

INCLUSIONARY ZONING ORDINANCE
ADMINISTRATIVE REGULATIONS

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Note: Due to a simplification of the B.R.C. 1981 Title 9 (July 2006) code citations have changed. This amended version of the regulations contains current applicable code citations

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INCLUSIONARY ZONING ORDINANCE
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The purpose of these regulations is to set forth the procedures for administration and implementation of Chapter 9-13, "Inclusionary Zoning," B.R.C. 1981. It should be recognized that no set of regulations can anticipate every conceivable situation in which an ordinance may apply, and it is anticipated that these may be amended or supplemented from time to time. Further, these regulations are not intended to limit the administrative discretion of those persons implementing the Inclusionary Zoning Program on subjects not covered herein.

3.1 Income Eligible Household [9-16-1]

"Household" will mean all individuals who will be occupying the home, the buyer's spouse or domestic partner and children including all persons whose names will appear on the warranty deed whether or not such person will occupy the residence.

"Income" will be defined in the same manner as it is in Section 8 of the United States Housing Act of 1937, codified at 42 U.S.C.S. 1435 a(b) (1990), as further determined by the United States Secretary of Agriculture in 24 CFR 813.106 (1997).

A household seeking to be eligible to purchase a permanently affordable unit shall submit to the city manager a completed Income Certification Form with required attachments, no earlier than six months and no later than fourteen days from the signing of a contract to purchase, in order to verify that the household's income qualifies it to purchase a particular permanently affordable unit.

Households entering into a contract to purchase a permanently affordable unit that is in the process of being built must be income eligible at the time the contract is signed. [9-13-8]

A household seeking to be eligible to rent a permanently affordable unit shall submit to the city manager, or by written agreement from the city manager, a designated property owner, a completed Income Certification Form with required attachments no earlier than six months prior to entering into a lease agreement for a particular permanently affordable unit. [9-13-7]

3.2 Permanently Affordable Unit [9-13-9]

"Permanently Affordable Unit" means a dwelling unit intended to remain affordable to persons of low or moderate income through a deed restriction which limits the sale price, resale price or rental rate of the dwelling unit. Additionally, before the city manager accepts a dwelling unit as a permanently affordable unit, an Applicant must submit for city manager approval construction detail drawings, fixture, finish and appliance specifications, and scaled floor

plans for both the permanently affordable and market rate dwelling units. The specific standards by which the city manager shall review the floor plan, fixtures, finish and cabinetry of the permanently affordable units shall be published annually by the City of Boulder under the title "Livability Standards for Permanently Affordable Housing."

Permanently affordable units provided within Colorado Common Interest Ownership Communities, or other types of residential developments that have associations for the purpose of assessing charges to homeowners in order to maintain or provide elements of the development that are common to all homeowners, must have a limitation on the amount of such assessments consistent with the purposes of preserving the permanent affordability of the unit. The declarant shall submit the declarations for the common interest ownership community or homeowners association for approval by the city manager of those portions of the declarations that govern regular and special assessments. The valuation of the common elements should be assessed proportionately to each permanently affordable and market rate unit and should reflect both the square footage differential between the class representing the allocated interests of the permanently affordable unit(s) and the remaining class(es) of interest(s) as well as the differential between the allowable sale price(s) for the permanently affordable unit(s) and the market rate units.

4.1 Determination of Compliance with Chapter 9-13, B.R.C. 1981 [9-13-9(c)]

Applicants for any residential development approval, residential building permit or Residential Growth Management Allocation or Residential Growth Management Exemption must demonstrate compliance with the Inclusionary Zoning requirements of Chapter 9-13, B.R.C. 1981, through on-site, off-site, cash-in-lieu, or other approved alternative methods as determined below, before any such approval, permit, certificate of occupancy, allocation or exemption is issued.

In order to be eligible to apply for a Residential Growth Management Allocation or Exemption, or to receive approval for a Site Review, Use Review or other development approval, an Applicant must receive an approved, preliminary determination of inclusionary zoning compliance. In order to apply for a preliminary determination of compliance, the Applicant shall submit a completed copy of the "Development Review Application Form" in addition to the following information:

- Total number of proposed attached residential units;
- Total number of proposed detached residential units;

- Total square footage of proposed attached residential market rate units;
- Total square footage of proposed detached residential market rate units;
- Proposed square footage, number of bedrooms, targeted household Area Median Income (AMI), and the initial sale price or rent for each attached permanently affordable unit type;
- Proposed square footage, number of bedrooms, targeted household Area Median Income (AMI), and the initial sale price or rent for each detached permanently affordable unit type; and
- Date and brief description of any previous development approval or subdivision.

In the alternative, an Applicant may submit a completed copy of both the "Development Review Application Form" and the "Inclusionary Zoning Requirement Determination Form."

4.2 Determination of Asset Limitations for Income Eligible Households [9-13-3(c)]

An asset is a cash or noncash item that can be converted to cash. Annual income generated from assets or income which is imputed to assets shall be included as part of a household's annual income for purposes of determining income eligibility.

If a household has more than \$5,000 in assets, an imputed income attributable to such assets shall be calculated by averaging three published indices and applying the resultant average rate of return to the value of the assets. The three indices are as follows: the average rate of return for a regular savings account for the Denver metro area; the average rate of return for a three year Certificate of Deposit for the Denver metro area; and the ten year rate of return for the Wilshire 5000 Total Market Index. This average rate of return shall be calculated and published twice each calendar year by the city manager. The greater of the actual income from assets or the imputed income attributable to assets shall be added to the household's annual income for calculating income eligibility.

Any asset disposed of for less than fair market value during two years preceding the income certification shall be considered as if the household still owned that asset.

**4.3 Application for Variance by Projects with Pending Project Approval Applications
[9-13-3(e)(5)]**

Developers or property owners of projects which applied for development approval prior to February 4, 2000, may request that the city manager vary the requirements of Chapter 9-13, B.R.C. 1981, for such a project. In order to consider a request for a variance, the developer or property owner shall submit in writing documentation that describes the proposed project, states the results of the application of Chapter 9-13, B.R.C. 1981, to the proposed project, and demonstrates how this application is infeasible and how the requested variance provides equivalent affordable housing benefits to the city. The city manager shall have ten business days from receipt of the request for variance to render a finding.

5.1 Application for Variance to Dwelling Unit Finished Size Requirement [9-13-4(c)(3)]

Developers of permanently affordable units may request that the city manager allow them to substitute two square feet of unfinished floor area for each square foot of required finished floor area up to a maximum of 400 unfinished square feet per dwelling unit. The unfinished floor area must be configured to allow for simple conversion to finished space, including, without limitation, roughed in plumbing fixtures for areas intended to be bathrooms or utility rooms.

In order for the city manager to consider a request for a variance to the required finished floor area of a permanently affordable unit, the developer or property owner shall submit the following:

- Identification of the units for which the variance is requested;
- A written description of the amount of substitution requested for each unit or unit type;
- Scaled floor plans which clearly indicate the requested allowance for finished and unfinished floor area; and
- Documentation regarding the ability of the unfinished floor area to be converted to finished, habitable floor area, including, without limitation, evidence of the soundness of the unit's structural components, ceiling heights, construction materials, location and size of exits and windows.

The city manager shall have ten business days from receipt of the request for variance to render a finding.

5.2 Application for Variance to Required Total Floor Area of Permanently Affordable Units [9-13-4(c)(4)]

Developers of permanently affordable units may request that the city manager allow them to reduce the combined or total required floor area of the permanently affordable units for a specific project in return for some alternative affordable housing benefit to the city. Such a variance may only be granted upon a finding by the city manager that such a reduction in floor area would result in additional affordable housing benefits to the city or would prevent an unlawful taking of property without just compensation in accordance with Section 9-13-10, B.R.C. 1981.

In order to consider a request for such a variance, the developer or property owner must provide a written statement as well as any documentation necessary to clearly demonstrate that the developer's proposed affordable housing alternative, offered in exchange for a reduction in the required total floor area of the permanently affordable units, provides additional affordable housing benefits to the city or prevents an unlawful taking of property.

The city manager shall have ten business days from receipt of the request for variance to render a Finding.

6.1 Documentation Required to Verify Eligible Cash-in-Lieu Contribution [9-13-5(a)]

An approved preliminary determination of inclusionary zoning compliance is required to verify a developer or property owner's eligible cash-in-lieu contribution. See Section 4.1, above, for a description of how to obtain this determination.

6.2 Alternative Methods of Compliance for Certain Single Dwelling Units [9-13-5]

Single lot owners who wish to avail themselves of the optional methods of complying with the Inclusionary Zoning requirements of Subsection 9-13-5(b), B.R.C. 1981, shall submit a completed Request for Alternative Inclusionary Zoning Compliance form which indicates the requested alternative with an attached, written, sworn affidavit that attests to the following:

- Ownership of a total of exactly one legal building lot in the City of Boulder; and
- The owner's intent to occupy the proposed residence as their primary residence for at least one year following receipt of a certificate of occupancy.

Additionally, the following requirements shall be met for each alternative, prior to application for a building permit:

- Alternative #1 - Designation of Home as a Permanently Affordable Unit. The property owner shall sign and record a restrictive covenant conning to the benefit of the city and against the land upon which the single dwelling unit is to be constructed. The restrictive covenant must be approved in a form acceptable to the city manager and the city attorney. The covenant shall include, without limitation, the following:
 - The qualifying household income necessary to take title to the unit at the subsequent title transfers;
 - An owner occupancy requirement;
 - The method by which the maximum allowable purchase price shall be calculated;
 - The amount by which the resale price may increase each year;
 - Affirmative marketing requirements; and
 - Enforcement remedies.
- Alternative #2 -Deferment of Cash-in-Lieu Contribution. Property owner shall sign and record a promissory note to the city and a restrictive covenant or lien running to the benefit of the city and against the real property to secure the deferred cash-in-lieu contribution.
- Alternative #3 -Other In-Lieu Consideration. If a property owner wishes to offer any other type of in-lieu consideration in order to meet the Inclusionary Zoning requirement, such an offer must be made in writing and have evidence which clearly demonstrates that the value of this alternative is equivalent to the cash-in-lieu contribution required by Chapter 9-13, B.R.C. 1981, and results in additional affordable housing benefits to the city. The city manager shall have ten business days from receipt of the offer of an alternative in-lieu consideration by the property owner to indicate acceptance or rejection of the offer.

6.3 Application Requirements for Waiver of Inclusionary Zoning Obligation for Certain Single Lot Owners [9-13-5(b)(4)]

Owners of single lots created prior to October 5, 1995, who are willing to permanently restrict the size of the proposed unit to a maximum of 1,600 square feet and who wish to request a waiver for the Inclusionary Zoning requirements of Subsection 9-13-5(b)(4), B.R.C. 1981, shall submit a completed Single Lot Owner Inclusionary Zoning Waiver Request Form with an attached, written, sworn affidavit that attests to the following:

- Ownership of a total of exactly one legal building lot in the City of Boulder;
- The owner's intent to occupy the proposed residence as their primary residence for at least one year following receipt of a certificate of occupancy; and
- The property owner has never received such a waiver previous to this request.

If the property owner's request is approved by the city, prior to application for a building permit, the property owner shall sign and record a restrictive covenant running to the benefit of the city and against the land upon which the single dwelling unit is to be constructed that permanently limits the size of the single dwelling unit to a maximum of 1,600 square feet.

7.1 Application Requirements for Variance to On-Site Construction Requirement [9-13-6(b)]

Developers of permanently affordable units may request that the city manager allow them to provide permanently affordable units off-site, in a number greater than that allowed by Chapter 9-13, B.R.C. 1981. Such a variance may be granted only upon a finding by the city manager that one of the following conditions applies:

- Providing more than fifty percent of the total permanently affordable units off-site will provide housing benefits to the city in addition to those that would be provided by constructing at least fifty percent of the required permanently affordable units on-site; or
- Zoning, environmental or legal restrictions make it unfeasible to provided the required number of on-site units.

In order to consider a request for such a variance, the developer or property owner must provide a written statement as well as documentation necessary to clearly demonstrate that the developer's proposed alternative provides additional affordable housing benefits to the

city or is necessary given zoning, environmental or legal constraints on the property that are beyond the control of the developer or property owner.

Unless the city manager makes an express finding to the contrary based upon unique facts applicable to a particular project, it shall be presumed that any variance request which would result in an additional fifty percent or more permanently affordable units above that number of units which would otherwise have been provided in the absence of such variance, shall constitute sufficient additional affordable housing benefits to justify the granting of such variance. A variance request which would result in a net increase of at least fifty percent in the total floor area of permanently affordable units shall also be presumed to be adequate to justify such variance in the absence of an express finding to the contrary based upon unique facts applicable to a particular project.

The city manager shall have ten business days from receipt of the request for variance to render a finding.

7.2 Requirements for Dedicating Existing Off-Site Units as Permanently Affordable
[9-13-6(c)(2)(C) and 9-13-7(a)(1)]

To assist in determining whether proposed existing unit(s) are of an equivalent value, quality, and size to those which would have been constructed on-site, the developer or property owner shall, at his or her own expense, hire a rehabilitation specialist certified by the city to inspect each proposed unit and determine whether the proposed unit meets current housing and building codes, and estimate the life cycle replacement timing and costs of the principle building structures and interior fixtures. These estimates or identified deficiencies will be considered regarding the acceptability of the proposed unit(s) and the allowable sale price or rent if the units are accepted by the city manager. Any proposed unit which fails to meet current housing and building codes must be brought into compliance at the developer's expense before that unit may be considered as fulfilling an inclusionary zoning requirement.

The inspection report and any necessary documentation required to support the findings or corrections related to the inspection report shall be submitted with an appraisal by an independent, certified appraiser chosen from a list maintained by the city or otherwise approved by the city with a written request to consider the proposed unit(s) as satisfaction to fulfill the inclusionary zoning requirement. In the alternative, the city manager and developer may agree to some other

means of valuation. The city manager shall have ten business days from receipt of the request to indicate acceptance or rejection of the proposed unit(s).

Proposed off-site units may be rejected if their location would cause any off-site development in which they are located to contain fifty percent or more permanently affordable units.

If the proposed unit(s) are acceptable to the city, the developer or property owner shall sign and record a restrictive covenant running to the benefit of the city and against the land upon which the dedicated dwelling unit(s) are located. The restrictive covenant must be in a form acceptable to the city manager and the city attorney. The covenant shall include, without limitation, the following:

- The qualifying household income necessary to purchase or rent the dwelling unit;
- The method by which the maximum allowable purchase price or rent shall be calculated;
- The amount by which the resale price or rent may increase each year;
- Affirmative marketing requirements; and
- Enforcement remedies.

No unit which was deed restricted to be permanently affordable prior to February 4, 2000, shall be eligible to fulfill any off-site inclusionary zoning requirement.

8.1 Application Requirements for a Variance for Rental Projects [9-13-7(a)(3)]

In order to consider a request for a variance to the requirements of Chapter 9-13, B.R.C.1981, the developer or property owner must provide a written statement as well as any documentation necessary to clearly demonstrate that the developer's proposed alternative provides affordable housing benefits to the city in addition to those which would otherwise be provided by compliance with Chapter 9-13, B.R.C. 1981.

Unless the city manager makes an express finding to the contrary based upon unique facts applicable to a particular project, it shall be presumed that any variance which results in an additional fifty percent or more permanently affordable units above that number of units which would otherwise have been provided in the absence of such variance shall constitute sufficient additional affordable housing benefits to justify the granting of such variance. A variance request which would result in a net increase of at least fifty percent in the total floor area of permanently affordable units shall also be presumed to be adequate to justify such variance in the

absence of an express finding to the contrary based upon unique facts applicable to a particular project.

The city manager shall have ten business days from receipt of the request for variance to render a finding.

8.2 Maximum Allowable Rents [9-13-7(b)(1)]

Maximum allowable unit rents are calculated based upon a presumed household applying no more than twenty-five percent of its monthly gross income from all sources to a rental payment.

"Rental payment" shall include, without limitation, all customary charges and fees to manage the dwelling units including water, sewer, and trash service and shall not include all other utilities. If other utilities are included, maximum allowable rents may be calculated based upon a household applying no more than up to thirty percent of its monthly gross income from all sources for a rental payment combined with utilities.

To determine the maximum allowable rental payment that maybe charged for permanently affordable units, the following assumptions regarding unit size, unit configuration, household size and Area Median Income (AMI) shall be used:

Minimum Floor Area	Maximum Floor Area	Household Size	Minimum Bedrooms	Minimum Bathrooms	AMI
701 Square Feet	800 Square Feet	1	1	1	10% < HUD Low Income Limit
901 Square Feet	1,000 Square Feet	2	2	1.5	10% < HUD Low Income Limit
1,101 Square Feet	1,200 Square Feet	3	3	1.75	10% < HUD Low Income Limit
1,201 Square Feet	1,300 Square Feet	4	4	1.75	10% < HUD Low Income Limit

A chart shall be published annually by the City of Boulder that details the maximum allowable rents for permanently affordable rental units.

8.3 Documentation Required to Verify Income of Prospective Renters or Purchasers of Permanently Affordable Units [9-13-7(b)(2) and 9-13-8(c)]

Prospective purchasers or renters of permanently affordable units shall be required to submit to the city manager, or by written agreement from the city manager, a designated property owner, the following documents in order to verify that the prospective purchaser's or renter's income qualifies them to purchase or rent a particular permanently affordable unit:

- A letter from the employer on letterhead indicating annual gross wage or a completed employer verification form;
- If self-employed, a year-to-date profit-loss statement plus the last three years of completed federal income tax forms and corresponding 1099 forms;
- Verification of all benefit payments;
- A copy of the most recent federal income tax form and corresponding W-2s;
- Bank verification form documenting the six month average balance of all checking accounts or six months of all checking account statements;
- Bank verification of all savings accounts;
- A current statement from each asset indicating the current balance, interest rate or annual dividend earned;
- If divorced with minor children, a copy of the divorce decree indicating the custody arrangements and child or alimony payments; and
- Purchasers of permanently affordable units must also submit a copy of a prequalification letter from a lender of their choice demonstrating that they are financially able to purchase the unit or financial documentation that they can purchase the unit on their own.

All required documentation submitted to verify household income shall be kept confidential and is not subject to public disclosure.

9.1 Maximum Sales Price for Permanently Affordable Units [9-13-8(a)]

To determine the maximum allowable sales price that may be charged for a permanently affordable unit, the following assumptions regarding unit size, unit configuration, household size and AMI shall be used:

Minimum Floor Area	Maximum Floor Area	Household Size	Minimum Bedrooms	Minimum Bathrooms	AMI
701 Square Feet	800 Square Feet	1	1	1	HUD Low Income Limit
801 Square Feet	900 Square Feet	2	2	1.5	HUD Low Income Limit
901 Square Feet	1,000 Square Feet	3	3	1.75	HUD Low Income Limit
1,201 Square Feet	1,300 Square Feet	5	4	1.75	HUD Low Income Limit

9.2 Method for Determining the Average Price within a Development [9-13-8(b)]

The prices charged for permanently affordable ownership units in any one project shall average a price affordable to a household earning the HUD Low Income Limit for the city of Boulder, with no single permanently affordable unit exceeding a price that is affordable to a household earning ten (10) percent more than the HUD Low Income Limit for the city of Boulder.

Prior to signing and recording any restrictive covenant securing permanent affordability for a unit within a development, the developer shall submit to the city manager the following information for each permanently affordable unit:

- Legal description;
- Total finished square footage;
- Number of bedrooms;
- Number of bathrooms;
- Price;
- Targeted AMI;
- Estimated construction schedule; and

- Title commitment or attorney's memorandum current to within thirty (30) days of the date of the restrictive covenant.

9.3 Approved Purchaser of Permanently Affordable Units [9-13-8(d)]

Only those households which have a valid income certification from the City of Boulder may purchase or enter into a contract to purchase a permanently affordable unit. Upon request, the city may provide the developer or owner of a permanently affordable housing unit with a list of income certified households. No purchaser shall be approved to purchase a permanently affordable unit unless the number of persons in the purchaser's household is at least one less than the number of bedrooms in the permanently affordable unit.

Upon closing, the warranty deed and a copy of the HUD-1 Settlement Sheet, or alternative documentation in a form acceptable to the city manager which conveys similar, verifiable information, shall be forwarded to the Division of Housing to verify the sale of the permanently affordable unit.

9.4 Owner Occupancy Requirement [9-13-8(t)(1)]

Purchasers of permanently affordable units are required to occupy the purchased permanently affordable unit within thirty days of closing on the unit. Owners of permanently affordable units are required to occupy those units as their primary residence. Owner occupancy means occupying the unit nine months of each calendar year.

9.5 Application Requirements for Request to Rent a Permanently Affordable Ownership Unit [9-13-8(f)(2)(3) and (5)]

A permanently affordable ownership unit must be owner occupied as the owner's primary residence for at least five years before the unit may be rented to another household. Following this initial five-year period of owner occupancy, rental of the unit shall be limited to an aggregate of one year of rental for every seven years of consecutive ownership.

The property owner shall provide written notice to the city manager of its intent to rent the permanently affordable unit prior to actually renting the unit. This written notice shall include, without limitation, the following:

- The homeowner's name, contact telephone number and mailing address during the rental period;
- The address of the permanently affordable unit;
- The anticipated date the unit will be rented or leased and the duration of the lease;
- The prospective tenant's name, if known;
- A copy of the lease or rental agreement to be used; and
- A statement that the property owner agrees to comply with all applicable local, state and federal regulations pertaining to the renting of a dwelling unit.

The tenant's household must meet the income requirements of the covenant for the permanently affordable unit. Verification of the prospective tenant's household income and assets must be submitted to the city manager for review and approval prior to the execution of any lease or rental agreement along with those documents which the city finds to be reasonably necessary in order to determine compliance with the restrictions of the permanently affordable unit.

9.6 Documentation Required to Approve Purchasers on Resale of Permanently Affordable Units [9-13-8(g)(1)]

Prior to purchasing a permanently affordable unit, a prospective buyer shall be required to submit to the city manager a completed Income Certification Form with required attachments in order to verify that the prospective purchaser's income qualifies them to purchase a particular permanently affordable unit.

All required documentation submitted to verify household income shall be kept confidential and is not subject to public disclosure.

Upon closing, the warranty deed and a copy of the HUD-1 Settlement sheet shall be forwarded to the Division of Housing to verify the sale of the permanently affordable unit.

9.7 Maximum Allowable Resale Prices [9-13-8(g)(2) and (3)]

The maximum allowable resale price shall be calculated using the original homeowner's acquisition price as the base from which calculation is made. That base price may be increased by utilization of any of the following factors:

- Customary closing or settlement costs attendant to the original homeowner's acquisition. Customary closing costs include title insurance and one-half of the real estate settlement fees to the title company.
- The cost of a real estate commission paid by the seller if a licensed real estate agent or realtor is employed. The city manager shall determine the maximum commission added to the base price after considering the availability of professional real estate services at or below that maximum rate. If the owner of the unit chooses to sell without utilizing the services of a realtor or real estate agent then the homeowner may be eligible to add a fixed fee as determined by the city manager.
- An adjustment based on the value as determined by the city manager, of eligible capital improvements. A list of eligible capital improvements shall be published and maintained by the city manager. Capital improvements shall be of a permanent nature and have long-term added value. Luxury items will not be included on the list of eligible improvements.
- An annual adjustment based upon the lesser of the change in the CPI-U for Boulder or the AMI for Boulder up to a maximum fixed percentage change as stated in the covenant for the specific permanently affordable unit. The city manager may establish an annual minimum amount for this adjustment.
- A shared appreciation factor as stated in a community land trust lease for a specific permanently affordable unit.

The base price may be decreased by imposition of an excessive damage charge if the homeowner has failed to maintain the property to the standard required by the covenant for the specific permanently affordable unit.

The calculated maximum allowable sales price is not a guarantee that the unit will be resold at that price. It is anticipated that market conditions may, from time to time, cause a permanently affordable unit to be sold for less than the maximum allowable resale price.

10.1 Application Requirements for Variance to Required Construction Timing [9-13-9(a)]

In order to consider a request for a variance to the requirement that permanently affordable units be constructed so as to ensure that they are marketed concurrently with or prior to the market rate units, the developer or property owner must provide a written statement as well as

documentation necessary to clearly demonstrate that the developer's proposed alternative scheduling provides affordable housing benefits to the city in addition to those benefits otherwise allowed by Chapter 9-13, B.R.C. 1981.

The city manager shall have ten business days from receipt of the request for variance to render a finding.

10.2 Required Agreements [9-13-9(c)]

Restrictive covenants intended to secure the permanent affordability of designated units must be in a form acceptable to the city manager and the city attorney and shall include, without limitation, the following:

- The qualifying household income necessary to purchase or rent the dwelling unit;
- The method by which the maximum allowable purchase price or rent shall be calculated;
- The amount by which the resale price or rent may increase each year;
- Affirmative marketing requirements; and
- Enforcement remedies.

10.3 Good Faith Marketing Required [9-13-9(d)]

Elements of a good faith marketing effort shall include the following:

- Hosting at least two open houses or showing the home to all interested buyers by appointment;
- Listing all properties in the MLS or placement of at least two advertisements during separate weeks in a local newspaper of general circulation;
- Provision of information about each property, including square foot, number of bedrooms, price and amenities, to the City of Boulder so that such information may be disseminated by the City of Boulder; and
- Maintaining each unit on the open market for a minimum of thirty days. Contracts-to-purchase may be submitted during the marketing period; however, no contract can be accepted until the mandatory marketing period has expired.

The seller shall maintain a marketing log that shows the advertisements and other information that was disseminated about the project and keep a list of prospective buyers who have expressed interest in an advertised permanently affordable unit, including any information provided by such prospective buyers concerning their income, place of work, current residence and household size. The City of Boulder, upon request, shall have a right to review such log and written materials to ensure that a fair marketing effort was implemented.

Upon the expiration of the marketing period, if only one contract was received, the developer/seller may accept that offer. If more than one contract has been received, the developer/seller shall utilize a fair selection process to select among the prospective purchasers. Consideration of the following factors is consistent with a fair selection process:

- Preference maybe given to a household that lives or works in the City of Boulder;
- Preference may be given to a household that has been income certified and placed on the City of Boulder's referral list for at least one year.

Upon request, the City of Boulder will provide a selection process model which, if followed, will satisfy the requirement for fair marketing. A developer or seller may choose to follow the city's selection process model in-lieu of developing his or her own fair selection process.