



CITY OF DUBLIN

LAYPERSON'S GUIDE TO THE INCLUSIONARY ZONING ORDINANCE REGULATIONS

**APPROVED BY DUBLIN CITY COUNCIL
ON JUNE 1, 2004**

Revised in April 2005

CITY OF DUBLIN

TABLE OF CONTENTS

INTRODUCTION	1
1 THE INCLUSIONARY ZONING PROCESS	2
1.1 Determining the Number and Size of Units Required	2
1.2 How to Calculate the Inclusionary Unit Obligation	2
1.3 How to Calculate How Many Units <i>Must</i> Be Constructed and How Many Units Will be Subject to the In-Lieu Fee	3
1.4 How to Calculate the Fee That May Be Paid in-lieu of Unit Construction	3
1.5 How to Calculate How Many Inclusionary Units Must Be Provided at Each of the Three Income Levels	4
1.6 How to Determine the Unit Sizes and bedroom requirements for Inclusionary Units	5
1.7 How to Determine the Location of Inclusionary Units Within the Development	6
2 AFFORDABLE HOUSING AGREEMENT	7
2.1 What is an Affordable Housing Agreement	7
3 FOR SALE PROJECTS	8
3.1 The Marketing Plan	8
3.2 Applications for Ownership Units	8
3.3 Screening Based on Household Size	10
3.4 Screening Based on Priority Preferences	11
3.5 Buyer Selection Process	13
4 ESTABLISHING SALES PRICE AND LOAN REQUIREMENTS FOR OWNERSHIP UNITS	13
4.1 Sales Price of Affordable Units	13

4.2	Acceptable Home Loan Products for Inclusionary Zoning Units	16
4.3	Closing of Sale and Escrow	16
5	RENTAL PROJECTS	17
5.1	Preparation and Approval of Management Plan	17
5.2	Establishing Unit Rents for Inclusionary Units	17
5.3	Screening Based on Household Size	17
5.4	Screening Based on Priority Preferences	18
5.5	Occupant Selection for Rental Developments	20
5.6	Calculating Affordable Rents	21
5.7	Monitoring Rents	22

LIST OF EXHIBITS

Exhibit 1	Resale Restriction Agreement and Option to Purchase
Exhibit 2	Sample Inclusionary Unit Application packet
Exhibit 3	Sample Application to Purchase Inclusionary Unit
Exhibit 4	Selection Preference Verification Letter
Exhibit 5	Excel Spreadsheet to Calculate Ownership Sale Prices
Exhibit 6	State of California Housing and Community Development Department Income for Guidelines (Example 2004)
Exhibit 7	Current Alameda County Housing Authority Utility Allowance Sheet
Exhibit 8	Below Market Rate Unit Monitoring Sheet

LAYPERSON'S GUIDE TO THE INCLUSIONARY ZONING ORDINANCE REGULATIONS

(Provision of For-Sale and Rental Inclusionary Units (below market rate units))

Introduction

This document is the Layperson's Guide to the City's Inclusionary Zoning Ordinance Regulations ("the Regulations"), which are set forth in the City's Municipal Code at Chapter 8.68. The City Council's purpose in adopting these Regulations is to increase the diversity of housing prices/rents in the community and ensure that the range of prices/rents continue over time.

The purpose of this Guide is to assist the layperson in interpreting these Regulations early in the development process so that development projects are sensitively designed from the beginning.

Development projects of 20 residential units or more must comply with the Regulations. In general, the Regulations require that 12.5% of the units constructed in a project be restricted in occupancy and in sale price or rent charged. Such restricted units are referred to as Inclusionary Units or Below-Market-Rate (BMR) units. (Section 8.68.030.A)

Of these units, 50% must be affordable to moderate-income households, 20% to low-income households and 30% to very low-income households. (Section 8.68.030.B) Moderate-income households, low-income households, and very low-income households are defined as households that have an income level, respectively, of 120% to 80%, 80% to 50%, and less than 50% of the median income for the County of Alameda adjusted for household size. (Section 8.68.030.D.) The State of California Housing Community Development Department (HCD) annually publishes income limits for each County. The City uses the HCD income limits for Alameda County, which are available on the HCD website (www.hcd.ca.gov), for setting income limits for the Inclusionary Zoning Regulations (Section 8.68.030.D).

While the Regulations require that 12.5% of the units in the project be Inclusionary Units, they permit the developer to meet 40% of this obligation by paying a fee in-lieu of construction. Thus, there is a "must-build" requirement of 7.5% of the units in the project, and the obligation with respect to the remaining 5% may be satisfied by the payment of a fee in-lieu of construction. Inclusionary Units must remain affordable for a period of 55 years, through affordability restrictions recorded against the property.

In addition, the Inclusionary Zoning Regulations require that Inclusionary Units:

- Be constructed concurrently with the market-rate units in the project
- Have a similar range of bedrooms to the market-rate units in the project
- Not be distinguished by design or materials from the market-rate units in the project

- Be reasonably dispersed throughout the project.

The Regulations also contain other means of complying with the obligations it imposes. Those alternatives are set forth in Section 8.68.040 of the Dublin Municipal Code.

1 THE INCLUSIONARY ZONING PROCESS

1.1 Determining the Number and Size of Units Required

Prior to submitting a preapplication to the City for projects that include residential units of 20 or more, the developer should begin thinking about how the Inclusionary Units will be built into the design of the project. Housing Staff is available to discuss options for meeting the Inclusionary Requirements with the developer as part of the initial project review. For example, if a Developer intends to build only the minimum number of Inclusionary Units that the Regulations require it to build, Housing Staff can preliminarily indicate for the developer's planning purposes the number of Inclusionary Units the developer is required to build, the income levels and sizes of the required Inclusionary Units, and the amount of the in-lieu fee under the then-current fee schedule.

After a project application is submitted to the Community Development Department for review, a Planning Review Committee Meeting is generally held. In this meeting City Staff and interested agencies involved in the development process review the project and give preliminary comments to the developer.

Prior to or following the Project Review Committee (PRC) meeting, Housing Staff will send a letter to the developer indicating the Inclusionary Zoning Obligations of the project as preliminarily proposed. A copy of this letter will be directed to the City Planner responsible for the project as well. The purpose of this letter is to provide the developer information on inclusionary obligations as early as possible in the development process. The City recognizes that the project is likely to evolve over time and that the project will likely change prior to obtaining City entitlements. However, this information is provided early in the process as a service to the developer for their planning purposes.

The actual Inclusionary Zoning Obligations will be formalized in an Affordable Housing Agreement (AHA) between the City and the Developer, prior to recordation of a final map for the development.

1.2 How to Calculate the Inclusionary Unit Obligation

The Regulations state that 12.5% of the total number of units within an applicable development project be Inclusionary Units (Section 8.68.030.A.). In making this calculation, any decimal fraction less than or equal to 0.50 is disregarded, and a decimal fraction greater than 0.50 is construed as a unit. Two examples of how the Inclusionary Unit Obligation for a particular development are shown in Figure 1.

FIGURE 1

Example 1: The developer proposes a 224-unit subdivision. 12.5% percent of 224 is 28. The Inclusionary Obligation is therefore 28 units.

Example 2: The developer proposes a 316-unit subdivision. 12.5% percent of 316 is 39.5. Rounding the decimal fraction down, the Inclusionary Obligation is therefore 39 units.

1.3 How to Calculate How Many Units *Must* Be Constructed and How Many Units Will be Subject to the In-Lieu Fee

The Regulations permit the developer to pay a fee in-lieu of constructing up to 40% of the Inclusionary Unit Obligation. When the calculation of the fee results is a decimal fraction, the rounding rules contained in Section 8.68.030A are used.

Using the same examples from Figure 1, Figure 2 illustrates the calculation of the number of Inclusionary Units that will be subject to the fee.

FIGURE 2

Example 1: The developer proposes a 224-unit subdivision, for which the Inclusionary Obligation is 28 units. 40% of 28 units = 11.2 units. Disregarding the fraction, the developer may pay fees in-lieu of construction on the remaining 11 units, and the developer's "must-build" obligation would be 17 units. $11 + 17 = 28$ units.

Example 2: The developer proposes a 316-unit subdivision, for which the Inclusionary Obligation is 39 units. 40% of 39 units = 15.6 units. This number is rounded up to 16 and in-lieu fees may be paid for this amount, instead of providing units. The "must-build" obligation would be 23 units. $16 + 23 = 39$ units.

1.4 How to Calculate the Fee That May Be Paid in-lieu of Unit Construction

The amount of the in-lieu fee is set by resolution of the City Council. Resolution No. 56-02 establishes that the in-lieu fee per unit is adjusted annually on July 1 to reflect the greater of the percentage change either in a) the Bay Area Urban Consumer Price Index (CPI) as of March of each year, or b) the United States Department of Housing and Urban Development (HUD) Fair Market Rent limits for the Oakland Primary Metropolitan Statistical Area (PMSA) that are in effect at the time. The fee as of July 1, 2004 is \$82,466 per Inclusionary Unit.

THE ENTIRE IN-LIEU FEE AMOUNT FOR THE PROJECT IS DUE AND PAYABLE AT ISSUANCE OF FIRST BUILDING PERMIT IN THE PROJECT.

Using the examples from Figures 1 and 2, Figure 3 illustrates how to calculate the amount of the in-lieu fee.

FIGURE 3

Example 1: The developer proposes a 224-unit subdivision. Fees may be paid in lieu of construction on 11 units. $11 \times \$79,754 = \$877,294$, which is the amount of the in-lieu fee for the project. This entire amount would be due prior to issuance of first building permit.

Example 2: The developer proposes a 316-unit subdivision. Fees may be paid in lieu of construction on 16 units. $16 \times \$79,754 = \$1,276,064$, which is the amount of the in-lieu fee for the project. This entire amount would be due prior to issuance of first building permit.

1.5 How to Calculate How Many Inclusionary Units Must Be Provided at Each of the Three Income Levels

The Regulations (Section 8.68.030.B) state that the Inclusionary Units included in each development project shall be allocated to households in the following manner.

Very low-income households	30%
Low-income households	20%
Moderate-income households	<u>50%</u>
	100%

Once again, when the result of the allocation calculations includes a decimal fraction, the rounding rules contained in Section 8.68.030.A are used. The Regulations indicate that, where the allocation results in fewer units than would otherwise be required; one additional unit should be allocated to the lowest income level with the decimal fraction closest to 0.50. (Section 8.68.030.B)

Figure 4 illustrates how to calculate the number of units that must be provided at each income level and how the rounding requirement is implemented.

FIGURE 4

The project includes 200 units. The Inclusionary Unit obligation is, therefore, 25 units. The developer chooses to pay the in-lieu fee for 40% of the units, which equals 10 units. The developer's *must-build* requirement (7.5%) is, therefore, 15 units.

- 50% of those 15 units would need to be restricted for moderate-income households, 50% of 15 = 7.5
- 20% of those 15 units would need to be restricted for low-income households, 20% of 15 = 3
- 30% of those 15 units would need to be restricted for very low-income households, 30% of 15 = 4.5

$$7.5 + 3 + 4.5 = 15$$

Since two of these numbers are fractions at exactly .5, the City of Dublin would require that the unit be provided in the lower income category.

In this example the income- unit mix would be:

- 7 moderate-income units
- 3 low-income units
- 5 very low-income units

1.6 How to Determine the Unit Sizes and bedroom requirements for Inclusionary Units

The Regulations require that the same proportion of bedrooms be reflected in the Inclusionary units as are in the market rate units. Once again, the rounding conventions in Section 8.68.030.A are used, if the allocations result in decimal fractions.

Figure 5 illustrates how to determine the number of Inclusionary Units that must be provided at each unit size.

FIGURE 5

To determine bedroom requirement:

The developer proposes a 200-unit condominium project and is paying in-lieu fees for 40%. The *must build* obligation is 15 units.

The project includes:

- 50 one-bedroom units (25 % of total)
- 100 two-bedroom units (50% of total)
- 50 three-bedroom units (25% of total)

Therefore:

- 25% of the Inclusionary Units are to be one-bedrooms
- 50% of the Inclusionary Units are to be two-bedrooms
- 25% of the Inclusionary Units are to be three-bedrooms

To determine bedroom requirement per income category:

If 5 of the units are very low-income, using the percentages above the requirement for bedrooms are:

- 25% of 5 = 1.25 one-bedroom units
- 50% of 5 = 2.5 two-bedroom units
- 25% of 5 = 1.25 three-bedroom units

Therefore, the development would be required to provide:

- 1 one-bedroom unit
- 3 two bedroom units
- 1 three bedroom unit

The same calculation is performed to determine the bedroom sizes of the low-income and moderate-income units.

1.7 How to Determine the Location of Inclusionary Units Within the Development

Section 8.68.030.E states that “All affordable units shall be reasonably dispersed throughout the project.” The purpose of this provision is to avoid concentration of the Inclusionary Units in a particular location within a development, effectively segregating them from the rest of the development project. There are many ways in which to implement this requirement and consultation with Community Development Department Staff is recommended prior to developing the final site plan. Ultimately, the Planning Commission or City Council will make a determination based on Staff recommendation if this requirement has been met.

2 AFFORDABLE HOUSING AGREEMENT

The execution of an Affordable Housing Agreement (“Agreement”) is required under Section 8.68.50 of the Dublin Municipal Code. This requirement is generally repeated in the Conditions of Approval for the Site Development Review or Tentative Map for the development project for the developer’s convenience.

2.1 What is an Affordable Housing Agreement

This agreement contains the legal requirements of the residential project for compliance with the Inclusionary Zoning Ordinance regulations. This Agreement runs with the land and survives transfer or sale of the land to another developer. The Agreement is for a period of 55 years. If a project is not built and new entitlements are sought for a property, a new Affordable Housing Agreement would be required, which would replace the existing Agreement.

Among other things, the Agreement must contain the following items:

1. A description of how the developer will comply with its Inclusionary Obligation (whether through unit construction and/or partial payment);
2. An indication of whether the Inclusionary Units will be for-sale or rental units;
3. A requirement that the developer construct the number of Inclusionary Units required to be constructed in each income category;
4. A requirement that the developer construct Inclusionary Units at particular unit sizes (i.e., number of bedrooms) in each income category;
5. Depending on the nature of the development, requirements regarding the timing of construction of the units to ensure that the units are constructed concurrently with the development of the project as a whole;
6. If the development proposes for-sale units, a requirement that the developer prepare and obtain City approval of a Marketing Plan, prior to issuance of any building permits in the project, indicating efforts to be made by the developer to sell or rent the Inclusionary Units. This requirement is discussed in additional detail in Section 2.2 below;
7. If the development proposes for-sale units, it is required that the developer ensure that the purchaser of an Inclusionary Unit execute a resale agreement. A copy of the form resale agreement is attached as **Exhibit No. 1**; and
8. If the development proposes rental units, the owner shall provide a Management Plan and prepare the Annual Report required by Section 8.68.050B. The Management Plan documents how the management firm markets the Inclusionary Units, how the firm maintains a waiting list for the Inclusionary units, how the management firm verifies the household income of applicants for the Inclusionary Units, both initially and annually, provides information on the units to be made available for the City of Dublin to use on the City website, provides a contact telephone number and also identifies those responsible for contact and communication with the City of Dublin. Upon approval of the City Staff, the

Management Plan may be produced and submitted after the Affordable Housing Agreement is executed, but prior to the issuance of building permits.

3 FOR SALE PROJECTS

After the Affordable Housing Agreement is executed, and prior to the sale of any affordable units in the project there is a process that must be followed that includes preparation of a Marketing Plan, screening, ranking, qualifying and providing documentation to Housing Staff for final verification of eligibility for an Inclusionary Unit.

3.1 The Marketing Plan

Prior to the issuance of building permits for any for-sale Inclusionary Units, the developer shall submit a Marketing Plan for the City's approval. The Marketing Plan must contain the following:

1. A one-page narrative summary suitable for advertising the availability of the Inclusionary Units on the City web page and other locations, including a telephone number for interested applicants to call for additional information;
2. An explanation of the application process to be used. The Regulations require that applicants be ranked based on preferences set forth in the ordinance (Section 8.68.050.D);
3. The developer must indicate the process by which it intends to accept applications and rank applicant households. In order to establish an eligibility list, it will be necessary that application deadlines be established for each phase of a development that includes Inclusionary Units;
4. Timelines for buyer selection. If the development is a phased project, information must be provided on the number of phases and the timelines for those phases; and
5. A requirement that the developer's sales staff meet with the City's Housing Staff to receive training on the sale selection process and application. (**See Exhibit No. 2**)

3.2 Applications for Ownership Units

Each applicant shall be required to complete an application. **Exhibit No 3** is a sample application for the purchase of an Inclusionary Unit.

An applicant receives:

- Explanation of the process used in occupant selection;
- Eligibility requirements for interested buyers;

- The income levels for the various units;
- The City preferences in occupant selection as established in the Regulations (Section 8.68.050.D);
- Any floor plans for the offered units;
- The City’s “Application for Inclusionary Unit”; and
- The Disclosure Statement from the Resale Agreement.

It is important that the developer’s sales staff be able to understand the application process. Pursuant to the Marketing Plan, the Housing Staff will have provided the developer’s sales staff with training so that they understand and can explain the application process. The developer’s sales staff should be able to explain the resale restrictions that are contained in the Resale Agreement that each buyer would need to execute.

The developer may rank applicants based on the criteria that are set forth in their Marketing Plan. For example, the developer might only accept those applicants that are mortgage pre-qualified by a lender or other methods. Once the applicants are ranked, the developer must use this list and offer the units to the highest ranked household as long as these households are able to verify that they are in the correct income category and are able to obtain a loan for the unit. (Acceptable Home Loan Products are discussed in Section 4.2). *The sale prices of the units will vary depending on the income of each prospective household offered a unit.*

Figure 6 illustrates how the selection process works. (See following page)

FIGURE 6

Step 1. A developer decides to accept Inclusionary Unit applications for a particular period of time and advertises, as set forth in the Marketing Plan.

Step 2. The developer makes application packets available to all who request them. The developer will also provide application packets to the City for distribution at City Hall and the Library.

Step 3. The applicant response period ends. The developer will sort and establish a list of all qualified applicants within one month following closing of applicant list.

This initial screening will qualify applicants based on low, very low or moderate income as the case may be for the particular unit) and whether the household is the appropriate size for the particular unit. If the developer has established in the Marketing Plan that they will accept only mortgage pre-qualified applicants, this will be reflected in the list as well.

Step 4. All qualified applicants within each income category will be ranked by the preference categories in the Regulations. Those applicants with the highest number of points are at the top of the list and others follow in descending order based on the number of points given.

Step 5. Units are offered to applicants beginning at the top of the list.

The developer may not pass over an applicant higher on a list in favor of another because of a higher income. Applicants are to be taken in the order ranked. The developer may only exclude ranked applicants because the applicants were not successful in obtaining financing or were not able to demonstrate their qualifying household income.

Step 6. If the applicant accepts the unit, the applicant's file, ready to enter into escrow, is delivered to the City of Dublin Housing Staff for review and confirmation.

Step 7. Applicant's files are returned to developer and escrow may begin for each qualified applicant for the unit.

3.3 Screening Based on Household Size

For both rental and for-sale units, household size for each Inclusionary Unit may not exceed two people for each bedroom and may not be less than one person per bedroom, unless otherwise prohibited by special financing sources such as the California Multifamily Housing Program. Selection of applicants will be limited to those households that match the number of bedrooms in the units being constructed for sale. The following household sizes for various units sizes are used:

One-bedroom units	1-2 people households
Two-bedroom units	2-4 people households
Three-bedroom units	3-6 people households
Four-bedroom units	4-8 people households

3.4 Screening Based on Priority Preferences

After being screened for initial eligibility based on household income and household size, applicant households shall be ranked and sorted based on the number of points the applicant receives under the priorities set forth in the Regulations at Section 8.68.050.D. If priority categories are checked on the application form, the developer will be required to request verification of that claimed preference from the applicant and the form letter requesting verification attached as Exhibit No 4 may be used for this purpose. This verification may be requested at the initial application or at a later date, after the developer has performed a preliminary review of all applicants.

The point system set out in the Regulations (see Table 1) provides preferences to those persons who live in Dublin, work in Dublin, are public-service employees in Dublin, are seniors, are permanently disabled, are an immediate family member of a Dublin resident, and/or are being required to relocate from current Dublin residence due to demolition of dwelling or conversion of dwelling from rental to for-sale (1 point, one per household). The Regulations provide that even if two persons in the household may be eligible to receive priority points, the points are only awarded for one person. For example, if a husband and wife are both employed in Dublin, the couple receives only 3 points for being employed in Dublin. Similarly, if two seniors make up a household, they would be entitled to only 1 point.

Table 1: The Priority Point System

<i>Priority</i>	<i>Points</i>
Employed in Dublin	3 points
Public service employee in Dublin	1 additional point
Resides in Dublin	3 points
Seniors (62 and over)	1 point
Permanently disabled	1 point
Have an immediate family who is a Dublin resident & has continuously lived in Dublin the past year	1 point
Must move because housing is to be demolished or converted to condo	1 point

Definitions of the various priority categories are set forth in the Regulations, Section 8.68.050.D as follows:

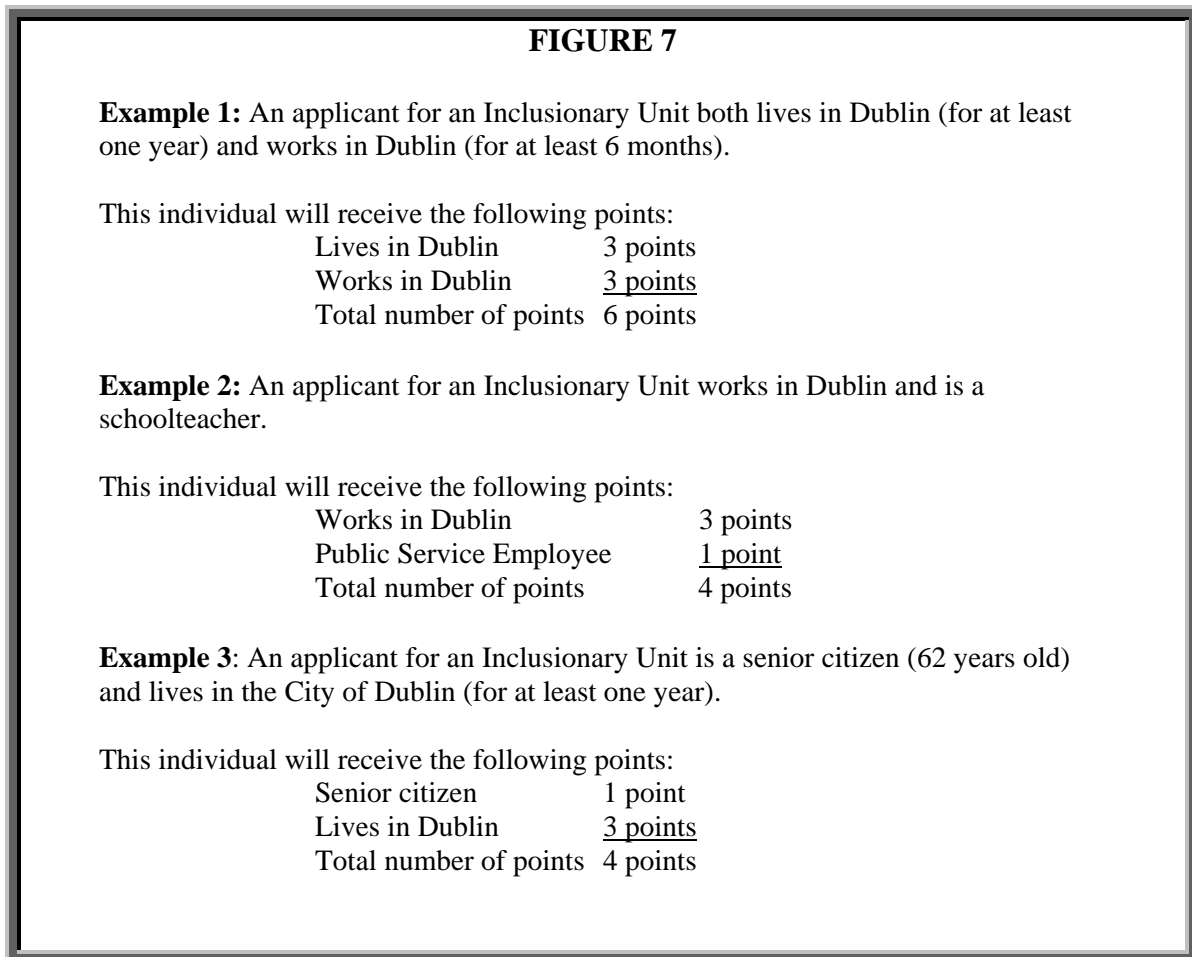
- To qualify as employed in Dublin the person shall have been employed within the City of Dublin for at least six months.
- To qualify as a public service employee the person shall be employed by a public agency.
- To qualify as a Dublin resident, the person shall have been a resident of the City of Dublin for at least a one-year period prior to the eligibility determination.

- To qualify as a relocated Dublin resident, the person shall have been relocated from the current Dublin residence due to demolition of dwelling or conversion of dwelling from rental to for-sale unit.

Where definitions are not explicitly stated in the Regulations, the City has developed definitions:

- A senior is defined as a person 62 years or older for the purpose of qualifying for preference points.
- To qualify for the permanently disabled point, the person must be able to provide written verification from a physician or show receipt of SSI.
- Immediate family is defined as a mother, father, brother, sister, child, grandparent or grandchild.

Figure 7 demonstrates how the preference points are calculated.



3.5 Buyer Selection Process

The developer locates and finally selects purchasers pursuant to the Inclusionary Zoning Regulations. The restricted units are to be made available to very low, low, and moderate income households. The developer must verify that the prospective occupants' income is/are appropriate for those categories. This verification must consist of evidence based on some third party source such as income tax returns or W-2 statements. Proof that the developer has requested and obtained this verification from prospective occupants will be requested by the City Housing Staff prior to final approval of occupancy in any Inclusionary unit.

The selection process requires the developer to use the following process:

- Collect applications for a given time period. An initial qualification is made based on household size (See Section 3.1) and household income (see Section 4.1).
- Sort and rank the applications based on the Inclusionary Zoning Regulations' preferences for occupant selection. Complete the ranking process and produce a list with those applicants with the most City of Dublin preference points at the top followed by all other applicants in descending order based on number of points received. If more than one applicant receives the same number of City preference points or if some applicants receive no points, the developer shall use other objective criteria in occupant selection. The criteria that the developer proposes to use shall be submitted to City Staff ahead of time in the Marketing Plan. For example, the developer may date stamp all applicant applications and, in the case of a tie, will offer the unit to that applicant that applied first, or the developer may choose to hold a lottery to break ties.
- The ranked list must be completed within 30 days of the application deadline.
- Offer the units to applicants based on the list established above, offering first to those applicants with the most points, then in descending order.
- Provide application with income verification, executed Resale Agreement and final sale price offered as well as loan product to be used to City for final determination of eligibility. *If all needed documents are included*, the City will return to developer or agent within a week if possible.

4 ESTABLISHING SALES PRICE AND LOAN REQUIREMENTS FOR OWNERSHIP UNITS

4.1 Sales Price of Affordable Units

The Inclusionary Ordinance (Section 8.68.020A.2) states that the price at which the Inclusionary Units are to be offered is the price that would allow an applicant in the

pertinent category to pay no more than 35% of their income toward *housing expenses*. This requires that each and every qualified buyer pay no more than 35% of his or her individual household income toward housing expenses. The only exception is very-low income applicants. Units for very-low income applicants will be priced using the maximum in the low income level adjusted for household size as total housing expenditures.

As described below, a number of assumptions are used to calculate the maximum sale price for inclusionary units. An individual homebuyer's actual expenses may differ from the assumptions. For example, the actual interest rate may be lower if the homebuyer obtains a variable interest rate mortgage. In addition, the actual downpayment may be more or less than the assumed 5%, and the mortgage term may be less than 30 years. The assumptions are used for the purpose of establishing a standardized method of arriving at a sales price, and are not intended to limit the choices that a buyer may utilize or to limit the mortgage products or downpayments that a developer may accept.

Following lending industry standards, housing expenses consist of "PITI," or principal, interest, taxes and insurance. The City of Dublin also includes Homeowner Association dues as a housing expense.

The maximum sale price is the price that will allow the homebuyer to purchase an inclusionary unit by paying no more than 35% of their household income for PITI and Homeowners Association dues, based upon the following assumptions. The only exception is very-low income applicants. Units for very-low income applicants will be priced using the maximum in the low income level adjusted for household size as total housing expenditures.

- *Downpayment* (For the purpose of calculating the sale price of a home or condominium, it is assumed that the prospective buyer will make a 5% downpayment. The developer may accept alternate amounts for actual downpayments.)
- *Interest* (Based on the weekly 30-year fixed rate published by the Federal Home Loan Mortgage Corporation, (703) 903-2446. The actual interest rate may vary.)
- *Mortgage Term* (A 30-year term is assumed. The actual term may differ.)
- *Taxes* (Calculated using 1.25% of the estimated sale price of the unit.)
- *Insurance* (Includes Private Mortgage Insurance (PMI), if any, and homeowners hazard insurance.

PMI - For the purposes of calculating sale price, PMI may be calculated at 2% of the estimated loan, or the amount actually required by a given loan product being offered.

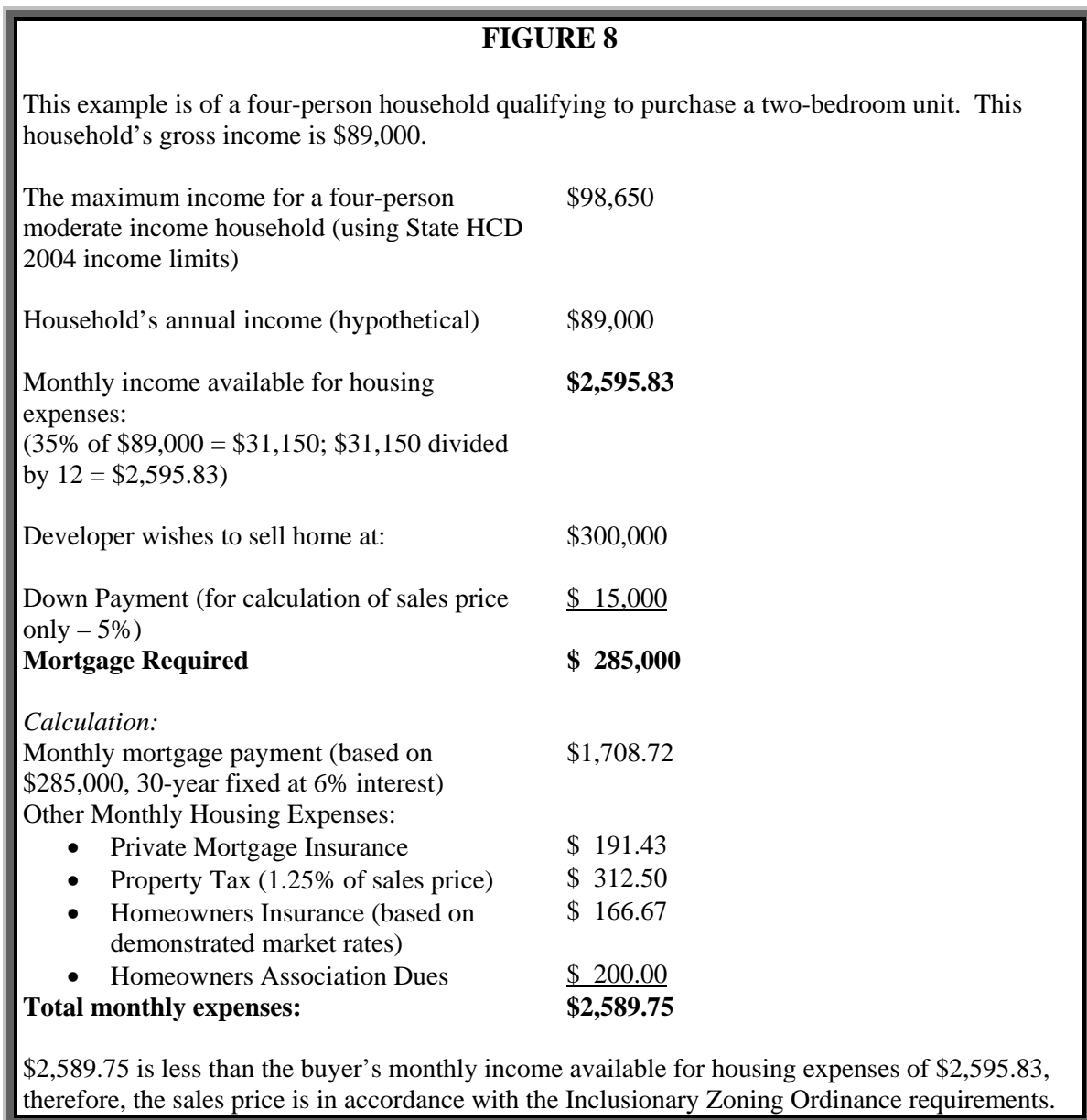
- Homeowner's Insurance – The cost of homeowner's insurance may be calculated based on information researched by each developer, as to what an

actual policy may cost a new homeowner. (If the homeowner insurance is covered by a homeowner association structure, homeowners insurance need not be included, but it must be documented that the HOA will provide adequate insurance.)

- *Homeowners' association dues, if any.*

The City has an Excel spreadsheet, available for public use, which can assist in the calculation of the final sales price, based on the listed criteria and housing expenses (**Exhibit No 5**). Each Inclusionary Unit may sell at a different sale price, depending on the household income of the selected household.

Figure 8 shows how the sales price is calculated (see following page).



4.2 Acceptable Home Loan Products for Inclusionary Zoning Units

The City reserves the right to reject certain mortgage products because of the stronger likelihood that some products could result in loss of the Inclusionary Unit due to a foreclosure.

The following is a non-exclusive list of the loan products that are acceptable to the City. The list is not intended to be exhaustive and other loan products may be evaluated upon request.

1. 97-100% Loan to Value Loans
2. 90-97% Loan to Value Loans
3. Up to 95% Loan to Value Loans
4. Adjustable Rate Mortgages
 - Two-Step Mortgage (adjusts only once – depends on rate adjustment)
 - Six Month ARM (Depending on initial interest rate, adjustment caps and lifetime caps)
 - One Year ARM (Depending on initial interest rate, adjustment caps and lifetime caps)
 - Fixed-Period Adjustment Rate Mortgages (Depending on adjustment rates, caps and lifetime caps). In evaluating ARMs the City will consider the effect of the mortgage provisions on the ability of the buyer to make payments
 - Pledged-Assets Mortgages
 - Virtually all CalHFA products available to First Time Homebuyers in California

4.3 Closing of Sale and Escrow

Once the Inclusionary Unit buyer has been selected and price calculated, the necessary documents must be completed and buyer fully qualified for the mortgage. When the buyer is fully qualified and ready to enter into an agreement to purchase, the qualifying packet is sent to the City of Dublin Housing Staff for review. The documents necessary for Housing Staff review are the following:

1. Completed and Signed Application for Inclusionary Unit;
2. Completed and signed loan application;
3. Completed Truth in Lending Statement;
4. Complete Income Verification information on household;
5. Complete information on unit offered to prospective buyer, including unit size, number of bedrooms and additional amenities;
6. Completed, executed, and notarized City of Dublin Resale Restriction Agreement and Option to Purchase; and
7. If claiming an Inclusionary Preference, verification of that preference (covered in Section 3.0).

City Staff will review the packet for completeness and compliance with the Inclusionary Zoning Ordinance. The Application for Inclusionary Unit will be removed from the packet and retained as part of City records. A copy of the income verification for the household will be made and retained by the City as proof of the buyer's qualification to purchase the Inclusionary Unit. The original signed Resale Agreement will also be retained by the City and a copy returned to the lender. If the City receives a completed packet, the review will be completed and file returned to developer **within one week of the submittal if possible**. The Resale Agreement along with a Request for Notice of Default will be recorded on closing of each sale.

IF THE PACKET IS INCOMPLETE, THE SALE CANNOT PROCEED UNTIL ALL NEEDED DOCUMENTS ARE PROVIDED.

The documents will be returned to the lender, with a copy of the City's Escrow Instructions for the recording of the Resale Agreement. City Staff will contact the lender to establish whom the escrow and/or title firm is that will be in charge of closing the sale. City Staff will send the original Resale Agreement to that firm with the Escrow Instructions for recordation on closing of the sale.

5 RENTAL PROJECTS

After the Affordable Housing Agreement is executed, and prior to the rental of any units in the project there is a process that must be followed that includes preparation of a Management Plan, screening, ranking and qualifying of eligible tenants.

5.1 Preparation and Approval of Management Plan

The Management Plan will outline for the City how the management entity plans to recruit and maintain occupancy of the Inclusionary Units. The document will also provide a brief history of the management entity and previous experience as well as list other rental complexes that are under their management.

5.2 Establishing Unit Rents for Inclusionary Units

The Inclusionary Ordinance (8.68.020A.1) states that rents for Inclusionary Units may not exceed 30% of the maximum income level for very low, low and moderate income. The City of Dublin uses the State of California Housing and Community Development Income Guidelines by County. The Income Guidelines for 2005 are attached as **Exhibit No 6**.

5.3 Screening Based on Household Size

For both rental and for-sale units, household size for each Inclusionary Unit may not exceed two people for each bedroom and may not be less than one person per bedroom,

unless otherwise prohibited by special financing sources such as the California Multifamily Housing Program. Selection of applicants will be limited to those households that match the number of bedrooms in the units being constructed for sale. The following units household sizes for various units sizes are used:

One-bedroom units	1-2 people households
Two-bedroom units	2-4 people households
Three-bedroom units	3-6 people households
Four-bedroom units	4-8 people households

5.4 Screening Based on Priority Preferences

After being screened for initial eligibility based on household income and household size, applicant households shall be ranked and sorted based on the number of points the applicant receives under the priorities set forth in the Regulations at Section 8.68.050D. If priority categories are checked on the application form, the developer will be required to request verification of that claimed preference from the applicant and the form letter requesting verification attached as **Exhibit No. 4** may be used for this purpose. This verification may be requested at the initial application or at a later date, after the developer has performed a preliminary review of all applicants.

The point system set out in the Regulations (see Table 1) provides preferences to those that live in Dublin, that work in Dublin, that are public-service employees in Dublin, that are seniors, and that are permanently disabled. The Regulations provide that even if two persons in the household may be eligible to receive priority points, the points are only awarded for one person. For example, if a husband and wife are both employed in Dublin, the couple receives only 3 points for being employed in Dublin. Similarly, if two seniors make up a household, they would be entitled to only 1 point.

Table 2: The Priority Point System

Priority	Points
Employed in Dublin	3 points
Public service employee in Dublin	1 additional point
Resides in Dublin	3 points
Seniors (62 and over)	1 point
Permanently disabled	1 point
Have an immediate family who is a Dublin resident and has continuously lived in Dublin the past year	1 point
Must move because housing is to be demolished or converted to condo	1 point

Definitions of the various priority categories are set forth in the Regulations, Section 8.68.050.D.

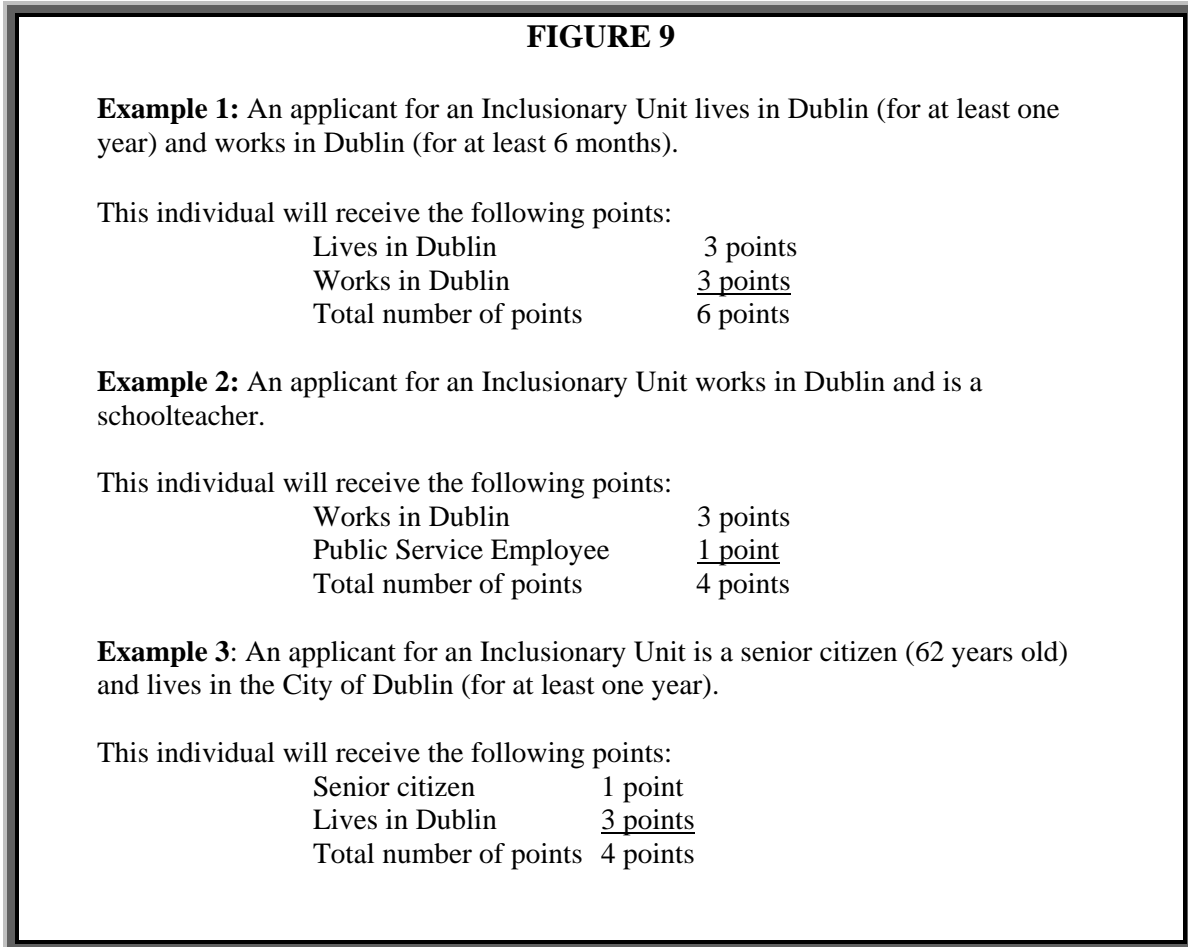
- To qualify as employed in Dublin the person shall have been employed within the City of Dublin for at least six months.
- To qualify as a public service employee the person shall be employed by a public agency.

- To qualify as a Dublin resident, the person shall have been a resident of the City of Dublin for at least a one-year period prior to the eligibility determination.
- To qualify as a relocated Dublin resident, the person shall have been relocated from the current Dublin residence due to demolition of dwelling or conversion of dwelling from rental to for-sale unit.

Where definitions are not explicitly stated in the Regulations, the City has developed definitions:

- A senior is defined as a person 62 years or older for the purpose of qualifying for preference points.
- To qualify for the permanently disabled point, the person must be able to provide written verification from a physician or show receipt of SSI.
- Immediate family is defined as a mother, father, brother, sister, grandparent or grandchild.

Figure 9 demonstrates how the preference points are calculated.



5.5 Occupant Selection for Rental Developments

In rental developments, the management firm (which could be the owner or builder) is the entity that will be responsible for occupant selection and documentation.

The Management Plan for the development will outline how tenants will be selected and prioritized to comply with the Regulations' preferences. Each applicant shall complete the Application for Inclusionary Unit and return it to the management company.

Exhibit No 3 is a copy of the Application for Inclusionary Unit.

The management company's leasing staff should be trained to understand and explain the Affordable Housing Application and process to applicants. To lease the Inclusionary Units the developer/management company will need to do the following:

- Collect applications for a given time period. An initial qualification is made based on household size (See Section 5.3) and household income (see State of California, Housing and Community Development Department website, www.hcd.ca.gov);
- Sort and rank the applications based on the Inclusionary Zoning Regulations' preferences for occupant selection. Complete the ranking process and produce a list with those applicants with the most City of Dublin preference points at the top followed by all other applicants in descending order based on number of points received. If more than one applicant receives the same number of City preference points or if some applicants receive no points the developer shall use other objective criteria in occupant selection. The criteria that the developer will use in the event of a tie shall be submitted to City Staff ahead of time in the Management Plan. For example, the developer may date stamp all applicant applications and, in the event of a tie, will offer the unit to that applicant that applied first, or the developer may choose to hold a lottery to break ties. The ranked list must be completed within 30 days of the application deadline;
- Offer the units to applicants based on the list established above, offering first to those applicants with the most points, then in descending order; and
- Maintain application with income verification for City to review at onsite monitoring.

If a project is financed through a program that has stricter occupant selection or occupant documentation requirements than the City, the City may elect to defer to those requirements and not require additional documentation. The City will require tenant income verification and restriction of the units for 55 years for the three income categories; however, the management firm may send to the City copies of the documentation that is required and produced for other monitoring agencies.

5.6 Calculating Affordable Rents

Affordable rents are calculated by multiplying the annual household income of the income-qualifying household by 0.30, then dividing by 12. The result is the maximum monthly rent for the Inclusionary Unit if the tenant pays *no utilities*.

The Inclusionary Zoning Ordinance Regulations state that maximum rents cannot exceed 30% of household income for the maximum income in a given category. Following rental programs such as HUD's Section 8 or the Tax Credit Allocation Committee rental tables, reduction in rental amounts are taken if tenants are required to pay utilities.

If tenants pay for utilities, the maximum rent must be reduced to account for the cost of utilities (a utility allowance). Utilities include gas, electric, water, and trash disposal. If tenants are required to provide their own stove, refrigerator, or washer and dryer, those expenses are considered utilities, and the maximum rent is further reduced. If the tenant is responsible for any of the above, an allowance reduces the rent by the amounts listed in **Exhibit No. 7***.

Figure 10 illustrates the calculation of maximum rent.

FIGURE 10

Example 1: A developer provides 2 bedroom rental units for moderate-income households. The developer establishes a tenant eligibility list and for moderate-income the first household on the list for a two-bedroom unit is a family of four with an annual income of \$91,900. Thirty percent of \$91,900 is \$27,570, and 1/12 of \$27,570 is \$2297.50. This would be the maximum monthly rent.

The maximum rent could be charged to this household if the household were not responsible for any utilities.

Example 2: Following on Example 1, the maximum rent for the moderate-income unit for a household of four was \$2297.50, but this development requires tenants to pay electric, gas and water and water heating (gas) bills. The heating and cooking are both gas. The management pays for trash, provides the refrigerator and the stove.

Using the current Utility Allowance in Exhibit 7, the following amounts are to be deducted from the maximum monthly rent.

	\$2,297.50
gas heating (2 bdrm)	\$ 12.00
gas cooking “ “	\$ 2.00
gas water heating “ “	\$ 10.00
water “ “	<u>\$ 14.00</u>
	\$2,259.50

The rent that may be charge to this household could not exceed \$2,259.50 monthly.

* The Utility Allowances are established by the Housing Authority of Alameda County and revised periodically. The most current Utility allowances for Alameda County may be accessed at the following web site: <http://www.haca.net>., then click on statistics.

5.7 Monitoring Rents

The Inclusionary Ordinance (Section 8.68.050.B) states that the management entity for the development will provide the City of Dublin an Annual Report (**Exhibit No 8**). The annual report will include the following information:

1. Income of BMR tenant households, reviewed annually;
2. Identification of all Inclusionary Units (very low-, low- and moderate-income units) within the development;
3. Monthly rents charged to all BMR tenant households; and
4. Vacancy of Inclusionary Units during the previous year.

This report will be due annually on October 31st. The City of Dublin Housing Staff will send a reminder letter to the management firm, with a copy of the Annual Report form for completion and certification at least three months prior to the anniversary date. This form must be completed and returned to the City by the anniversary date.

G:\PA#\2001\01-038 Inclusionary ZOA\Inclusionary Guidelines\Inclusionary Guidelines - Final on 4-29-05.doc