

## **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;
- (d) Ensure that housing options continue to be available for very low-income, low-income, moderate, and middle-income residents, for special needs populations and for a significant proportion of those who work or live in the city. (Ord. 2018-14)

#### **Sec. 16-13-20. – General Inclusionary Housing Requirements.**

(a) Any application brought under the annexation or planned development sections of this Code; or condominium plats of five (5) units or greater; and minor and major subdivision sections of this Code is required to include at least twelve and a half percent (12.5%) of the total number of residential dwelling units as affordable dwelling units, 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 eighty percent (80%) of Area Median Income (AMI) for Chaffee County as defined annually by the United States Department of Housing and Urban Development (HUD).

(2) Affordable dwelling units shall be permanently restricted as defined by the administrative regulations, or 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.

(b) The city administrator is authorized to adopt administrative regulations to be utilized in the enforcement of the provisions of this article.

(c) 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.

(d) **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.

(e) **Deed Restriction Required:** No person offering an affordable dwelling unit for rent or sale shall fail to lawfully reference in the grant deed conveying title of any such unit, and record with the county recorder, a covenant or declaration of restrictions in a form approved by the City. Such covenant or declaration of restrictions shall reference applicable contractual arrangements,

restrictive covenants and resale restrictions as are necessary to carry out the purposes of this article.

(f) **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.

(g) **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; and
- (2) The application of allowed Density, Parking and Development Standards allowed for projects that provide 100% of the inclusionary housing requirements, as provided in Section 16-13-50; and
- (3) Design standards to assure the affordable units will be comparable to market rate units and are integrated into the development; and
- (4) The restrictive covenants and additional agreements, in a form acceptable to the City, as necessary to carry out the purposes of this article.

An applicant shall not be eligible to submit for a building permit until the affordable housing agreement and any required restrictive covenants are approved by the City Council and recorded with the Chaffee County Recorder.

### **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 qualified non-profit housing developer as approved by the City, with the guarantee that the land to be dedicated will allow for, and be developed with the number of required affordable housing.

(b) Dedicating land within the project. Land within a project may be dedicated to the City or a qualified non-profit housing developer 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.

(c) Paying a fee in lieu of providing units as defined in Section 16-13-40.

(d) Providing fewer units, but which are affordable to households earning sixty percent (60%) or less of the AMI for Chaffee County. For the purposes of this option, an affordable dwelling unit at 60% or less AMI shall equal two units at 80% or less AMI.

(e) Any alternatives shall be approved by agreement with the City Council as defined in Section 16-13-20 (g).

**Sec. 16-13-40. – In-Lieu Fee.**

If an applicant chooses to pay an in-lieu fee for all or part of the inclusionary housing required for the project, the fee shall be calculated as described here and be due no later than issuance of the building permit.

(a) Annexations, Planned Developments, Major Subdivisions and Condominium Plats of Five (5) Units or More: The in-lieu fee shall be the lesser of (1) or (2) for each non-restricted unit within the development:

(1) \$15,748

(2) 
$$\frac{\text{AHR} - \text{AHP}}{\text{AHR}} \times \$7.87 \text{ per habitable square foot of the principal unit}$$

Where: AHR = Affordable Housing Units Required  
AHP = Affordable Housing Units Provided

(b) Minor Subdivisions: The in-lieu fee shall be the lesser of (1) or (2) for each non-restricted unit within the development:

(1) \$7,874

(2) 
$$\frac{\text{AHR} - \text{AHP}}{\text{AHR}} \times \$3.94 \text{ per habitable square foot of the principal unit}$$

Where: AHR = Affordable Housing Units Required  
AHP = Affordable Housing Units Provided

**Sec. 16-13-50. – Density, Parking and Development Standards for Inclusionary Housing Developments.**

Residential development within the zoning districts of C-1, R-3, R-4 and RMU; and portions of a planned development with the underlying zoning districts of C-1, R-3, R-4 and RMU; that are subject to inclusionary housing development requirements and are providing one-hundred percent (100%) 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 within parcels with the above zoning or underlying zoning, that include a minimum of 12.5% affordable housing.

**Sec. 16-13-60. – Program Requirements for For-Sale Units.**

(a) Affordable Unit Price: The prices charged for affordable priced dwelling units shall not

exceed a price that is affordable to a household earning eighty percent (80%) of the Area Median Income (AMI) for Chaffee County.

(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 according to the housing administrative regulations.

(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 contract, covenant or any other agreement 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 following resale restrictions:

(1) Approved Purchasers: A seller of an affordable dwelling unit must select an income-eligible purchaser by a method that complies with the good faith marketing and selection process defined by the housing administrative regulations. All purchasers of affordable dwelling units shall be part of program eligible households.

(2) Resale Price: The resale price of any affordable dwelling unit shall not exceed the purchase price paid by the owner of that unit with the following exceptions:

a. Closing Costs: Customary closing costs and costs of sale, which may include customary realtor fees, as reviewed and approved by the city administrator.

b. Permanent Capital Improvements: Consideration of eligible permanent capital improvements installed by the seller that have been approved in advance by the city administrator in accordance with rules or administrative guidance established by the city administrator.

c. Resale Price: The resale price may include an inflationary factor or shared appreciation factor as applied to the original sale price pursuant to rules as may be established by the city administrator to provide for such consideration. In developing rules, the city administrator may consider the purposes of this article, common private, nonprofit and governmental lending practices, as well as any applicable rules or guidelines issued by federal or state agencies affecting the provision or management of affordable housing. In the event that the city has not adopted rules that contemplate a particular arrangement for the use of an inflationary factor or shared appreciation factor, the city administrator is authorized to approve a resale price formula that is consistent with the purposes of this article, common private, nonprofit and governmental lending practices, as well as any applicable rules or guidelines issued by federal or state agencies affecting the provision or management of affordable housing.

(3) Special Fees: The seller of an affordable dwelling unit shall neither levy nor charge any additional fees or any finder's fee nor demand any other monetary consideration other than provided in this article.

(e) Ownership Associations: When accepting a for-sale unit as meeting the inclusionary housing obligation, the city administrator will review the condominium association declarations to assess the impact on buyers of affordable units. The city administrator 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 administrative regulations.

**Sec. 16-13-70. – Program Requirements for Rental Units.**

(a) Maximum Rent: Rents charged for affordable units in any one development must be affordable to households earning no more than eighty percent (80%) of the AMI or as approved in the agreement.

**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.