot shall have sufficient area devoid of environmental or other constraints to allow construction of the required development of such units. All public infrastructure improvements to support development of the required units shall be in place prior to conveyance, or sufficient security in accordance with the Municipal Code shall be provided. Dedication of the lots shall occur at the same time as plat or other applicable recordation.

- (c) Paying a Fee in Lieu of Providing Units as Defined in Section 16-13-40. This alternative is only available if the calculation for inclusionary housing results in a fraction of a dwelling unit or if the development is for five (5) units or lots or less.
- (d) Providing fewer units, but which are affordable to households earning sixty (60) percent or less of the AMI for Chaffee County for rental projects, or one hundred (100) percent or less of the AMI for Chaffee County for for-sale projects. For the purposes of this option, an affordable dwelling unit at the above AMI levels shall equal one and one-half (1.5) inclusionary housing units at any other AMI level specified in Sections 16-13-60 and 16-13-70 below.

(Ord. No. 2018-14 , § 1, 10-2-2018; Ord. No. 2022-05 , § 7, 4-5-2022; Ord. No. 2023-10 , § 3, 7-5-2023)

### **Sec. 16-13-40. In-lieu fee.**

If an in-lieu fee is permitted and chosen for all or part of the inclusionary housing required for the project, the fee shall be calculated as described in the City's fee schedule, established, adopted and amended by City Council from time to time, and be due prior to issuance of the certificate of occupancy.

(Ord. No. 2018-14 , § 1, 10-2-2018; Ord. No. 2021-10 , 7-6-2021; Ord. No. 2022-05 , § 8, 4-5-2022)

### **Sec. 16-13-50. Density, parking and development incentives for inclusionary housing developments.**

Residential development within the zoning districts of C-1, R-2, R-3, R-4 and RMU; and portions of a planned development with the underlying zoning districts of C-1, R-2, R-3, R-4 and RMU; that are subject to inclusionary housing development requirements and are providing one hundred (100) percent of the required affordable housing within the development, may increase the allowed density and utilize the lowered dimensional standards stated in Table 16-F, Schedule of Dimensional Standards, within these districts and utilize the reduced parking requirements for multi-family dwellings stated in Table 16-J, Off-Street Parking Standards by Use. To ensure the integration of the affordable residential units into the development, these standards shall apply to all of the residential units of the subject development within parcels with the above zoning or underlying zoning, that include a minimum of sixteen and seven-tenths (16.7) percent affordable housing.

(Ord. No. 2018-14 , § 1, 10-2-2018; Ord. No. 2022-05 , § 9, 4-5-2022)

Editor's note(s)—Ord. No. 2022-05 , § 9, adopted Apr. 5, 2022, amended the title of § 16-13-50 to read as herein set out. The former § 16-13-50 title pertained to density, parking and development standards for inclusionary housing developments.

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## **Sec. 16-13-60. Program requirements for for-sale units.**

- (a) **Affordable Unit Price.** The prices charged for any affordable units shall not exceed prices greater than what is affordable to households earning one hundred twenty (120) percent, one hundred forty (140) percent, or one hundred sixty (160) percent of the Area Median Income (AMI) for Chaffee County. Furthermore, for-sale affordable units shall be subject to the following additional requirements:
- (1) The average sales price of all affordable housing units shall not exceed a price affordable to households earning one hundred forty (140) percent or less of the AMI for Chaffee County;
  - (2) For projects providing multiple affordable units, and to create parity across levels of affordability, the total number of affordable units deed-restricted at one of the applicable AMI levels shall not exceed the total number of affordable units deed-restricted at any of the other applicable AMI levels by more than one unit;
  - (3) Studio units above one hundred twenty (120) percent AMI for Chaffee County and one-bedroom units above one hundred forty (140) percent AMI for Chaffee County shall not be eligible to satisfy inclusionary housing requirements; and
  - (4) The specific affordable unit price charged for the applicable AMI level shall be based on the current maximum sale price as identified by the Chaffee Housing Authority and/or the City Administrator or their designee.
- (b) **Approved Purchasers for Affordable Dwelling Units.** A developer or owner shall sell to a qualified purchaser after completing a good faith marketing and selection process approved by the City and applicable housing authority.
- (c) **Sale Restriction.** No person shall sell an affordable dwelling unit except to a person that meets the income, asset and other eligibility requirements of this Article or any asset and income eligibility requirement that is included in any applicable contract or deed restriction or any other agreements to which the City is a party or beneficiary.
- (d) **Resale Restrictions.** All affordable ownership dwelling units developed under this Article shall be subject to the resale restrictions itemized within the deed restriction required pursuant to Section 16-13-20(e).
- (e) **Ownership Associations.** When accepting a for-sale unit as meeting the inclusionary housing obligation, the City Administrator and/or applicable housing authority will review the condominium association declarations to assess the impact on buyers of affordable units. The City Administrator and/or applicable housing authority is authorized to establish rules regarding allowable terms in condominium declarations in order to ensure that the purposes of this Article are accomplished.
- (f) **Rental Restriction.** The owner of an affordable unit may rent the unit to an income eligible renter by a method that complies with the applicable deed restriction and/or regulations. At no point shall such rent price exceed a price that is affordable to a household earning one hundred (100) percent of the Area Median Income (AMI) for Chaffee County, as defined annually by CHFA.
- (g) **Income Cap.** The City shall allow a ten (10) percent buffer between the price cap and the income cap to provide flexibility for homebuyers to qualify for financing without being cost burdened. For example, if a unit shall not exceed a price greater than what is affordable to households earning one hundred twenty (120) percent of the Area Median Income for Chaffee County, households earning incomes of up to one hundred thirty (130) percent of the AMI can qualify for such unit.

(Ord. No. 2018-14 , § 1, 10-2-2018; Ord. No. 2022-05 , § 10, 4-5-2022; Ord. No. 2023-10 , § 4, 7-5-2023)

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**Sec. 16-13-70. Program requirements for rental units.**

Maximum Rent. Rents charged for any affordable unit shall not exceed a price greater than what is affordable to households earning eighty (80) percent or one hundred (100) percent of the AMI for Chaffee County, as defined by CHFA. Furthermore, affordable rental units shall be subject to the following additional requirements:

- (a) At least fifty (50) percent of all provided units shall be rented at prices affordable to households earning eighty (80) percent or less of the AMI for Chaffee County.
- (b) Studio units rented above eighty (80) percent AMI for Chaffee County shall not be eligible to satisfy inclusionary housing requirements.

(Ord. No. 2018-14 , § 1, 10-2-2018; Ord. No. 2022-05 , § 11, 4-5-2022)

**Sec. 16-13-80. Administrative regulations.**

To the extent the City Administrator deems necessary, rules and regulations pertaining to this Article will be developed and approved by the City Council, and thereby maintained and enforced in order to assure that the purposes of this Article are accomplished. No person shall violate any rule or regulation issued by the City Administrator under this Article.

(Ord. No. 2018-14 , § 1, 10-2-2018)