

IV. ELIGIBILITY STANDARDS

IV-A. General Policy

As the first step in the process, prospective Homebuyers must complete the City's Program Summary & Pre-Application Checklist. If an applicant proceeds to the formal underwriting process, the Primary Lender must obtain documentation that demonstrates the prospective Homebuyer's eligibility to purchase an Inclusionary Unit.

Applicants that are unable to provide satisfactory evidence of income, assets, Household composition, or other qualifying criteria will not be considered Eligible Purchasers and will not be allowed to purchase an Inclusionary Unit. Applicants who are determined not to meet the qualifications to be an Eligible Purchaser must wait a period of at least one year prior to submitting a new application to purchase an Inclusionary Unit.

IV-B. Homebuyer Eligibility Criteria

B-1. HOUSEHOLD AND UNIT SIZE COMPATIBILITY

The size of a prospective Homebuyer's Household must be compatible with the size of the Inclusionary Unit to be purchased. The minimum and maximum number of occupants are set as follows:

Number of Bedrooms in the Inclusionary Unit	Minimum Number of Occupants	Maximum Number of Occupants
1	1	4
2	2	6
3	3	8
4	4	10

B-2. OWNER OCCUPANCY

Prospective Homebuyers must certify that the Inclusionary Unit will be the Household's Primary Residence, and that it will not be used for any another purpose. This requires the Homebuyer to agree to adhere to the following requirements:

1. The Homeowner must reside in the Inclusionary Unit for at least 10 out of every 12 months.
2. No part of the Inclusionary Unit may be rented or leased at any time except under a hardship provision approved in writing by the City. In an approved hardship case, the Homeowner may rent the Inclusionary Unit under the following restrictions:
 - a. The rental period cannot exceed one year;
 - b. The Inclusionary Unit must be rented to a Moderate Income Household at an affordable rent established by the City; and
 - c. The Homeowner must provide copies of all rental/lease agreements to the City.

Any violation of these restrictions will constitute a Default by the Homeowner.

B-3. OWNERSHIP OF OTHER RESIDENTIAL REAL ESTATE

No member of the Household may own other residential property, including mobile home property, unless the property will be sold prior to or in conjunction with the purchase of an Inclusionary Unit.

B-4. VERIFIABLE INCOME

All Adult Household members, except stay-at-home spouses, domestic partners and dependents, must have at least one continuous year of verifiable income and income tax payment history in the United States at the time of application. This requirement is increased to two continuous years of verifiable personal and business income for self-employed individuals.

Adult stay-at-home spouses, domestic partners and dependents that are reporting that they do not receive any type of income must fill out an affidavit certifying this fact. The affidavit form is provided in Attachment D to this Administrative Procedures Manual.

B-5. BANKRUPTCY

No member of the Household may have a bankruptcy with a discharge date that is fewer than two years prior to the submission of an application to purchase an Inclusionary Unit.

B-6. DIVORCED OR SEPARATED APPLICANTS

Divorced or legally separated Household members must provide a copy of the divorce decree or legal separation document signed by a court officer. Otherwise separated married Household members must demonstrate at least one year of complete financial and residential separation at time of application for the couple to be considered separate for purposes of determining eligibility. If this cannot be demonstrated, the couple must submit the application as co-applicants.

B-7. JOINT CUSTODY OF CHILDREN

Prospective Homebuyers with joint custody of children must have custodial parent rights defined in a divorce decree for a child to be considered part of the Household. This rule shall not be interpreted as disallowing children from living with parents with less than 50% custody rights; it is solely intended to be applied when determining Household size for program eligibility.

B-8. COMPOSITION OF HOUSEHOLD

The Household composition may not be altered after the prospective Homebuyer is approved as an Eligible Purchaser. If a prospective Homebuyer wishes to change the Household composition after being approved as an Eligible Purchaser, the prospective Homebuyer must restart the approval process from the beginning.

IV-C. Income Eligibility Criteria

C-1. GROSS INCOME

The City will consider Gross Income for all Adult Household members when determining applicant eligibility. The funds included in Gross Income are detailed in the definitions section of this Administrative Procedures Manual.

C-2. MAXIMUM INCOME

The Inclusionary Units in Ownership Housing Developments are designated for Moderate Income Households. The maximum allowable Gross Income is determined on the basis of the actual Household size of the prospective Homebuyer. The Gross Income data will be updated annually following publication of the State Income Limits by HCD.

IV-D. Mortgage / Down Payment Gift Fund Requirements

The mortgage and Homebuyer down payment requirements applied to the initial purchase of an Inclusionary Unit are described as follows:

D-1. MORTGAGE REQUIREMENTS

1. The Primary Mortgage must be secured by a loan agreement and a deed of trust from a bank or company licensed to make home loans in California. Loans from family members, friends, or other non-licensed entities shall be considered gift funds to the applicant, as defined in this Administrative Procedures Manual.
2. The City will subordinate the City Performance Deed of Trust to the deed of trust executed to secure the Primary Mortgage. The City will not subordinate the City Performance Deed of Trust to any secondary financing.
3. The Regulatory Agreement shall be senior to the Primary Mortgage, and shall not be extinguished by foreclosure, a deed in lieu of foreclosure or power of sale, or sale.
4. Homebuyers must obtain a Primary Mortgage that is a fully amortizing, fixed interest rate mortgage with a term of at least 30 years. No interest only loans, negative amortization loans, balloon payment loans or variable interest rate loans will be allowed.
5. The Homebuyer is prohibited from using a co-signer to obtain a Primary Mortgage.
6. The Primary Mortgage used to acquire the Inclusionary Unit cannot exceed the lesser of:
 - a. 95% of the Inclusionary Unit's appraised Fair Market Value, or
 - b. 95% of the Affordable Sales Price.
7. The Back-End Ratio for Adult Household members cannot exceed 45%.

D-2. MINIMUM AND MAXIMUM DOWN PAYMENT

The following minimum and maximum down payment requirements are applied to the purchase of an Inclusionary Unit:

1. Using their own funds, Homebuyers must be able to make a down payment equal to at least 3% of the designated Affordable Sales Price, and to pay all the closing costs associated with the purchase of the Inclusionary Unit.
2. The Maximum Homebuyer down payment, including the Homebuyer contribution and gift funds, is capped at 20% of the Affordable Sales Price for the Inclusionary Unit.

In extraordinary circumstances, the Executive Director has the authority to review and approve variations to the established minimum and maximum amounts.

D-3. GIFT FUNDS

The gift funds an applicant can apply to the purchase of an Inclusionary Unit are capped at 3% of the Affordable Sales Price.