LUDC 2013

GARFIELD COUNTY, COLORADO

Article 8: Inclusionary Zoning for Housing

ARTICLE 8
INCLUSIONARY ZONING FOR HOUSING

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ARTICLE 8: INCLUSIONARY ZONING FOR HOUSING

DIVISION 1. GENERAL PROVISIONS

8-101. FINDINGS AND PURPOSE.

A. Findings.

The BOCC finds that an adequate supply of Affordable Housing in the County is essential and necessary to preserve and maintain the health, welfare, safety, and quality of life for residents of Garfield County.

1. An adequate supply of housing that is affordable to the local labor force is necessary for the local economy to remain stable and to grow in a healthy manner.
2. New development creates demand for workers in construction, maintenance, services, and retail sales, increasing the demand for Affordable Housing.
3. New development shall be required to provide Affordable Housing that mitigates the impacts that are attributable to such development in areas designated by the County, where Affordable Housing has become limited and problematic for adequate workforce housing.

B. Purpose.

The purpose of this Article is to ensure that the housing needs of all economic segments of the community will be met. New development shall be required to contribute to the Affordable Housing supply in the County, as reasonable and appropriate with consideration to the development's impact on the supply of Affordable Housing available to the local labor force.

8-102. APPLICABILITY.

These requirements apply to all residential Subdivisions proposing 15 or more lots located within Area 1, shown in Figure 8-1.

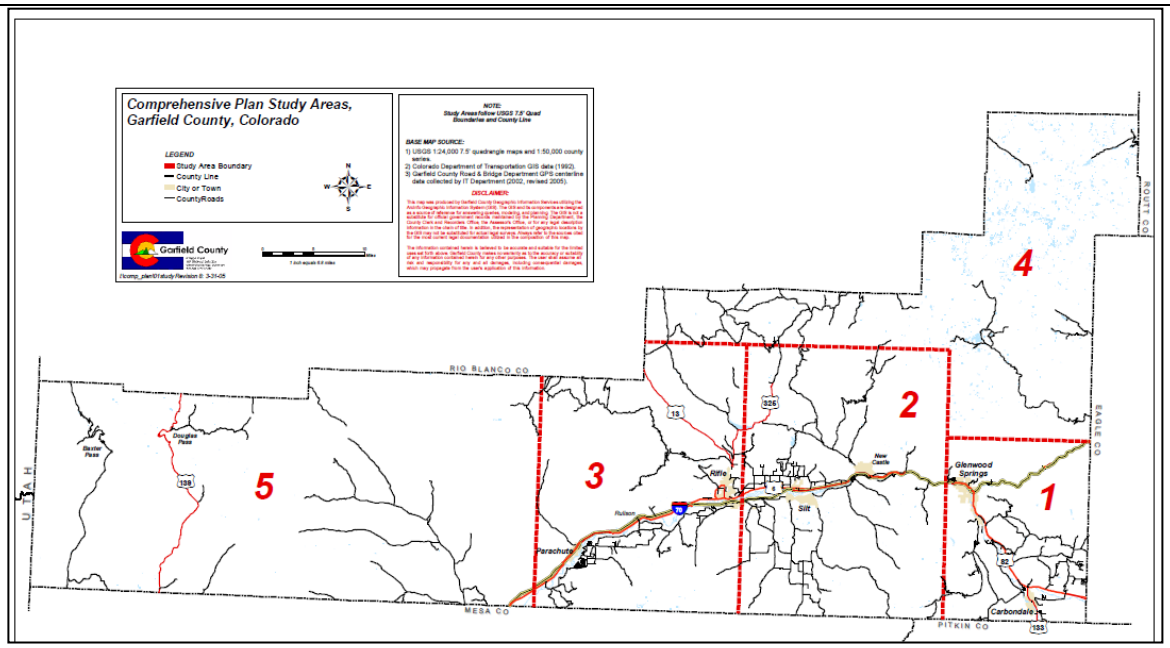

Figure 8:1: Map Showing Area 1

DIVISION 2. APPLICATION AND REVIEW PROCEDURES

8-201. APPLICATION SUBMITTAL REQUIREMENTS.

The Applicant shall submit the following materials for a Subdivision that requires Affordable Housing.

A. Affordable Housing Plan and Agreement.

The Applicant shall submit an "Affordable Housing Plan" that includes the following provisions.

1. The proposed location of the Affordable Housing Units.
2. The proposed number and unit mix of Affordable Housing Units based upon the provisions of section 8-301, Number and Unit Mix.
3. The proposed schedule for construction and completion of the Affordable Housing Units in relation to the proposed construction and completion of the overall development.
4. The proposed breakdown of Affordable Housing Units by category, based on provisions of section 8-301.B., Unit Mix and Minimum Bedroom Requirement, including the proposed Lot Size and square footage size of each unit.
5. The proposed calculations for HOA dues as set forth in section 8-302.B.5.
6. The proposed form of Deed Restriction and any other documents necessary to comply with the requirements of this Article.
7. Any rental housing proposal will require the Applicant to propose additional guidelines not codified herein. Such guidelines at a minimum must address details for administration and on-going affordability. The proposed guidelines are subject to BOCC approval.
8. The proposed method of financial security to ensure construction of the Affordable Housing Units, such as:

a. A bond or other security acceptable to the BOCC, in an amount acceptable to the BOCC to ensure the required number of Affordable Housing Units are constructed.

b. Provisions in the adopted Affordable Housing Plan that require Building Permits for 10 free-market houses may only be issued after a Building Permit for 1 Affordable Housing Unit has been issued.

c. Another method of securing construction of the Affordable Housing units acceptable to the BOCC.

9. If the Applicant proposes to locate some or all of the Affordable Housing Units off-site, the plan for off-site location and justification therefor.

10. The proposal for compliance with all provisions of the Affordable Housing Guidelines maintained by the Garfield County Housing Authority (GCHA) or other Approved Affordable Housing Entity (AAHE).

8-202. REVIEW AND APPROVAL PROCEDURES.

The Affordable Housing Plan shall be reviewed by the Director and the GCHA or other AAHE. The Affordable Housing Plan approved at Preliminary Plan shall become the "Affordable Housing Agreement" between the County, the Applicant, and the GCHA or other AAHE, which agreement will be adopted and recorded in conjunction with a Final Plat approval by the BOCC.

DIVISION 3. CRITERIA FOR DEVELOPMENT OF AFFORDABLE HOUSING UNITS.

8-301. NUMBER AND UNIT MIX.

A. Number of Units Required.

In a Subdivision required to provide Affordable Housing, 10% of the lots proposed in the development shall be developed with Affordable Housing Units. In computing this requirement, any fraction of a unit lot above .50 will be rounded up and any fraction of a unit lot .49 or less will be rounded down.

B. Unit Mix and Minimum Bedroom Requirement.

The Applicant shall propose the mix of housing types. The Affordable Housing Units shall closely mirror the market rate units and shall be of comparable quality with similar fixtures (e.g. dishwashers, disposals, air conditioning, and energy efficient windows) to market rate units. In addition, the units shall meet the following requirements:

1. The approved mix will provide the minimum number of bedrooms required based upon the following formula:

a. Multiply the number of Affordable Housing Units required by 2.6 (the average number of persons in a household) then,

b. Divide the result by 1.5 (the U.S. Department of Housing and Development criteria of person per bedroom).

c. The resulting number is the minimum required number of bedrooms that must be disbursed across the required Affordable Housing Units.

2. Any proposal for a unit with 4 or more bedrooms may be approved, but only after a special review to determine a need.

3. Any fractional Affordable Housing Units created by the above formulas will be rounded up to the next highest number.

4. The following minimum square footage requirements shall be met, with only finished square footage being counted, excluding garages, carports, and unfinished Basement space:

Unit Type	Minimum Size
Studio	500
1 Bedroom	700
2 Bedroom	950
3 Bedroom	1,200
Single-Family, detached	1,400

8-302. PRICING OF UNITS.

A. Area Median Income Categories Required.

The average price for all Affordable Housing Units shall be dispersed over a range of the Area Median Income (AMI) levels for low and moderate income families as published annually by HUD for Garfield County. Applicant shall provide Affordable Housing Units in the following 3 categories, in accordance with the distribution described below:

1. Category I. 20% of required units must be in Category I;

- **a.** Units priced to 70% AMI;
- **b.** Units sold to 80% AMI households or less;

2. Category II. 40% of required units must be in Category II;

- **a.** Units priced to 90% AMI;
- **b.** Units sold to 100% AMI households or less;

3. Category III. 40% of required units must be in Category III;

- **a.** Units priced to 110% AMI;
- **b.** Units sold to 120% AMI households or less.

4. Exceptions:

- **a.** If 3 or fewer Affordable Housing Units are required by this Article, then the first unit required will be a Category II unit and the second unit required will be a Category III unit and the third unit will be a Category I unit.
- **b.** If the number of Affordable Housing Units required by this Article results in a fraction when multiplied by 40% or 20% (see required distribution of units above), then the Applicant must provide the greatest number of Affordable Housing Units as Category II units, followed by Category III, and lastly Category I. For example, if 16 Affordable Housing Units are required, then 40% of 16 results in 6.4 required Category II units. The Applicant should then provide 7 Category II units, 6 Category III units and 3 Category I units.

B. Initial Sales Price.

The initial sales price for each Affordable Housing Unit shall be calculated by the GCHA and the BOCC based on the following assumptions:

1. Principle, interest, mortgage insurance, taxes, homeowners insurance, and Homeowner Association dues not to exceed 33% of gross monthly household income based on family size determined by the chart below. 80% of that amount is estimated for principle and interest and 20% is estimated for mortgage insurance, taxes, homeowners insurance, and Homeowner Association dues. If actual costs are available, they may be used in lieu of this 80:20 ratio.

2. A 30-year mortgage based on a trailing interest rate calculated on an average of the previous 18 months' interest rates. The GCHA shall calculate the trailing interest rate.

3. The price shall include a landscaped lot.

4. Number of persons by bedroom configuration used to establish sales price:

Number of Bedrooms, Nondetached Structure	AMI Household Size for Initial Sales Price Determination
Studio	1 person household
1	2 person household
2	2.5 person household
3	3 person household
4	3.5 person household

Number of Bedrooms, Single-Family, Detached	AMI Household Size for Initial Sales Price Determination
2	3 person household
3	4 person household
4	5 person household
5	6 person household

5. HOA dues for Affordable Housing Units shall be prorated as compared to HOA dues owed by market rate unit owners. HOA dues for Affordable Housing Units shall be prorated by either average Lot Size or average unit size in comparison to market rate lots and/or units, whichever results in the lower cost for the Affordable Housing Units, or by a formula proposed by the Applicant and approved by the GCHA and the BOCC. If prorated HOA dues are not possible, then the HOA dues for Affordable Housing Units shall be a maximum of 75% of the HOA dues owed by market rate unit owners.

6. The initial sales price will be calculated by GCHA 120 days from anticipated Certificate of Occupancy.

7. Example Initial Sales Price Calculation:

3-bedroom single-family unit, 4 person household,

80% AMI = $51,200 in 2007

$51,200 / 12 months = $4,267 gross monthly income

33% of $4,267 = $1,408

80% of $1,408 = $1,126 (principle and interest)

20% of $1,408 = $282 (mortgage insurance, taxes, insurance, HOA)

18 months of trailing interest rate as calculated by GCHA = 6.37%

Sales Price = $176,766

8-303. EXECUTION OF DEED RESTRICTION BY APPLICANT.

A. Deed Restrictions.

All Affordable Housing Units will be subject to a Deed Restriction.

1. Deed Restriction. The form of Deed Restriction must be approved by the GCHA.

a. The Applicant must execute and record a Deed Restriction prior to release of the Building Permit in a form satisfactory to the GCHA. This ensures that the Deed Restriction will run in perpetuity with the unit. At the time of Certificate of Occupancy, the Deed Restriction shall be amended, if necessary, to reflect changes

approved by the GCHA. The original executed and recorded Deed Restriction shall be returned to the GCHA.

b. The Deed Restriction must include a limit on annual appreciation of a unit of either the West Region, Consumer Price Index, Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100), not seasonally adjusted, or 3% simple interest, whichever is greater, plus the cost of Permitted Capital Improvements (see section 8-304). The Maximum Resale Price shall be no more than 5% simple interest, plus the cost of Permitted Capital Improvements. The Maximum Resale Price will be determined by the GCHA in accordance with this Article.

(PP) Purchase Price
(PPCPI) CPI at the date of purchase
(NMO) Number of months owned
(CCPI) Current CPI

3% Formula = .03 x PP/ 12 x NMO + PP = Base Resale Price
CPI Formula = PP/PPCPI x CCPI = Base Resale Price
5% Formula = .05 x PP/ 12 x NMO + PP = Base Resale Price

2. Memorandum of Acceptance. When a qualified buyer purchases the property and there is a transfer of the deed for the property, the buyer must execute a Memorandum of Acceptance of the Deed Restriction. This ensures that the buyer is aware of the Deed Restriction and Inclusionary Zoning Guidelines. The original executed and recorded Memorandum of Acceptance shall be returned to the GCHA.

3. Promissory Note and Deed of Trust. The buyer must execute and record a Promissory Note between the GCHA and the buyer to enforce the County's interest in the property, and a Deed of Trust signed by the buyer. This Promissory Note shall be in a subordinate position to any other Promissory Note required for purchase of the property. This Promissory Note and Deed of Trust shall not be recorded in first position.

8-304. PERMITTED CAPITAL IMPROVEMENTS.

An owner of an Affordable Housing Unit may receive credit for "Permitted Capital Improvements" as specified below.

A. Approval Required.

All Permitted Capital Improvement items and costs shall be approved by the GCHA prior to being added to the Maximum Resale Price as defined in this Article. The owner must show actual receipts to receive value of Permitted Capital Improvements upon resale. Only the owner's out-of-pocket expenses will be counted toward value of Permitted Capital Improvement.

B. Permitted Capital Improvements.

1. Permitted Capital Improvements shall only include the following:

a. Improvements or fixtures erected, installed, or attached as permanent, functional, nondecorative improvements to real property, excluding repair, replacements, and/or maintenance improvements;

b. Improvements for energy and water conservation;

c. Improvements for the benefit of seniors and/or handicapped persons;

d. Improvements for health and safety protection devices;

e. Improvements to add and/or finish permanent/fixed storage space;

f. Improvements to finish unfinished space;

g. Garages;

h. The cost of adding decks and any extension thereto;

i. Permanent landscaping; and

j. Repairs or replacements related to structural, major mechanical, or roofing deficiencies after any applicable warranty period is expired. The owner must document the need to repair or replace the item.

2. Permitted Capital Improvements shall not include the following:

a. Upgrades/replacements of appliances, plumbing and mechanical fixtures, carpets, and other similar items included as part of the original construction of the unit;

b. Improvements required to repair, replace, and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, carpeting, and other similar items;

c. Upgrades or addition of decorative items, including lights, window coverings, floor coverings, and other similar items; and

d. Jacuzzis, spas, saunas, steam showers, and other similar items.

8-305. OFF-SITE AFFORDABLE HOUSING.

In some cases, the BOCC may approve a mix of on-site and off-site Affordable Housing Units, or the provision of all Affordable Housing Units off-site.

A. Request for Off-Site Location of Affordable Housing Units.

At the time of Preliminary Plan application, the BOCC may consider a request by the Applicant for off-site location of Affordable Housing Units if the Applicant demonstrates circumstances that justify the request. The following considerations apply to Applicant's request:

1. The proposed Affordable Housing Unit(s) will be located substantially closer in proximity to the following facilities and amenities when compared to the project parcel: public schools, commercial or retail centers, community or public recreation parks and activities, Hospital and health care facilities, public transportation, professional services, and public services including fire, police, and emergency services;

2. The Applicant has developed a method or a procedure acceptable to the County to ensure that the proposed off-site Affordable Housing Units are for sale pro rata with the sale or rental of lots contained within the project parcel; and

3. The Applicant has consulted with the GCHA or AAHE prior to submission of an application regarding the proposed location and qualification of the off-site units for financing and sale.

B. Criteria for Off-site Affordable Housing Development.

The proposed off-site development of Affordable Housing Units shall satisfy the following criteria.

1. The proposed development meets the requirements and guidelines for inclusionary zoning set forth in this Article;

2. The proposed units will be built or located in the same study area as the development;

3. The proposed units will be located in an area or development acceptable to the BOCC; and

4. Existing residential units can be used as Affordable Housing, provided it is acceptable to the BOCC.

8-306. PAYMENT-IN-LIEU.

Payment-in-lieu of Affordable Housing Units will not be accepted.

DIVISION 4. INCLUSIONARY ZONING GUIDELINES.

8-401. QUALIFICATIONS TO PURCHASE AFFORDABLE HOUSING UNITS.

The following considerations shall be applied by the GCHA to qualify a potential purchaser for Affordable Housing.

A. Requirements for Qualifying a Purchaser.

1. Nondiscrimination. Determination of qualification for an Affordable Housing Unit shall be made without regard to race, color, creed, religion, sex, handicap, disability, national origin, familial status, or marital status.

2. Resident Qualification. The purchaser is a full-time resident of Garfield County. To qualify as a full-time resident, the purchaser shall live at least 9 months a year in the County. In addition, all adult family members who will be residing in the Affordable Housing Unit are legally residing in the United States.

3. Employment Qualification. The purchaser is employed full-time by a "Garfield County-based employment source," which means a business whose business address is located within Garfield County, whose business employs employees within Garfield County, who work in Garfield County, and whose business taxes are paid in Garfield County. If an employer is not physically based in Garfield County, an employee must be able to verify that they work in Garfield County a minimum of 1664 hours (min. 32 hours/week) per calendar year for individuals, businesses, or institutional operations located in Garfield County. To qualify as a full-time employee, the following criteria shall apply:

   a. A person who works or will work at least 32 hours per week for a Garfield County-based employment source;

   b. A person who has been recruited to work at least 32 hours per week for a Garfield County-based employment source;

   c. A person who is a retiree and was employed full-time at least 32 hours per week for a Garfield County-based employment source for the 4 years prior to the date of application; and

   d. A person who is disabled and was employed full-time at least 32 hours per week for a Garfield County-based employment source for the 2 years prior to the date of application.

4. Financial Qualification. The purchaser has an annual gross household income equal to or less than the AMI for the category unit(s) for sale. In addition, the purchaser has a cumulative net worth, minus qualified retirement assets (as determined by the IRS), not in excess of $150,000 and satisfies the income criteria set forth in this Article.

5. Occupancy Qualification. The purchaser will occupy the Affordable Housing Unit as a primary residence upon purchase.

6. Family Qualification. Intended family compositions include: foster children, live-in attendants, and dependants under the age of 23 who are away at college, family members on military leave or out-of-town on business, or multiple adults cohabiting. Total family income will be considered as part of the income eligibility described in this Article.

B. Income or Earnings Used in Determination of Qualified Applicant.

In determining the financial qualification of a purchaser, consideration shall include, but not be limited to, the following sources of income:

1. Earned income such as salaries, wages, overtime pay, commissions, bonuses, tips, and payments received as an independent contractor for labor or services;
2. Severance pay;
3. Royalties, rents, trust income;
4. Annuities, dividends, capital gains, taxable distributions from corporations or partnerships;
5. Pensions, retirement benefits, social security benefits, disability benefits;
6. Gambling proceeds;
7. Money drawn by a self-employed individual for personal use;
8. Workers' compensation benefits, disability insurance benefits, funds payable from any health insurance benefits or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wage;
9. Monetary gifts, prizes;
10. An individual who is separated but not divorced may exclude spousal income if the couple intends to live separate and apart; and
11. The number of dependants claimed by the purchaser on his/her tax returns for the 2 years prior to application.

8-402. PROCEDURES FOR DETERMINATION OF QUALIFIED APPLICANT.

A. Materials Necessary to Qualify Purchaser.

Application shall be made to the GCHA. The following materials shall be required for all family members. The GCHA may require additional materials as appropriate.

1. Federal tax returns for last 2 years;
2. Current income statements in a form approved by the GCHA;
3. Current financial statements in a form approved by the GCHA;
4. If current income is less than the previous tax return by 20% or greater, the income will be averaged based on the current income and previous tax return to establish an income category;
5. Verification of employment or offer of employment by a Garfield County based employment source;
6. Evidence of legal residency (landlord verification, Colorado drivers license, phone service, vehicle registration, voter registration);
7. Divorce or support decree; and
8. A signed release for the GCHA to access the loan application submitted to the Lender.

B. Review and Determination of Qualification.

The GCHA shall be responsible for application review and determination of qualified purchaser.

1. Determination of Qualification or Nonqualification. The GCHA shall determine whether the family is a qualified purchaser for Affordable Housing Units.

2. Notice of Determination. The GCHA shall provide written notification of a determination of qualified purchaser.

3. Determination of Nonqualification. The GCHA shall provide written notification of a determination of nonqualified purchaser. The written notice shall contain the following information.

a. A statement of the reason(s) for the decision.

b. A statement that the Applicant may request a review of the decision by following the grievance procedures described in this Article.

C. Priority of Qualified Applicants.

The GCHA shall assign all Qualified Applicants 1 of 3 priorities. Those who qualify for all priorities will fall within Priority Category One.

1. Priority Category One. Applicants that are employed by a Garfield County-based employment source as defined in section 8-401.A.3.a-c.

2. Priority Category Two. Applicants that are full-time residents of Garfield County.

3. Priority Category Three. Applicants who will become full-time residents of Garfield County by participation in this program.

8-403. INITIAL SALE AND RESALE OF AFFORDABLE HOUSING UNITS.

A. Initial Sale by Developer.

The initial sale of an Affordable Housing Unit shall be the responsibility of the developer or the purchaser who is subject to the requirements of this Article.

1. The developer must work in cooperation with the GCHA to complete the initial sale(s) to a qualified purchaser(s). The developer is urged to make available his/her real estate agent to act as a transaction broker for the sale of the Affordable Housing Units. The GCHA may choose to contract with a licensed real estate broker, but is not required to provide this service.

2. The developer is required to provide the GCHA with a marketing packet at least 120 days prior to the estimated completion of the Affordable Housing Unit(s). The packet shall include unit descriptions, spec information, estimated HOA dues, copies of all covenants, conditions and restrictions (CCRs), if applicable, Homeowner Association provisions, and other applicable documents.

3. The developer is required to hold at least 1 open house during the application prior to the lottery.

B. Resale by GCHA.

Unless otherwise required in the Deed Restriction, listing for resale of an Affordable Housing Unit shall be with the GCHA.

1. GCHA will advertise the Affordable Housing Unit for sale and establish reasonable timeframes for the advertising period, lottery, and estimated sale for each resale.
2. GCHA will administer the sale according to provisions of this Article in effect at the time of sale.
3. There shall be minimum 3-month listing period before adjusting the sale price. The sale price will be set at the date of listing when the owner notifies the GCHA in writing of his/her desire to sell. The owner shall have the option to change the price after 3 months, after consulting with the GCHA staff.
4. The owner shall be responsible for any costs associated with termination of listing, including payment of administrative and advertising costs. These fees are included in section 8-403.G.

C. Role of GCHA Staff.

GCHA Staff shall be acting on behalf of the GCHA. It should be clearly understood by and between parties to a sales transaction that the staff members are not acting as licensed brokers to the transaction, but as representatives of the GCHA and its interests.

1. All purchasers and sellers are advised to consult legal counsel regarding examination of the title and all of the contracts, agreements, and title documents. The retention of counsel, licensed real estate brokers, or such related services shall be at the purchaser's and seller's own expense. The fees paid to GCHA are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire.
2. All purchasers and all sellers will be treated fairly and impartially. Questions will be answered and help will be provided equally to any potential purchasers or sellers in accordance with the current Inclusionary Zoning Guidelines. Staff shall prepare listings, sales contracts, extensions to contracts, and closing documents, and undertake all actions necessary to consummate the sale or contact with a licensed real estate broker to complete these actions.
3. GCHA staff shall attempt to help both parties to consummate a fair and equitable sale in compliance with the current Inclusionary Zoning Guidelines.

D. Maximum Allowed Resale Price.

1. Affordable Housing Units shall have a Deed Restriction carried with the title, which restricts future sale of the Affordable Housing Unit to individuals qualified by the GCHA as an owner for Affordable Housing.
2. Subsequent resale of Affordable Housing Units shall begin with a meeting between the seller and the GCHA to go over Deed Restrictions and determine allowed price. The resale price shall be fixed at the time notification in writing by the owner of his/her desire to sell.
3. The Maximum Resale Price of Affordable Housing Units will be determined by the GCHA utilizing a formula defined in section 8-303.A.1.b.

E. Maintenance Standards for Maximum Resale Price.

It is the responsibility of the owner to maintain the Affordable Housing Unit in good condition. The following are minimum standards to receive full value upon resale. If GCHA determines that the owner has failed to meet these standards, the GCHA may deduct these repair costs from the sale proceeds.

1. Clean unit;

2. Carpets steam-cleaned 3 days prior to closing;
3. All scratches, holes, burned marks repaired in floors, walls, and counter tops, etc.;
4. No broken or foggy windows;
5. All screens in windows, if originally provided;
6. All windows and doors in working order with no holes;
7. All locks on windows and doors in working order;
8. All keys provided, e.g. door, mail box, garage;
9. All mechanical systems shall be in working order;
10. Walls paint ready, e.g. all holes patched, all nails removed;
11. No leaks from plumbing fixtures;
12. No roof leaks;
13. Any safety hazards remedied prior to closing; and
14. All light fixtures shall be in working order.

F. Lottery Process.

The GCHA will conduct a lottery for each Affordable Housing Unit or group of units as they become available, both for initial sales and resales.

1. Prospective Purchasers.
   a. No waiting list shall be maintained. New and separate applications must be submitted for each newly-available Affordable Housing Unit or groups of units.
   b. Prospective purchasers shall register by application at the GCHA office.
   c. All applications will be reviewed for completeness and information verified.
   d. GCHA shall make a determination of qualification consistent with this Article.
   e. Prospective purchasers are encouraged to investigate sources of financing prior to submitting an offer for purchase of an Affordable Housing Unit and can obtain names of lenders from the GCHA. GCHA may require a pre-qualification or pre-approval letter from a lender with the application.
2. Conduct of Lottery. GCHA shall conduct lotteries for available Affordable Housing Units as follows:
   a. All applications by Qualified Applicants for the specific Affordable Housing Unit sale, that have been determined complete and accepted by the GCHA, shall be included.
   b. Priority One applications shall be included in Lottery Round One. Each application, upon being drawn by random selection, shall be assigned a numerical position based on order drawn.
   c. A separate Lottery Round Two for Priority Two applications shall be conducted. Each application, upon being drawn by random selection, shall be assigned a numerical position based on order drawn.
   d. The Affordable Housing Unit choice will be offered to applications in the order drawn in Round One.
   e. Remaining Affordable Housing Units, if any, will be offered to Round Two.

f. The GCHA shall designate the length of time an offer shall be available to a Qualified Applicant before the offer is considered withdrawn or void.

g. If an offer is deemed withdrawn or void, an offer to the next sequential Qualified Applicant shall be made.

G. Fees.

Unless otherwise required by the Deed Restriction, the seller will pay GCHA a sales fee equal to 2% of sales price paid as follows:

1. 1% paid at determination of the sales price by the GCHA credited toward the 2% total requirement. GCHA reserves the right to waive the immediate collection of 1% and to collect the full 2% of the sales price at closing.

a. This portion of the fee will not be refunded if seller fails to perform in compliance with the listing contract, refuses to accept full price offers in cash or equivalent, or withdraws listing after advertising commences.

b. Administrative costs incurred by GCHA will be deducted from fee and the balance refunded if seller withdraws due to failure of bids at maximum price and reasonable terms.

2. Balance paid at closing through the title company.

H. Memorandum of Agreement to the Deed Restriction.

The purchaser must record a document acknowledging the purchaser's agreement to be bound by the recorded Deed Restriction. This documentation must be filed with the County Clerk concurrent with closing the Affordable Housing Unit sale. The form of the document shall be acceptable to GCHA and the County Clerk. The original recorded document will be held by the GCHA.

8-404. OTHER REQUIREMENTS.

A. Co-Ownership and Co-Signing.

1. Any co-ownership interest other than joint tenancy or tenancy in common must be approved by GCHA.

2. Co-signers may be approved for ownership of the Affordable Housing Unit but shall not occupy the unit unless qualified by GCHA.

B. Permissible Financing.

Any Qualified Applicant who is selected to purchase an Affordable Housing Unit is responsible for selection of their preferred financing option(s). However, the GCHA or County may require that financing be obtained from an institutional lender, or a bank, savings and loan association, or any other lender who is licensed to engage in the business of providing purchase money mortgage financing on residential real property. In addition, any financing used to purchase an Affordable Housing Unit must be a conventional or portfolio program that offers fixed or intermediate variable rate terms designed for entry-level buyers. Sub-prime and nonconforming products are not permitted. Financing more than 100% of the sale price is not permitted. The GCHA shall be permitted to request financing documents for verification purposes and to withdraw Qualified Applicant status if financing is contrary to these guidelines.

C. Renting an Affordable Housing Unit during a Listing Period.

If the Affordable Housing Unit is listed for sale and the owner cannot occupy the unit, the Affordable Housing Unit may be leased with approval of GCHA.

1. Unit owner must submit a letter to GCHA requesting permission to lease the listed unit.
2. The tenant must be a qualified renter certified by GCHA using the sale criteria as applied to the purchaser of the unit.
3. The unit must be rented in compliance with requirements of this Article, the Deed Restriction, and Homeowner Association documents. The renter must acknowledge that he/she has received, read, understands, and will abide by the requirements for tenancy.
4. There must be a written lease with minimum rental term of 6 months and a maximum rental period of 2 years. There will be a 30-day move-out clause from closing in event the Affordable Housing Unit is sold.
5. The HOA must receive notice of intent to rent and have reasonable opportunity to comment.

D. Leave of Absence for Owners of Affordable Housing Unit.

If an owner must leave the area for a limited period of time and wishes to lease the unit, a leave of absence may be granted by the GCHA.

1. The owner of the Affordable Housing Unit must submit a letter to the GCHA at least 30 days prior to leaving the area.
2. The letter shall document the reason for leave of absence and commitment to return.
3. The maximum initial term of absence is 1 year.
4. An extension may be granted for 1 additional year, but in no event can absence exceed 2 years. Extension shall be granted only if rental of the Affordable Housing Unit complies with requirements of the Deed Restriction and this Article.

E. Setting Rents for Allowed Leasing of Owned Units.

Unless otherwise provided by the Deed Restriction, the rent shall be determined based upon the following considerations:

1. The owner's cost which includes:
   a. Loan principle and interest and mortgage insurance;
   b. Homeowner Association fees;
   c. Utilities remaining in owner's name; and
   d. Property taxes and homeowners insurance.
2. Rental applicants must be approved by the GCHA and must meet the income restrictions set forth in section 8-302.

F. Roommates.

An owner may rent a room in the Affordable Housing Unit under the following conditions:

1. The owner continues to reside in the Affordable Housing Unit and the unit is his/her sole and exclusive place of residence.
2. The Deed Restriction or Homeowner Association documents do not prohibit leasing to roommates.

8-405. GRIEVANCE PROCEDURES.

Any person aggrieved by a decision of the GCHA may file a written complaint with GCHA Board. The grievance must be received by the GCHA within 10 days of the date of the alleged action complained about.

A. File Written Complaint.

The complaint shall contain the following information.

1. Grounds for complaint;

2. Action requested; and

3. Name, address and phone number of complainant and similar information for any authorized representative.

B. Schedule Hearing.

A hearing before the GCHA board shall be scheduled for the next regularly scheduled board meeting. The hearing may be continued at the board's discretion.

C. Review of Documents.

The GCHA board and the complainant shall have sufficient opportunity before the hearing, and at the expense of the complainant, to examine documents, records and regulations that are relevant to the complaint. Documents that have not been requested and made available prior to the hearing may not be relied on during the hearing.

D. Hearing Process.

The complainant shall be entitled to a fair hearing that provides the basic safeguards of due process, including notice of hearing and an opportunity to be heard in a timely reasonable manner.

1. Conduct of Hearing.

a. If complainant fails to appear at scheduled hearing, the GCHA board may make a determination to postpone the hearing, or to review and act upon the complaint based upon the written documentation and evidence submitted.

b. Review of oral or documentary evidence shall not require strict compliance with the rules of evidence applicable to judicial hearings. However, the complainant may not present documents at a hearing concerning eligibility which have not been previously submitted and considered by the GCHA in reaching its decision of ineligibility.

c. The right to cross-examination shall be at the discretion of the GCHA board and may be regulated by the GCHA board as it deems necessary for a fair hearing.

2. Hearing Record. The following documents shall constitute the hearing record:

a. Written complaint;

b. Written documentation and evidence considered at the hearing; and

c. Minutes of the meeting and record of decision.

E. Decision of the GCHA Board.

The GCHA board shall provide a written decision that includes the reasons for its determination. The decision of the board shall be binding on the GCHA, which shall take all actions necessary to carry out the decision.

1. If a determination is made of ineligibility for a lottery, and the hearing of a grievance cannot be scheduled before the lottery takes place, the complainant's name may be placed in the appropriate category of the lottery. If the complainant's name is chosen, then the closing will be

postponed until the GCHA board can make a decision on the eligibility of the complainant.

2. All persons submitting an application for eligibility to purchase an Affordable Housing Unit will sign an agreement stating that if they are found ineligible and the decision is later overturned either by administrative or court action, their sole remedy will be applied for in the lottery for the next available unit in the event that unit originally applied for has been sold.

8-406. PERIODIC REVIEW OF INCLUSIONARY ZONING GUIDELINES.

The Inclusionary Zoning Guidelines set forth in this Division 4 shall be reviewed periodically by the GCHA. Revisions to the guidelines shall be processed as a text amendment pursuant to section 4-114.