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# REAL ESTATE ALERT

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### THE CITY OF JOHANNESBURG INCLUSIONARY HOUSING POLICY, 2019

On 21 February 2019, the City of Johannesburg Metropolitan Municipality (COJ) approved the new policy, Inclusionary Housing: Incentives, Regulations and Mechanisms (Policy), which will come into effect on 22 May 2019. This follows a much less detailed Draft Policy which was published for public comment on 28 February 2018 and thereafter further developed and amended to form the Policy.

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# THE CITY OF JOHANNESBURG INCLUSIONARY HOUSING POLICY, 2019

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On 21 February 2019, the City of Johannesburg Metropolitan Municipality (COJ) approved the new policy, Inclusionary Housing: Incentives, Regulations and Mechanisms (Policy), which will come into effect on 22 May 2019. This follows a much less detailed Draft Policy which was published for public comment on 28 February 2018 and thereafter further developed and amended to form the Policy.

The Policy has a number of objectives which it aims to achieve, some of which include:

- addressing social inequalities in Johannesburg and the significant backlog in the provision of affordable housing to low income households;
- ensuring that lower income residents move closer to employment opportunities and social amenities;
- ensuring that the increase in property value which ensues as a result of the award of development rights is enjoyed not only by the developer, but also by the City and its residents; and
- enabling the City to ensure that its investments benefit large and diverse portions of the population which will in turn effect spatial transformation.

Inclusionary housing is to be seen as a mechanism that would facilitate a move towards a more inclusive, efficient and effective city.

The Policy sets out the requirements and conditions for inclusionary housing and details the different options available for implementing same, together with the "incentives" made available to developers in return. The Draft Policy only provided for one manner in which to implement the policy together with one set of incentives. The Policy also provides for an Excel

spreadsheet "calculator", which developers can use to determine which option would suit them best.

The Policy defines inclusionary housing as:

"a housing programme that, through conditions attached to land use rights approvals, requires private developers to dedicate a certain percentage of new housing developments to low income and low middle income households, or to households that may not otherwise afford to live in those developments."

Inclusionary housing is mandatory for any development within the jurisdiction of COJ, which proposed development includes 20 dwelling units or more. This reflects an increase from a minimum development size of 10 units in terms of the Draft Policy.

There are four different options for the implementation of inclusionary housing, as further discussed below, however, in each option, a minimum of 30% of the total units in the development must be set aside for inclusionary housing, which units must be located on the same site as the remainder of the development or within the same township. This shows an increase from the 20% requirement set out in the Draft Policy. Furthermore, in terms of the Draft Policy, inclusionary housing was limited to rentals, but the Policy has also included the implementation of inclusionary housing through ownership of such units.

# THE CITY OF JOHANNESBURG INCLUSIONARY HOUSING POLICY, 2019

## CONTINUED

From the date that the Policy takes effect, each new land development application will be required to provide for inclusionary housing and the implementation thereof will be made a condition of approval of the development. Such conditions will be in place in perpetuity or until repealed by a COJ resolution. Action may be taken by COJ against the developer should these conditions not be complied with. The provisions of the Policy will not affect existing approved land use rights. If and when COJ considers it necessary, the Policy will be reviewed and amended accordingly.

Below follows a summary of the four options available to developers for the implementation of inclusionary housing:

Option	Description	Incentives
1	<p>At least 30% of units are a mix of either:</p> <p>Social Housing which complies with the Social Housing Act, 2008, and the Social Housing Regulatory Authority, has the same outward appearance as the market units within the development, and shares the same common spaces and facilities.</p> <p>Units which qualify under the Finance Linked Individual Subsidy Programme (FLISP) and which comply with the minimum design requirements.*</p> <p>Privately owned units with a rental cap of R2,100.00 per month (2018) (which includes levies but excludes utility costs, and which will be increased according to CPI) and which comply with the minimum design requirements.*</p>	<ol style="list-style-type: none"> <li>1. Increase in FAR equal to the percentage of inclusionary housing units (maximum of 50% increase).</li> <li>2. Increase in density to accommodate the inclusionary housing units (maximum of 50% increase).</li> <li>3. Inclusionary housing units subject to half of the parking requirements.</li> </ol>
2	<p>10% of the total residential floor area of the development must be made up of small inclusionary housing units which are a minimum of 18m<sup>2</sup>, a maximum of 30m<sup>2</sup> and an average of 24m<sup>2</sup>, and which comply with the minimum design requirements*. 30% of the total units must be for inclusionary housing. These units can be rented out or sold. This option only applies to areas where a density of 60 dwelling units per hectare (or more) is supported.</p>	<ol style="list-style-type: none"> <li>1. Increase in FAR to accommodate the inclusionary housing units.</li> <li>2. Increase in density to accommodate the inclusionary housing units.</li> <li>3. Inclusionary housing units subject to half of the parking requirements.</li> </ol>
3	<p>20% of the total residential floor area of the development must be made up of inclusionary housing units which are 50% of the size of the average size of the market units in the development (with a maximum of 150m<sup>2</sup> and a minimum of 18m<sup>2</sup>), and which comply with the minimum design requirements*. 30% of the total units must be for inclusionary housing. These units can be rented out or sold.</p>	<ol style="list-style-type: none"> <li>1. Increase in FAR to accommodate the inclusionary housing units.</li> <li>2. Increase in density to accommodate the inclusionary housing units.</li> </ol>
4	<p>To the satisfaction of COJ, a developer may request a negotiated manner of implementing inclusionary housing. Such request must be in writing and include reasons as to why the first 3 options are not viable and a proposal for how inclusionary housing will be accommodated. The proposal shall either be accepted, rejected or an amendment will be proposed by COJ.</p>	<p>None other than those contained in the Policy or any other relevant COJ-approved policy or legislation.</p>

# THE CITY OF JOHANNESBURG INCLUSIONARY HOUSING POLICY, 2019

CONTINUED

*The Policy makes no mention of incentives relating to decreased parks or engineering service contributions in respect of the inclusionary housing units, building line relaxation, or property rate rebates applicable to such units.*



\*Minimum Design Requirements:

1. Private bathroom.
2. Minimum of 7m<sup>2</sup> of habitable space per person and minimum of 18m<sup>2</sup> per unit (this is an increase from the 15m<sup>2</sup> provided for in the Draft Policy).
3. Have the same outward appearance as the market units in the development.
4. Share the same common spaces and facilities as the market units in the development.

What should be noted is that, as opposed to the Draft Policy, the Policy makes no mention of incentives relating to decreased parks or engineering service contributions

in respect of the inclusionary housing units, building line relaxation, or property rate rebates applicable to such units.

Although there has been much negative feedback given by developers and interested parties in relation to the Draft Policy and the Policy in its final form, including the financial viability and practicality thereof, developers will have to ensure that the Policy is implemented, in one way or another, failing which they will not be in a position to proceed with their proposed residential developments as intended.

*Joloudi Badenhorst & Emilia Pabian  
Overseen by Lucia Erasmus*

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William Midgley ranked by CHAMBERS GLOBAL 2017 - 2019 in Band 2: Real Estate.



## OUR TEAM

For more information about our Real Estate practice and services, please contact:



**John Webber**  
National Practice Head  
Director  
T +27 (0)11 562 1444  
E john.webber@cdhlegal.com



**Bronwyn Brown**  
Director  
T +27 (0)11 562 1235  
E bronwyn.brown@cdhlegal.com



**Nayna Cara**  
Director  
T +27 (0)11 562 1701  
E nayna.cara@cdhlegal.com



**Mike Collins**  
Director  
T +27 (0)21 481 6401  
E mike.collins@cdhlegal.com



**Lucia Erasmus**  
Director  
T +27 (0)11 562 1082  
E lucia.erasmus@cdhlegal.com



**Simone Franks**  
Director  
T +27 (0)21 670 7462  
E simone.franks@cdhlegal.com



**Daniel Fyfer**  
Director  
T +27 (0)21 405 6084  
E daniel.fyfer@cdhlegal.com



**Fatima Gattoo**  
Director  
T +27 (0)11 562 1236  
E fatima.gattoo@cdhlegal.com



**Muhammad Gattoo**  
Director  
T +27 (0)11 562 1174  
E muhammad.gattoo@cdhlegal.com



**Andrew Heiberg**  
Director  
T +27 (0)21 481 6317  
E andrew.heiberg@cdhlegal.com



**Simone Immelman**  
Director  
T +27 (0)21 405 6078  
E simone.immelman@cdhlegal.com



**William Midgley**  
Director  
T +27 (0)11 562 1390  
E william.midgley@cdhlegal.com



**Attie Pretorius**  
Director  
T +27 (0)11 562 1101  
E attie.pretorius@cdhlegal.com



**Muriel Serfontein**  
Director  
T +27 (0)11 562 1237  
E muriel.serfontein@cdhlegal.com



**Allison Alexander**  
Executive Consultant  
T +27 (0)21 481 6403  
E allison.alexander@cdhlegal.com



**Natasha Fletcher**  
Senior Associate  
T +27 (0)11 562 1263  
E natasha.fletcher@cdhlegal.com



**Samantha Kelly**  
Senior Associate  
T +27 (0)11 562 1160  
E samantha.kelly@cdhlegal.com



**Janke Strydom**  
Senior Associate  
T +27 (0)11 562 1613  
E janke.strydom@cdhlegal.com

**Joloudi Badenhorst**  
Associate  
T +27 (0)11 562 1217  
E joloudi.badenhorst@cdhlegal.com

**Robyn Geswindt**  
Associate  
T +27 (0)21 481 6382  
E robyn.geswindt@cdhlegal.com

**Palesa Matseka**  
Associate  
T +27 (0)11 562 1851  
E palesa.matsheka@cdhlegal.com

**Aaron Mupeti**  
Associate  
T +27 (0)11 562 1016  
E aaron.mupeti@cdhlegal.com

**Emilia Pabian**  
Associate  
T +27 (0)11 562 1076  
E emilia.pabian@cdhlegal.com

**Melissa Peneda**  
Associate  
T +27 (0)11 562 1385  
E melissa.peneda@cdhlegal.com

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### JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.  
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

### CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.  
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

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