



Inclusionary Housing Land Review and Approval Process

Updated 2/2021

Inclusionary Housing Ordinance 9-13-10(d), "Inclusionary Housing", B.R.C. 1981 includes an option to satisfy the inclusionary requirement by providing land to either the city or an entity identified and approved by the city. The land must be appropriate for affordable housing, promote appropriate and compatible land uses, assure consistency with the goals and policies of the Boulder Valley Comprehensive Plan and consistency with adopted area plans. The land will be reviewed to determine the degree to which it meets the following requirements:

Inclusionary Housing Administrative Regulations, 10.5

1. *Any proposed off-site location is required to be approved by the city manager.*
2. *The land is in the City of Boulder and has both a medium- or high-density residential land use and zoning classification or the city manager determines that such may be pursued.*
3. *The land is in an environmentally acceptable condition as supported by a Phase I Environmental Assessment as approved by the city manager. The city manager may require other studies or assessments to make this determination.*
4. *No greater than 10% of the land may be within the high hazard, or conveyance floodplain. No greater than 25% of the land may be within the 100-year floodplain. If any portion of the land is in the high hazard, conveyance or 100-year floodplain, the city manager will have the sole discretion to determine if the land is appropriate for affordable housing development.*
5. *Satisfactory proof of fee title is provided to the city manager within 30 days of the effective date of dedication to the city. The land will be free of all liens and encumbrances and all property taxes and special taxes will be current before the title for the dedicated land is conveyed. The land will be conveyed by general warranty deed before issuance of a building permit for the originating residential development.*
6. *Dedicated land plus any cash-in-lieu contributed must be of equivalent or greater value to the total cash-in-lieu contribution amount.*
 - a. *The land must equal no less than 75% of the cash-in-lieu contribution amount, including any in-lieu requirements of subsection 9-13-3(d), B.R.C. 1981, for providing less than half of the required affordable dwelling units on-site that would have been required of the originating residential development.*
 - b. *The value of land to be dedicated will be determined, at the cost of the developer, by an independent appraiser, who will be selected from a list of Colorado Certified General Appraiser provided by the city, or by such alternative means of valuation to which a developer and the city may agree.*
7. *If the land does not equal the full amount of the cash-in-lieu owed, the*

- applicant shall contribute cash-in-lieu to make up any gap between the value of the donated land and the total cash-in-lieu contribution amount.*
8. *A signed deed granting land to the city or it's designee must be executed prior to application for any residential building permit by the sending site.*
 9. *Dedicated land must be in the form of a fee simple parcel that will be fully owned by the city or its designee.*
 10. *A financial guarantee may be required to secure the inclusionary affordable housing requirement for dedicated land. The city manager has adopted a financial guarantee policy that includes, but is not limited to, details on the financial guarantee amount and circumstances of release and adjustments to the amount due if the financial guarantee is cashed.*

Process to propose land to satisfy Inclusionary Housing requirements:

1. Meet with a housing planner to review options;
2. Discuss the land option, and if that is the desirable option;
3. Submit a [Pre-Application Review form](#) to the Department of Planning, Housing and Sustainability. Include:
 - A letter detailing specifically how the proposed land meets the above requirements.
 - A title good to within 30 days showing the land is free of all liens and encumbrances.
 - A preliminary site plan and massing study for the proposed site showing how it will accommodate the required number and type of units. Please include flood designations showing the high hazard, conveyance and 100-year floodplain, all easements and right of ways, existing trees, topography, and existing buildings.
 - A vicinity map (8 1/2 x 11) showing the application site and adjacent areas, streets and building footprints.
 - A completed phase I environmental assessment (EA) showing the land is free of toxic substances and contaminated soils. If one is not provided, any approval through this process will be preliminary, pending submittal of the phase I EA.

Staff will review the application and letter to determine if there is sufficient detail to evaluate if the proposed land adequately meets the requirements. Staff may request additional information required to make this determination. Once a determination is made, the applicant may request a meeting to discuss the decision. If the land designation is approved - upon receipt of a clean Phase I Environmental Assessment - the land may be conveyed by warranty deed to the City of Boulder or an entity designated by the City of Boulder.

For questions about this process, please contact a housing planner at:
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