



# ZONING ADMINISTRATOR BULLETIN NO. 10

## Designation Priorities for the Inclusionary Affordable Housing Program (“Program”)

Section 307 of the Planning Code mandates the Zoning Administrator to issue and adopt such rules, regulations and interpretations as are in the Zoning Administrator’s opinion, necessary to administer and enforce the provisions of the Planning Code.

<b>Date:</b> December 2015	<b>Relevant Ordinance:</b> Section 415 Inclusionary Affordable Housing Program
<b>Updated:</b> December 2018	

### PURPOSE:

Pursuant to Planning Code Section 415 and the Procedures Manual issued by the Mayor’s Office of Housing and Community Development (MOHCD), there are multiple requirements for the designation of on-site inclusionary affordable housing units (“Inclusionary Units” or “BMR” units). The Zoning Administrator made further interpretations of these requirements and this bulletin is intended to outline each requirement and provide guidance regarding the designation process.

The Inclusionary Affordable Housing Ordinance was modified in August, 2017 (Board File No. 161351), resulting in two project types: grandfathered projects and non-grandfathered projects. Grandfathered projects are those that submitted a complete Environmental Evaluation Application (EEA) prior to January 12, 2016. Non-grandfathered projects submitted a complete EEA or Project Application (PRJ) on or after January 12, 2016. Please consult with the assigned environmental planner to determine the date that a project’s EEA or PRJ was considered complete.

Please note that the examples in this document are intended to be illustrative. The Department recommends contacting the Housing Implementation Planner to determine how the following guidelines apply to a specific project (contact information is included at the end of this Bulletin).

### PERCENTAGE OF INCLUSIONARY UNITS AND AFFORDABILITY LEVELS:

#### All Projects:

The percentage of on-site Inclusionary Units depends on the number of units and the zoning of the parcel that is being developed. This requirement is established by the Planning Code, a Development Agreement, or legislation associated with a re-zoning for the project. A remaining fraction of one-half (0.5) or more shall be adjusted upward to the next higher whole number of required Inclusionary Units

**Grandfathered Projects:**

Grandfathered projects do not have varying Area Median Income (AMI) levels. Rental Inclusionary Units will be affordable to households at a rental rate of 55% AMI and ownership Inclusionary Units will be affordable to households at a purchase price of 90 % AMI.

**Non-Grandfathered Projects:**

Inclusionary Units in Non-Grandfathered Projects must be distributed between three different income tiers: low, middle, and moderate income. Income tiers vary based on the tenure of the project and when the EEA or PRJ was considered complete. To determine what percentage of units must be allocated to each income tier, multiply the total number of units in the project by the percentage of units required for each income tier. A remaining fraction of one-half (0.5) or more shall be adjusted upward to the next higher whole number of required Inclusionary Units. If rounding each of the AMI levels results in more Inclusionary Units than required, the number with the lowest remainder should not be rounded. If the rounding of each of the AMI levels results in fewer Inclusionary Units than required, then the number with the highest remainder shall be rounded.

**Non-Grandfathered Project Example:**

A project has an on-site Inclusionary requirement of 20% of the total number of units in the project. The Planning Code requires that 10% of the total number of units must be affordable to low income households, 5% must be affordable to moderate income households, and the remaining 5% must be available to middle income households. The project contains 123 units; therefore, 25 units must be inclusionary due to rounding ( $123 \times 0.2 = 24.6$ ). Next, each AMI level must be calculated. 13 units must be low income ( $123 \times 0.1 = 12.3$ ), 6 must be moderate income ( $123 \times 0.05 = 6.15$ ), and 6 units must be middle income ( $123 \times 0.05 = 6.15$ ). In this example, the low-income tier was rounded up because it had the highest remainder. If it was not rounded, the project would only have 24 Inclusionary Units, which does not meet the inclusionary requirement.

**INCLUSIONARY UNIT MIX:**

**All Projects:**

The unit mix of Inclusionary Units must match the unit mix of the Project. This can be calculated by multiplying the number of any type of unit by the Inclusionary percentage. For example, if there are 100 total units consisting of 50 one-bedroom units, 30 two-bedroom units, and 20 three-bedroom units, and the on-site inclusionary requirement is 25%, the 25 Inclusionary Units must consist of 12 one-bedroom units ( $50 \times .25 = 12.5$  or 13), 8 two-bedroom units ( $30 \times .25 = 7.5$  or 8), and 5 three-bedroom units ( $20 \times .25 = 5$ ).

For cases where rounding results in more Inclusionary Units than required, then the lowest remainder shall not be rounded. If rounding would result in fewer Inclusionary Units than required, then the highest remainder shall be rounded up. In instances where the remainders are equal, such as the example above, then the larger unit type should be allocated as an Inclusionary Unit.

## **EVEN DISTRIBUTION THROUGHOUT BUILDING:**

### **Grandfathered Projects:**

The standard conditions of approval for Inclusionary Units require that the Inclusionary Units be evenly distributed throughout the building. The Zoning Administrator further interpreted that the Inclusionary Units must be evenly distributed throughout the bottom 2/3 of the building with regard to the number of residential floors. For example, if the project is 60 stories, the Inclusionary Units must be evenly distributed throughout the bottom 40 stories. Therefore, the top 20 floors may be reserved for market-rate units. Another example is if the project is 8 stories, the Inclusionary Units must be evenly distributed throughout the bottom five stories because 2/3 of 8 stories is 5.33. If the number of stories is not a whole number, the Department will round up to the nearest whole number for any portion of .5 or above.

### **Non-Grandfathered Projects:**

The Planning Code requires that the Inclusionary Units must be evenly distributed throughout the bottom 2/3 of building with regard to the number of residential floors in buildings over 120 feet in height. However, this does not prohibit distribution from occurring in the top 1/3 of a building. For buildings at or under 120 feet in height, the Inclusionary Units must be evenly distributed throughout the residential floors of the entire building.

### **Non-Grandfathered Project Examples:**

A Project is 60 stories tall, so the Inclusionary Units must be evenly distributed throughout the bottom 40 stories at a minimum. Therefore, the top 20 floors may be reserved for market-rate units. If the project is 8 stories tall (or approximately 85 feet in height), the Inclusionary Units must be evenly distributed throughout all of the residential floors of the entire building because it is under 120 feet in height. If the number of stories is not a whole number, the Department will round up to the nearest whole number for any portion of .5 or above. Projects with multiple income levels are encouraged to distribute the AMI levels evenly between floors.

## **AVERAGE SIZE OF INCLUSIONARY UNITS:**

### **Grandfathered Projects:**

Although the Planning Code specifically states that Inclusionary Units do not need to be the exact size as the market-rate units, it is important to recognize that the spirit of the Inclusionary Program is to designate comparable Inclusionary Units. The Zoning Administrator determined that the Inclusionary Units do not need to be the exact size as the market-rate units and can be 90% of the average size of the specified unit type. For example, if there are several different one-bedroom model types ranging from 400 – 500 square feet in area with the average one-bedroom unit size being 450 square feet in area, the on-site Inclusionary Units selected should average at least 405 square feet in area. Given that the Inclusionary Units need only be located on the bottom 2/3 of a building, the average size of the unit type may also be calculated for the bottom 2/3 of the building, thereby eliminating larger penthouse-style units from affecting the average unit size calculations. The Planning Department and the Mayor's Office of Housing and Community Development reserve the right to modify this requirement in home ownership projects in order to enhance the affordability for first-time home owners.

**Non-Grandfathered Projects:**

The Inclusionary Units are not required to be the same size as the market rate units. The total residential floor area devoted to the Inclusionary Units shall not be less than required on-site Inclusionary Housing percentage applied to the total residential floor area of the principal project, provided that a 10% variation in floor area is permitted. The Planning Department and the Mayor’s Office of Housing and Community Development reserve the right to modify this requirement in home ownership projects in order to enhance the affordability for first-time home owners. For example, if the total residential floor area of a building is 100,000 square feet and the on-site percentage is 20%, 20,000 square feet must be dedicated to Inclusionary Units with a 2,000 square foot variation.

Furthermore, Inclusionary Units shall be no smaller than the minimum unit sizes set forth by the California Tax Credit Allocation Committee as of May 16, 2017. One-bedroom units must be at least 450 square feet, two-bedroom units must be at least 700 square feet, and three-bedroom units must be at least 900 square feet. The Planning Code requires that studio units be no smaller than 300 square feet. There is no minimum size requirement for Group Housing rooms in the Planning Code.

**ADJACENCY OF INCLUSIONARY UNITS:**

**All Projects:**

In an effort to evenly distribute Inclusionary Units throughout the building, no two Inclusionary Units may be located adjacent to each other unless it is unavoidable due to conflicting priorities such as unit mix and distribution. Every effort should be made to avoid adjacency.

**LOCATION AND AMENITIES:**

**All Projects:**

The Planning Department shall consider whether the Inclusionary Units are distributed evenly across all frontages and whether these units have similar amenities (e.g. balconies, outdoor patios, number of bathrooms) as the market-rate units. Although there is not a specific requirement for Inclusionary Units to be identical to market-rate units, the Department will evaluate the Inclusionary Unit selection while considering the location of the Inclusionary Units (e.g. ensuring that the Inclusionary Units are not concentrated solely around loading docks). The overall construction quality of the Inclusionary Units must be comparable to the market-rate units. However, the interior features are not required to be identical. For example, Inclusionary Units must provide dishwashers if the market-rate units are equipped with dishwashers. However, the brand of the dishwasher need not be identical. The Department will also review plans to ensure that Inclusionary Units do not include abnormal interior features that are not present in market-rate units, which would negatively affect the value and/or livability of the unit.

**STACKING:**

**All Projects:**

In an effort to evenly distribute Inclusionary Units throughout the building, stacking of Inclusionary Units (designating the same unit on consecutive floors) is strongly discouraged. There are limited circumstances where given the unit mix and distribution, this may be unavoidable. However, every effort should be made to avoid stacking Inclusionary Units.

## EVEN DISTRIBUTION OF AMI LEVELS AMONG BMR UNITS:

### Non-Grandfathered Projects:

If the Project is required to provide a mix of income levels, then the income levels shall be evenly distributed throughout all of the unit types to the extent possible. In order to achieve the most even distribution, the Department requires Inclusionary units to be allocated based on the required unit mix and mix of income levels. The first step in this process is to designate the “stock” by determining the number, unit mix, and location of the Inclusionary Units. Project sponsors should review the criteria and procedures of this Bulletin to determine the location of the required Inclusionary Units. The second step is to assign AMI levels to each of the required Inclusionary units. The Department will follow these rules when allocating income levels to the required Inclusionary Units.

1. Begin allocating at the unit type with the fewest number of Inclusionary Units. Usually, these are the larger units in the project (two- and three-bedroom units).
  - a. First, designate one Inclusionary Unit at each income level only for that unit type.
    - i. Any remaining units will be designated in the next steps.
    - ii. If there are not three required Inclusionary Units of that type, then distribution of the units will be as follows:
      - (1) One remaining unit will be designated to the middle income tier;
      - (2) Two remaining units will be designated to the lowest and highest income tiers.
2. Repeat step one for each unit type, starting with the unit type with the fewest number of required Inclusionary Units, to the unit type with the most required units. Designate one Inclusionary Unit of that type to each income tier, and set the remainders aside.
3. Once one Inclusionary Unit is designated to each income level for each unit type, the process will start over, beginning with the unit type with the fewest number of remaining Inclusionary Units.
  - a. When an income tier reaches the maximum number of required units, then no further Inclusionary Units may be designated in that tier.

### Assigning Income Levels to Inclusionary Units: Sample Project

Sample Project: 147 Total Rental Units

Inclusionary Rate: 18%

Dwelling Unit Mix: 67 studio, 42 one-bedroom, 23 two-bedroom, and 15 three-bedroom units

#### Step 1: Designate the Stock

Inclusionary Requirement =  $147 \times 0.18 = 26.46$  units = 26 BMR Units Required

BMR Unit Mix:

$67 \text{ studio} \times 0.18 = 12.06 = 12$  BMR Studios Required

$42 \text{ one-bedroom} \times 0.18 = 7.56 = 7$  BMR one-bedroom units required\*

$23 \text{ two-bedroom} \times 0.18 = 4.14 = 4$  BMR two-bedroom units required

$15 \text{ three-bedroom} \times 0.18 = 2.7 = 3$  BMR three-bedroom units required

\*Although 7.56 would normally be rounded to 8, the result would be one more Inclusionary Unit than required. Since a remainder of 0.56 is less than a remainder of 0.7, the lower remainder is rounded down. The location of the Inclusionary Units should be finalized on the plan sets before completing the next step.

**Step 2: Allocate the Income Levels to the Units**

The required unit mix and AMI levels are listed in the chart below. Following the instructions above, all of the units are allocated to AMI levels in the unit type with the fewest BMR units, which is the 3BR unit type. Note that since there are three required 3BR BMR units, then there are no remainders to allocate in the next steps.

	55% AMI	80% AMI	110% AMI	TOTAL REQUIRED
Studio				12 Units
1 BR				7 Units
2 BR				4 Units
3 BR	I	I	I	3 Units
<b>TOTAL REQUIRED</b>	<b>14</b>	<b>6</b>	<b>6</b>	26 BMR Units

Next, beginning with the unit type with the second fewest number of units (i.e. 2BR units), one BMR is allocated into each of the three tiers. There is one remaining 2BR BMR to be allocated in the next steps.

	55% AMI	80% AMI	110% AMI	TOTAL REQUIRED	REMAINDER
Studio				12 Units	
1 BR				7 Units	
2 BR	I	I	I	4 Units	1
3 BR	I	I	I	3 Units	0
<b>TOTAL REQUIRED</b>	<b>14</b>	<b>6</b>	<b>6</b>	26 BMR Units	

The previous step is repeated for 1BR units, and then for studio units.

	55% AMI	80% AMI	110% AMI	TOTAL REQUIRED	REMAINDER
Studio	I	I	I	12 Units	9
1 BR	I	I	I	7 Units	4
2 BR	I	I	I	4 Units	1
3 BR	I	I	I	3 Units	0
<b>TOTAL REQUIRED</b>	<b>14</b>	<b>6</b>	<b>6</b>	26 BMR Units	

The process starts again by beginning with the unit type with the fewest remainders of BMR units. Here, there is one remaining 2BR unit, so it's allocated to the middle income tier.

	55% AMI	80% AMI	110% AMI	TOTAL REQUIRED	REMAINDER
Studio	I	I	I	12 Units	9
1 BR	I	I	I	7 Units	4
2 BR	I	II	I	4 Units	0
3 BR	I	I	I	3 Units	0
<b>TOTAL REQUIRED</b>	<b>14</b>	<b>6</b>	<b>6</b>	26 BMR Units	

Note that once the 1BR unit is designated to the middle income tier, then the required number of units for that tier is met. From this point, 1BR units are designated at the highest and lowest income levels.

	55% AMI	80% AMI	110% AMI	TOTAL REQUIRED	REMAINDER
Studio	I	I	I	12 Units	9
1 BR	II	II	II	7 Units	1
2 BR	I	II	I	4 Units	0
3 BR	I	I	I	3 Units	0
<b>TOTAL REQUIRED</b>	<b>14</b>	<b>6 (FULL)</b>	<b>6</b>	26 BMR Units	

Studio Units are designated next by allocating 1 BMR into each of the tiers that is still open. Notice that the 110% AMI tier is also now "full." The remainder of the BMR units will be designated at 55% AMI.

	55% AMI	80% AMI	110% AMI	TOTAL REQUIRED	REMAINDER
Studio	II	I	II	12 Units	7
1 BR	II	II	II	7 Units	1
2 BR	I	II	I	4 Units	0
3 BR	I	I	I	3 Units	0
<b>TOTAL REQUIRED</b>	<b>14</b>	<b>6 (FULL)</b>	<b>6 (FULL)</b>	26 BMR Units	

**FINAL CHART:**

	55% AMI	80% AMI	110% AMI	TOTAL REQUIRED
Studio	9	1	2	12 Units
1 BR	3	2	2	7 Units
2 BR	1	2	1	4 Units
3 BR	1	1	1	3 Units
<b>TOTAL REQUIRED</b>	<b>14</b>	<b>6</b>	<b>6</b>	26 BMR Units

**PROCESS:**

A Project Sponsor must select the method of compliance with the Inclusionary Affordable Housing Program at least 30 days before Planning Commission or Planning Department approval. Inclusionary Units must be designated prior the issuance of the architectural addenda for the project. Plans and standard conditions of approval must be recorded as a Notice of Special Restrictions (“NSR”) against the property. After Planning Commission approval of a Project, an NSR is recorded memorializing the Conditions of Approval from the Planning Commission Motion, which will include standard Inclusionary Conditions of Approval. Prior to the issuance of the architectural addenda, the Project Sponsor must record a second NSR that includes reduced floor plans designating the Inclusionary Units. After recording the second NSR to designate the Inclusionary Units, the Project Sponsor should contact the Mayor’s Office of Housing and Community Development to begin pricing and marketing the Units.

**SUBMITTAL REQUIREMENTS:**

Please email the following materials to the assigned planner to initiate the BMR designation process, and copy the Housing Implementation Planner listed below:

- Site Plan (in .pdf format)
- Floor Plans for each floor with the BMR units, unit numbers, unit sizes, and income levels (if applicable) included on the plans. (.pdf format)
- An Excel spreadsheet (in .xlsx format) that includes:
  - For grandfathered projects, the gross square footage of each of the BMR unit and the average unit size for each unit type.
  - For non-grandfathered projects, the gross residential square footage of the project, and the gross square footage of each of the BMR units.
  - For all projects, a list of all unit models within one type (e.g. all three-bedroom typologies).

**QUESTIONS:**

The Planning Department and MOHCD recognize the importance of the designation process and the potential financial implications. Although there is subjectivity involved in the selection process, the Planning Department will work with the Project Sponsor to ensure that the designation priorities are met to the furthest extent possible. **For questions regarding the process, please contact Carly Grob, Housing Implementation Planner at [carly.grob@sfgov.org](mailto:carly.grob@sfgov.org) or by phone at (628) 652-7532.**



**San Francisco**  
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