



City of Boulder Planning, Housing and Sustainability

Inclusionary Housing Off-site Affordable Housing Agreement Summary

Updated 11/2017

The Inclusionary Housing (IH) Off-site Affordable Housing Agreement documents the developer's requirements and responsibilities when some or all the required affordable units are provided on a site that is different from the one that generated the requirement.

The Off-site Agreement must be executed before the Sending Site may submit for a building permit and includes details about the following major topics. Additional details concerning the Off-site Agreement can be found in the Inclusionary Housing Administrative Regulations:

- IH applies to both sites.
 - Both the sending and receiving sites are subject to the IH requirement. However, the Sending Site generated and is responsible for producing the affordable units on both sites. Should the Sending Site default to cash-in-lieu, the two sites are then considered separately.
- Maximum allowable rents and pricing.
 - For rental units, the maximum allowable rents are determined annually and are based on a household income sixty percent (60%) of the area median income for low/moderate-income households and eighty percent (80%) area median income for middle-income households.
 - The initial maximum allowable sales price is determined when the deed restricting covenant is signed and is based on what is affordable to a household earning the HUD low income for low/moderate income households which is adjusted annually (in 2017 the HUD low income equated to approximately seventy percent (70%) of the area median income), and ninety percent to one-hundred twenty percent (90% - 120%) area median income for middle-income households.
- Livability Standards.
 - The affordable units must meet the requirements of the Livability Standards. Two Livability Standard Checklists must be completed for each affordable unit/unit type or building depending on the configuration.



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- Approval of finish specifications.
 - City approval is required for all appliances, fixtures, flooring, cabinetry, lighting, heating and cooling systems prior to building permit issuance.
- Site Review or Housing Design Review.
 - The city manager has adopted an administrative level Affordable Housing Design Review. Any Receiving Site or any on-site building with greater than twenty five percent (25%) affordable units in a development with greater than five units that does not complete a site review is required to complete the Affordable Housing Design Review. Successful completion of this review is required prior to issuance of a building permit. The purpose of the review is to ensure:
 - Compliance with the IH requirement that off-site affordable housing developments be of comparable quality, design and materials to the market units creating the IH obligation;
 - Affordable units are constructed with durable materials that promote sustainable, energy efficient and attractive affordable housing;
 - Affordable units are comparable from surrounding market housing in quality, design, and general appearance;
 - Flexibility, and encourage innovation in land use development to promote the most appropriate use of land; and
 - Consistency with the purposes and policies of the Boulder Valley Comprehensive Plan and other adopted plans of the community.
- Rehabilitation requirements.
 - When existing units are deed restricted, the City shall identify any required rehabilitation or maintenance of the building, site and or units before they will be acceptable to satisfy IH. City review and approval is required for all items required to be rehabilitated or replaced including; specifications, required warranty periods, and similar details where appropriate.
- Operation as rental units.
 - The Owner must comply with the rental requirements found in the City of Boulder Housing Division Rental Compliance Manual, and as it may be amended.
- Deed restricting covenant.
 - A permanently affordable Covenant and supporting documents are required for all off-site affordable units prior to building permit issuance on the Receiving Site.



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The affordable Covenant must be recorded in first position, prior to any other debt on the property.

- Rental unit ownership.
 - Affordable rental units must be owned all or in part by a housing authority, 501(c)(3) nonprofit corporation or other entity that meets the city requirements for a housing authority or similar agency pursuant to C.R.S. Section 31-12-301(b)(5).
 - A funding agreement may meet the voluntary agreement standard per the statute amendment. However, because it is voluntary, the city also has discretion to request that the applicant partner with a “housing authority or similar agency” to own and operate the affordable rental units.
- Housing inspections.
 - The city will retain an inspector to ensure quality construction and compliance with all housing requirements and agreements. The Sending Site owner is responsible for the costs of the inspector.
- Financial guarantee.
 - If a development satisfies IH by providing permanently affordable units off-site which will not be completed prior to building permit issuance for the Sending Site or in the case of on-site units, the affordable units will not be completed prior to issuance of a certificate of occupancy for the market units, a financial guarantee is required. Please see the document “Affordable Unit Financial Guarantee Policy”.
- Concurrent Construction.

The affordable units on the Receiving Site must receive a final certificate of occupancy or letter of completion as applicable within twelve months following the issuance of any temporary or final certificates of occupancy for the Sending Site.
- Homeowner Associations (HOA’s).
 - The HOA budget and management plan shall be based on a reserve study to determine reasonable and accurate reserve levels and shall provide for the use of a professional management company. In off-site developments with for-sale affordable units the applicant will provide, at its expense, city-approved HOA training to purchasers of affordable units within one month of closing on the final affordable unit in the development.