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Planning Commission Report

Meeting Date: December 10, 2015

Subject: Proposed Affordable Housing Program Guidelines

Recommendation: Consider proposed guidelines for the City's Affordable Housing Program and provide staff with direction as appropriate.

REPORT SUMMARY

In response to development of affordable housing units in current development projects, as well as any future affordable units that may be approved in the City, Draft Affordable Housing Program Guidelines (Guidelines) have been developed to facilitate management and administration of the units. The program applies to units produced either as a result of the City's Density Bonus Ordinance as set forth in Article 15.2 of the City's Zoning Code or of other agreements to provide affordable units as part of a development project in the City. This report summarizes the attached draft Guidelines (Attachment 1) and identifies issues where Planning Commission input is desired.

BACKGROUND

Affordable Housing Units in Beverly Hills

Several housing projects approved in the past ten years include affordable housing units that are reserved for households that meet certain maximum income requirements. Approximately 10 affordable units have been entitled but not yet constructed. A number of these housing units were built under the state Density Bonus Law program. One such project, the Elm Project (located at 309 South Elm Drive), is under construction and will provide three affordable ownership units for low-income households. Additional affordable housing units are anticipated to be entitled and developed in the future. At this time it is necessary for the City to establish a program and guidelines to administer and manage the affordable housing units in the City.

Once approved, the Guidelines will direct the process of marketing and renting/selling all affordable housing units developed in the City.

Additional Affordable Housing Discussions

The City's Housing Element of the General Plan includes a number of programs that relate directly to affordable housing. City staff anticipates a broader discussion of these programs and other affordable housing issues in the City and resulting policy direction will occur in 2016. Some of the issues City staff anticipates for future discussion include:

Attachments:
1. Draft Affordable Housing Program Guidelines

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- The potential establishment of an inclusionary housing program
- Assessing occupancy priority for affordable units
- Updates to Article 15.2 (density bonus ordinance) due to changes in State law

These topics will be brought back to the Planning Commission at a later date. At this time, the Commission is being asked to discuss only the attached draft Guidelines, which are summarized in this report.

DISCUSSION

This section includes a summary of the attached Guidelines document.

Key Steps in Process to Develop Affordable Units

The Guidelines provide a step-by-step process for the development and implementation of affordable housing units in the City including the following steps:

- Developer applies for a Density Bonus Permit *(if a density bonus project)*
    - Application will include the number of Affordable Units, their levels of affordability, and the type of project, which will be considered by the City in their calculation of the amount of bonus.
- City issues a Density Bonus Permit *(if a density bonus project)*
- Agreement and final Affordable obligation is formalized in an Affordable Housing Agreement between the City and the developer. This step and the subsequent steps would also apply for a non-Density Bonus project that has affordable units in it per an Affordable Housing Agreement for the development.
    - Agreement is recorded against the property, runs with the land, and survives transfer or sale of the land.
- Developer prepares and obtains City approval of:
    - Marketing Plan (if ownership units are proposed)
    - Management Plan (if rental units are proposed)
    - Projects approved prior to the effective date of the Guidelines shall not be required to prepare a Marketing Plan or Management Plan prior to issuance of building permits but will prepare one before units are marketed to prospective tenants/buyers.
- Final Tract Map is recorded (if applicable)
- First building permit is issued
- Eligibility Guarantees are ensured. Developers must ensure to the to the satisfaction of the city attorney:
    - Continued affordability of rental units designated for lower and very low income households;
    - Continued restriction of units designated for qualifying seniors;

  - Initial occupants of ownership units meet applicable income limits;
  - That upon resale the City and/or developer will recapture its proportionate share of appreciation.
- Construction
- Owner/renter applicant qualification and selection

Guidelines Consistency with Municipal Code Article 15.2

The Draft Guidelines are consistent with the codified language in Article 15.2 except where updates to state density bonus law (Government Code 65915 et seq.) requires updated language and where City staff determined additional clarification was needed to interpret Article 15.2.

Ownership Units

For Very Low, Low, and Moderate-Income ownership affordable units, an equity sharing agreement between the seller/developer or City and the purchaser of the ownership unit shall be required. This agreement allows fair recapture of investment for all parties when the unit sells. No term of affordability is required for ownership units approved after January 1, 2015 pursuant to Assembly Bill 2222; however, the City does share in any profits derived from the future sale of an affordable unit, with such profits to be deposited into the City's Affordable Housing Trust Fund for future use in implementing affordable housing.

Rental Units

Very low and low-income rental units shall remain affordable to the income category they are designated for 55 years.

Calculation of Maximum Affordable Sales Price and Rent

Maximum incomes for very low, low, and moderate income households are based on the California Department of Housing and Community Development (HCD) income limits for Los Angeles County. These income limits are updated annually by HCD. The maximum sales price and rent affordable to each income category are based on these income limits and other variables. Owner-occupied units are deemed affordable units if the sales price results in annual housing expenses that do not exceed 30% of the specified income level for Very Low- and Low-Income Households and 35% of the specified income level for Moderate-Income households, adjusted for household size. Potential purchasers must be income-qualified and meet the required income level for the unit they are applying to purchase.

Maximum affordable sales price is based on:

- Number of bedrooms;
- Applicable HCD income limits for Los Angeles County;
- Homeowners associations (HOA) dues for the unit;
- Assumptions regarding mortgage interest rates, down payment, property taxes, utilities/ maintenance, insurance, and private mortgage insurance (if applicable).

Maximum affordable monthly rent is based on:

- 30% of the maximum monthly income for each income category based on the HCD income limits for Los Angeles County.

Marketing Plan for Ownership Units

Developers shall develop and obtain City approval of Marketing Plans for ownership units prior to construction and marketing of the units. Marketing Plans shall contain the following components:

- Narrative Summary;
- Application Process Explanation;
- Selection Process Explanation;
- Sales Training Timelines;
- Application Timelines;
- Marketing Materials; and
- Application Packet.

Management Plan for Rental Units

The developer or management firm shall develop and obtain City approval of a Management Plan for rental units prior to construction and marketing of the units. The Management Plan shall contain:

- A plan outlining how the management firm will market and maintain the affordable rental units;
- How the management firm will maintain a waiting list for the affordable rental units;
- How the management firm will verify applicants' total household income, both initially and annually;
- Information on the units to be made available for publication on the City's website;
- A contact telephone number; and
- The names of those individuals responsible for contact and communication with the City.

Application and Screening Process

Ownership Units

After the Marketing Plan has been approved by the City, and prior to the sale of any units, the developer must screen, rank, and qualify eligible buyers and send a priority list to the City. The following steps make up the application and screening process:

- Developer's sales staff meets with City for training.
- Developer conducts application collection. Applications shall be on the City prepared application.
- Developer conducts application screening including applying the occupancy priority list in order to rank applicants.
- Developer submits the top ranked applications for the number of units available for City Review and Verification.
- Finalize approved purchasers.
- Prepare and record documents.

Rental Units

After the Management Plan has been approved by the City, and prior to the rental of any units, the developer must screen, rank, and qualify eligible tenants and send a priority list to the City. The following steps make up the application and screening process:

- Management firm's leasing staff complete training
- Management firm conducts application collection
- Management firm conducts application screening
- Management firm develops priority list based on occupancy priority list
- Developer submits the top ranked applications for the number of units available for City Review and Verification
- Management firm makes offer to lease to selected applicants
- Management firm executes rental agreement

ISSUES FOR PLANNING COMMISSION CONSIDERATION

The Draft Guidelines focus on future affordable projects developed in the City. The Elm Project, currently under development, will be subject to the Guidelines but has certain characteristics due to its approval prior to 2015 and the passage of Assembly Bill 2222 that allow that project's requirements to differ in some ways from those laid out in the guidelines.

Planning Commission input is requested on the Draft Guidelines particularly concerning the following:

Responsibilities of the City and developer/management firm

Responsibility for the Application and Screening Process

The Draft Guidelines delegate the majority of the application collection, screening and prioritization process to the developer or management firm. This reduces cost and staff time requirements for the City. It requires the City to rely on the developer or management firm's assessment of applicants and provides less certainty to the City regarding accuracy of the prioritization process.

Responsibility for Annual Reporting and Monitoring

The management firm conducts annual monitoring and submits an annual report to the City. The City may conduct follow up on-site visits and additional monitoring if deemed necessary. The report must contain:

- Total Household Income for the prior year for each affordable rental unit;
- Number of people residing in each affordable rental unit;
- Monthly rents charged for the prior year and proposed to be charged for the coming year for each affordable rental unit; and vacancy of affordable rental units during the prior year, including which unit(s) and for how long.

Staff is seeking Planning Commission input regarding the appropriateness of the responsibilities of the City and developer/management firm. The Planning Commission may wish to consider if the roles are properly defined and if responsibilities should be shifted from the City to the developer or from the developer to the City with an understanding that additional responsibilities placed on the City could result in more City control over certain processes and also staffing and fiscal impacts that will need to be assessed.

Proposed process for accepting applications

As proposed, the developer/marketing firm will review a minimum number of applications, with such number being at least five times the number of available affordable units (e.g. 50 applications for 10 units). Priority Level 1 (displaced tenant) applications will be accepted on the first day of the application period, Priority Level 2 (low and very low income) on the second day, and Priority Level 3 (moderate income) on the third day, then all categories during the remaining application time period. If a greater number of applications are received the developer will hold a lottery to select the applications to fully

review and rank (those applications received after the first 50 applications in the example used in this paragraph).

The initial submittal to the City will include the top ranked qualified application packets equivalent to the number of units available. If those top-ranked applicants are not successfully placed in an affordable unit, the developer will provide the City with the next highest ranked application(s) until all of the affordable units are occupied.

Staff is seeking Planning Commission input on the proposed process for accepting applications. The Planning Commission may wish to consider whether this is the most appropriate way to accept applications for affordable units, or if there are alternate methods for the acceptance of applications that should be considered.

Proposed approach to monitoring income

If a household's income rises more than 20 percent above the income limit for their affordable rental unit, when averaged over a period of three years of monitoring (three year rolling average), they will no longer be considered qualified for the affordable rental unit and will be required to vacate. The tenant shall have up to one year to vacate the affordable rental unit.

Staff is seeking Planning Commission input on the proposed approach and timeframes to monitoring income and welcomes input regarding other potential approaches to monitoring income for those inhabiting affordable rental units. A three year rolling average approach is proposed to account for a potential one-time anomaly in income.

CONSISTENCY WITH GENERAL PLAN AND OTHER CITY PLANS

General Plan

The Housing Element of the General Plan contains language including Goal H2 "Housing Supply and Diversity" which calls for "provid[ing] a variety of housing types and adequate affordable housing supply to meet the existing and future needs of the community and Policy H 2.1 "Affordable Housing Incentives" which calls for the City to "Offer incentives, including density bonuses, where feasible, to offset or reduce the costs of developing affordable housing. Proactively seek out new approaches in the provision of affordable housing." Adopting Affordable Housing Program Guidelines will encourage development of affordable units in the City by educating potential developers about the City's regulations and required process and clarifying the responsibilities of the City and the developer when affordable units are proposed.

RECOMMENDATION

Discuss the attached proposed guidelines for the City's Affordable Housing Program. Provide staff with input and direction regarding the Guidelines document.

Report Reviewed By:

Ryan Gohlich, AICP, Assistant Director of Community Development / City Planner

Attachment 1

Draft Affordable Housing Program Guidelines

City of

Beverly Hills

Affordable Housing Program Guidelines

December 2015

Prepared by:

Michael Baker
INTERNATIONAL

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1. INTRODUCTION

This document constitutes the Guidelines ("these Guidelines") for the City's Affordable Housing Units Program for units produced either as a result of the City's density bonus ordinance as set forth in Article 15.2 of the City's Zoning Code or of other agreements to provide affordable units as part of a development project in the City. The City Council's purpose in adopting these Guidelines is to help implement ordinances and agreements that call for an increase in the diversity of housing prices/rents in the community and ensure that the range of prices/rents continues over time. Developments of five or more units that receive a density bonus per Article 15.2 must adhere to the guidelines contained in this document.

These Guidelines are intended to:

- Assist developers early in the development process to ensure that Affordable projects are sensitively designed from the beginning in compliance with the requirements of the density bonus ordinance;
- Inform developers, management firms, and owners of Affordable Units of the procedures for selling and renting Affordable Units; and
- Provide households interested in renting or purchasing an Affordable Unit with an overview of the eligibility requirements, the application and screening process, the restrictions on ownership, and the procedures for reselling an Affordable Unit.

These Guidelines should be read in conjunction with the density bonus ordinance. While every effort has been made to ensure that these Guidelines are consistent with the Ordinance, if there is any conflict between these Guidelines and the Ordinance, the terms of the Ordinance shall prevail. In addition, the provisions of a Housing Agreement or Resale Restriction Agreement (or like Agreement) recorded against an Affordable Unit shall prevail over any general requirements of these Guidelines.

Section 2 of these Guidelines includes Definitions of Terms. Section 3 provides information about the number of affordable units required and requirements for entering an Affordable agreement and assumptions used. The remaining sections expand upon the Affordable Units Program and provide additional requirements regarding qualifications for buyers and renters of Affordable Units (Section 4), requirements for ownership and resale (Section 5), and the process for exceptions and appeals (Section 6).

The effective date of these Guidelines is **XXXXXXX XX, 20XX [to be filled in once guidelines are approved]**. The City will review and, to the extent necessary, update these Guidelines as needed. The Director of Community Development may make interim revisions, interpretations, or clarifications to these Guidelines, provided that he or she considers the revision, interpretation, or clarification to be minor and consistent with the purposes of the City's housing policies and ordinances, including but not limited to its density bonus ordinance and these Guidelines. Any such revision, interpretation, or clarification shall not become effective until adopted by the City Council.

Users of these Guidelines are encouraged to seek their own legal counsel to aid in understanding the requirements of the City's density bonus ordinance or agreements in place to build Affordable Units. Questions about how a particular multifamily project applicant shall satisfy the affordable housing obligation should be directed to the City's Planning Division at (310) 285-1141 or at the Planning Counter in City Hall.

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2 DEFINITION OF TERMS

As used in these Guidelines, the following terms shall be defined as follows:

Administration Fees: Fees charged to the developer, Affordable Unit owner, or applicant as set in the City's Schedule of Fees and Taxes.

Affordable Housing Agreement: An agreement between the developer and the City for an ownership Residential Development project which is recorded against the property containing the Affordable Units; sets forth the developer's Affordable Obligation and the method by which the developer will comply with the requirements of the Ordinance or development approval. Density bonus projects approved prior to January 1, 2015 shall require purchasers of Affordable Units to execute and record a Resale Restriction Agreement and Performance Deed of Trust ensuring that the ownership units remain affordable to the income category sold to for not less than 30 years. Very low, low and moderate Affordable Housing projects approved January 1, 2015 or later shall require an equity sharing agreement be made between the seller/developer and the purchaser of the ownership unit (Government Code 65915(c)(2)).

Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants: An agreement between the developer and the City for a rental Residential Development project which is recorded against the property containing the Affordable Units; sets forth the developer's Affordable Obligation and the method by which the developer will comply with the requirements of the Ordinance; and requires, among other things, that the Affordable Units are reserved for occupancy by displaced tenants; or Very Low-, Low-, or Moderate-Income households at rents affordable to such households for a period of not less than 55 years.

Area Median Income (AMI): The Area Median Income adjusted for household size as published annually by the California Department of Housing and Community Development (HCD).

Affordable Units: A unit that is reserved for rent or for sale to displaced tenants; or Very Low-, Low-, or Moderate-Income households. Rental Affordable Units have restrictions recorded against them to ensure they remain affordable for a period as set forth in the Housing Agreement. Owner-occupied units are deemed affordable if the sales price results in annual Housing Expenses that do not exceed the maximum income for each income category as specified in Health and Safety Code Section 50052.5.

Affordable Obligation: The number of Affordable Units a developer is required to construct in a Residential Development project and period of time the units must remain affordable (rental units only) to comply with the density bonus ordinance or other agreement to provide Affordable units. For all very low and low-income ownership Affordable units, an equity sharing agreement shall be made between the developer and buyer.

Affordable Unit Owner: A household that owns an Affordable Unit.

CalHFA: The California Housing Finance Agency.

City: The City of Beverly Hills.

City Council: The legislative body of the City of Beverly Hills.

City Staff: An employee or designee of the City of Beverly Hills responsible for actions related to the Ordinance or these Guidelines.

Consent Agreement: An agreement between the City and a Qualified Household which authorizes the City to access and review the Qualified Household's credit reports or other personal or financial information to verify a Qualified Household's compliance with City Ordinances and these Guidelines. This agreement must be executed by purchasers of ownership Affordable Units prior to the close of escrow.

Density Bonus: Shall have the same meaning ascribed to that term by California Government Code section 65915, or its successor statute.

Density Bonus-Eligible Households: Includes lower-income households, persons and families of low or moderate income, qualifying senior residents, and very low-income households.

Density Bonus-Eligible Units: Dwelling units that are restricted to occupancy by eligible households.

Density Bonus Ordinance: Article 15.2 of the Beverly Hills Zoning Ordinance. Authorized under California Government Code section 65915 et seq.

First-Time Homebuyer: A person who has not owned any interest in real property during the three-year period[1] prior to the date of the household's application to qualify for purchase of an Affordable Unit, including without limitation, real property in which a household member's name appears on the title regardless of whether the member's interest in such property results in a financial gain, such property is located in another state or country, or the member has occupied such property as his or her primary residence. If any person has had his or her name on the title of a property, but the property was sold more than three years ago from the date of application, the person is considered a First-Time Homebuyer. Exceptions to this definition include:

- An individual who owned a home with a former spouse during their marriage.
- A displaced homemaker who has only owned a home with a spouse.
- An individual who has owned a Principal Residence that was not permanently affixed to a permanent foundation (trailer or manufactured home), according to applicable regulations.
- An individual who has owned a property that was not in compliance with state or local building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.

Gross Household Income: All income, from whatever source derived, of all adult household members (18 years of age and older), whether or not such income is exempt from federal income tax. Refer to Section 4.2.1 for a list of income sources and exceptions.

(These) Guidelines: These Guidelines to the Affordable Unit Program.

HCD: The California Department of Housing and Community Development.

HOA: Homeowners Association.

Homebuyer Education Workshop for Affordable Unit Buyers: A HUD-approved eight-hour course designed to provide basic education specific to Affordable Unit homebuyers. Refer to the City's website **(www.XXXXXXX) [web link to be included after guidelines are approved and guidelines are uploaded to the City's website]** for organizations that may offer this course. The date on the completion certificate for the class must be within six months of the date of application for purchase of an Affordable Unit.

Housing Agreement: An Affordable Housing Agreement, an Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants, or other agreement that relates to housing that may be adopted by the City.

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[1] Real estate ownership valued at $30,000 or less is exempt.

Housing Expenses: Principal, interest, private mortgage insurance, taxes, insurances, and HOA dues.

HUD: The United States Department of Housing and Urban Development.

Immediate Family Member: A mother, father, brother, sister, child, grandparent, or grandchild.

Legal Resident: A citizen or other national of the United States or a qualified alien as defined by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

Low Income: Total Household Income that is 51% to 80% of AMI, adjusted for actual household size.

Lower-Income Households: Shall have the same meaning ascribed to that term by California Health and Safety Code section 50079.5, or its successor statute.

Management Plan: A plan required for rental Residential Developments that contains the information set forth in Section 3.6.1 of these Guidelines.

Marketing Plan: A plan required for ownership Residential Developments that contains the information set forth in Section 3.5.2 of these Guidelines.

Maximum Income: The maximum income for an income category (Very Low, Low, or Moderate Income) determined periodically by HCD based on AMI. See Section 4.2.1 of these Guidelines for Maximum Incomes.

Moderate Income: Total Household Income that is 81% to 120% of AMI, adjusted for actual household size.

Persons and Families of Low or Moderate Income: Shall have the same meaning ascribed to those terms by California Health and Safety Code section 50093, or its successor statute.

Principal Residence: The place where a person resides on a substantially full-time basis during not less than 10 months per year. Children attending college and not living at home as their Principal Residence may not be counted as a household member.

Program: Activities related to the development, rental, sale, and occupation of Affordable Units developed under the City's density bonus ordinance or other agreement to provide Affordable Units.

Qualified Household: Can include any group of persons, so long as such persons, when viewed as a whole, satisfy the eligibility requirements for a household. For an ownership Affordable Unit or for a rental Affordable Unit, a Qualified Household means a household that satisfies the requirements listed in Section 4 of these Guidelines.

Qualifying Senior Resident: Shall have the same meaning ascribed to the term "Qualifying Resident" by section 51.3 of the California Civil Code, or its successor statute.

Residential Development: Includes, without limitation, detached single-family dwellings, multiple-dwelling structures, groups of dwellings, condominium or townhouse developments, condominium conversions, cooperative developments, mixed-use developments that include housing units, and residential land subdivisions intended to be sold to the general public.

Senior: A person 62 years of age or older for the purpose of occupancy priority ranking.

Senior Citizen Housing Development: Shall have the same meaning ascribed to that term by section 51.3 of the California Civil Code, or its successor statute.

Special Assessment: A proportional fee charged to the Affordable Unit Owner by an HOA to cover the cost of physical improvements to the entire building or common areas.

Total Household Income: All Gross Household Income and assets received (as calculated pursuant to Section 4.2.1).

Very Low Income: Total Household Income that is 50% or less of AMI, adjusted for actual household size.

Very Low-Income Households: Shall have the same meaning ascribed to that term by California Health and Safety Code section 50105, or its successor. (Ordinance 05-O-2482, eff. 9-16-2005)

3 GUIDELINES FOR DEVELOPERS

3.1 OVERVIEW OF AFFORDABLE HOUSING PROGRAM REQUIREMENTS

Residential Developments containing Affordable Units produced as a result of the City's density bonus ordinance or as a result of other agreements to provide affordable units as part of a development project in the City shall comply with these Guidelines. Developers applying for a density bonus are required to apply for and receive a density bonus permit approval. In addition, the level of discretionary review required for the Residential Development containing Affordable Units shall be the same as that required in the zone where the project is located for the type of use sought. The amount of bonus received is calculated based on the type of project, number of housing units, and the income levels to which the Affordable Units are affordable.

3.2 APPLICATION PROCESS AND AGREEMENT

The number of Affordable Units, their levels of affordability, and the type of project will be submitted in the Developer's application. City staff is available to discuss options under the density bonus ordinance with developers. The Residential Development application shall be submitted to the Community Development Department prior to project submittal and review. If a Development Plan Review is required for the project, the Planning Commission shall hold a hearing and review the application. Criteria for approval of the request for a density bonus permit are included in Article 15.2 of the City Zoning Ordinance. City staff will work with the developer as needed prior to the Planning Commission hearing to assist with the application process and respond to questions about the program guidelines.

The developer's final Affordable Obligation will be formalized in an Affordable Housing Agreement between the City and the developer, prior to the recordation of the first final map or the issuance of the first building permit, whichever occurs first, for the development.

3.3 FRACTIONAL UNITS

For the purposes of these Guidelines, all density calculations resulting in fractional units shall be rounded up to the next whole number.

3.4 HOUSING AGREEMENTS

The developer must execute one of the following Housing Agreements with the City:

- Affordable Housing Agreement or Affordable Housing Covenant and Regulatory Agreement. An agreement between the developer and the City for a Residential Development project that includes ownership Affordable Units. Such agreements are recorded against the property on which the Residential Development is being constructed; set forth the developer's Affordable Obligation and the method by which the developer will comply with the requirements of the density bonus ordinance (if applicable). The Affordable Housing Agreement is effective until all of the Affordable Units are constructed and sold.

- Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants. An agreement between the developer and the City for a Residential Development project that includes rental Affordable Units. Such agreements are recorded against the property containing the Affordable Units; set forth the developer's Affordable Obligation; and require, among other things, that the Affordable Units are reserved for occupancy by Very Low-, Low-, and/or Moderate-Income households at rents affordable to such households for a period of not less than 55 years. Projects approved prior to the effective date of these guidelines shall not be subject to the 55 year term of affordability.

The two Housing Agreements described above set forth the legal requirements for certain Residential Development projects for compliance with the density bonus ordinance (if applicable) and these Guidelines. The Housing Agreements are recorded against the property on which the Residential Development is being constructed, run with the land, and survive transfer or sale of the land. If a developer executes a Housing Agreement for a particular Residential Development project but the project is not built and new entitlements are sought for the applicable property, the developer must execute a new Housing Agreement, which would replace the existing Housing Agreement.

Among other things, the Housing Agreements must contain the following information:

1) Whether the Affordable Units will be ownership or rental units.

2) The number of Affordable Units the developer will construct for each income category.

3) The size of the Affordable Units the developer must construct for each income category.

4) Term of affordability for the units (if applicable).

5) If the development proposes ownership Affordable Units, a requirement that the developer prepare and obtain City approval of a Marketing Plan, prior to issuance of any building permits in the Residential Development, indicating how the developer plans to sell the Affordable Units. This requirement is discussed in additional detail in Section 3.5.2 below. Projects approved prior to the effective date of these guidelines shall not be required to prepare a Marketing Plan prior to issuance of building permits but will prepare one before units are marketed to prospective buyers.

6) If the development proposes rental Affordable Units, the developer is required to provide a Management Plan as described in Section 3.6.1 to the City for its approval and prepare the Annual Report described in Section 3.6.3. Projects approved prior to the effective date of these guidelines shall not be required to prepare a Management Plan prior to issuance of building permits but will prepare one before units are marketed to prospective tenants.

3.5 PROCEDURES FOR INITIAL SALE OF AFFORDABLE UNITS

3.5.1 Maximum Sale Prices of Affordable Units

Owner-occupied units are deemed affordable units if the sales price results in annual housing expenses that do not exceed 30% of the specified income level for Very Low- and Low-Income Households and 35% of the specified income level for Moderate-Income households, adjusted for household size. In most cases the maximum sale price will be determined based upon the then-current Housing Affordability Table as approved by the City Council of the City of Beverly Hills. The maximum sale price is based on several factors, including the applicable State of California Income Limits for Los Angeles County in effect at the time the unit is put on the market, homeowners associations dues for the unit, and assumptions regarding mortgage interest rates, down payment, property taxes, utilities/maintenance, insurance, and private mortgage insurance (if applicable). The assumptions and calculations are detailed below.

The maximum sale price for Affordable for-sale units is based on a designated income percentage that is intended to be affordable to a greater range of households in each applicable income category.

- For Very Low-Income households (household income between 31% and 50% of Area Median Income), the maximum sale price is determined based on a total monthly housing payment equivalent to 30% of one-twelfth of 50% of the AMI for Los Angeles County.

- For Low-Income households (household income of between 51% and 80% of Area Median Income), the maximum sale price is determined based on a total monthly housing payment equivalent to 30% of one-twelfth of 70% of the AMI for Los Angeles County.

- For Moderate-Income households (household income of between 81% and 120% of Area Median Income), the maximum sale price is determined based on a total monthly housing payment equivalent to 35% of one-twelfth of 110% of the AMI for Los Angeles County.

In addition, the maximum sale price is based on the number of bedrooms in the home instead of the number of persons in the particular household as household/family size can change over time. For example, if a developer is selling a two-bedroom unit, the sales price would be calculated under a "number of bedrooms, plus one" rule for the assumed household size. The assumed household size is based on the size of the residential unit, as shown in Table 3.1.

TABLE 3.1
HOUSEHOLD SIZE ASSUMPTIONS FOR MAXIMUM SALE PRICE CALCULATIONS

Unit Size (Number of Bedrooms)	Assumed Household Size (Number of Persons)
Studio	1
1	2
2	3
3	4

The following assumptions are used to calculate the maximum sale price for Affordable Units. Note, however, that a Qualified Household's actual Housing Expenses may differ from these assumptions. At the time a project is proposed the mix of unit affordability will be determined. When construction of a project nears completion maximum sales price for units at each income level will be calculated based on current numbers adopted by the City. Details of current numbers and rates may be requested from the City.

- Interest – Prevailing rate (fixed rate for 30 years), secondary market fixed rate, Fannie Mae or Freddie Mac, as determined by staff, on the date that is 30 days prior to the applicable application deadline.

- Mortgage Term – fixed rate for up to 30 years.

- Taxes

- Insurance – homeowners insurance. The cost of homeowners insurance may be calculated based on an estimate provided by the developer. (If the homeowners insurance is covered by an HOA structure, homeowners insurance need not be included, but it must be documented that the HOA will provide adequate insurance.)

- PMI – private mortgage insurance. Because most Affordable Unit buyers will have a down payment of less than 20%, they will be subject to private mortgage insurance.

- Other – may include special assessments or fees for special assessment districts.

- HOA dues, if any.

3.5.2 The Marketing Plan for Affordable Ownership Units

Prior to the issuance of building permits for any ownership Affordable Units, the developer must submit a Marketing Plan to the City for approval. The Marketing Plan must contain the components described in Table 3.2.

TABLE 3.2
REQUIRED MARKETING PLAN CONTENTS

Component	Description
Narrative Summary	A one-page narrative summary suitable for advertising the availability of the Affordable Units on the City web page and other locations. The summary must include: • A description of the total number of Affordable Units and market-rate units in the Residential Development; • The HOA dues for each Affordable Unit; • The amenities included in the unit; and • Contact information for sales representatives (including a name, telephone number, address, and e-mail address).
Application Process Explanation	An explanation of the application process and the deadline for submitting applications. If the development is phased, the developer must establish deadlines and unit numbers for each phase of the development that include Affordable Units in each phase.
Selection Process Explanation	An explanation of how the developer will implement the occupancy prioritization system.
Sales Training Timelines	Timeline for the developer's sales staff to meet with City staff to receive training on the buyer selection and application process. This training shall occur before City staff approval of the marketing plan.
Application Timelines	Timelines for application submittals for buyer selection. A minimum of two weeks shall be allowed by the developer to receive applications. If the development is a phased project, information must be provided on the number of phases and the timelines for those phases.
Marketing Materials	Copies of materials that will be used to market the Affordable Units. Marketing plans should include an outreach strategy. Outreach to potential buyers will occur for at least 30 days prior to the application submittal period.
Application Packet	The application packet must include: • Application for Affordable Unit • Income and asset documentation • Tax returns and income verification • Documentation of address, number of bedrooms, and sales price • Loan preapproval documents • Credit authorization and release and credit report • Evidence of funds to be used as a down payment

No marketing of the Affordable Units shall begin until the developer has received written approval of the Marketing Plan from the City and the developer's sales staff has met with City staff for training so that the sales staff understands and can explain the application process.

3.5.3 Application and Screening Process

The developer must require each applicant to complete the City application and to provide the required supporting documentation by the deadline set forth in the Marketing Plan. The developer should plan accordingly to ensure that applicants are not qualified more than six months before the move-in date for the unit.

Complete application packets should include at a minimum:

1) Complete application including name and address of proposed purchaser as well as the number of persons comprising their household and their names and ages;

2) Income and asset documentation set forth in Section 4.2.1;

3) Federal and state income tax returns of the proposed purchases and all other members of their household for the preceding two calendar years, as well as verification of the proposed owner's salary or wages from their employer;

4) Documentation of address, number of bedrooms, and sales price;

5) A loan preapproval letter with a Good Faith Estimate and Truth in Lending Statement or equivalent documents after October 2015;

6) A signed credit report authorization and release or other consent and verification letter;

7) Evidence of funds to be used as a down payment.

The developer must comply with the following process to sell the Affordable Units:

1) Application Collection and Screening. Developer collects applications for the period of time set forth in the approved Marketing Plan (at a minimum, two weeks). Developer screens applicants to determine whether they satisfy the requirements for Qualified Households set forth in Section 4.1.1.

2) Occupancy Priority List. Developer sorts and ranks the Qualified Households based on the criteria in Section 4.2.3 and creates a priority list with those applicants with the highest priority ranking at the top, followed by all other applicants in descending order based on the priority ranking. If more than one qualified applicant receives the same priority ranking the developer will hold a lottery to break ties. If some applicants receive no priority ranking, all applicants without priority ranking will also be placed in a lottery to prioritize those applicants.

3) Priority List and Application Packets Submittal. Developer completes the priority list within 30 days of the application deadline. Developer submits complete application packets of Qualified Households (including supporting documentation) to the City within 45 days of the planned close of escrow.

    a. The developer will review up to at least five times the number of available Affordable units (e.g. 50 applications for 10 units). Priority Level 1 (displaced tenant) applications will be accepted on the first day of the application period, Priority Level 2 (low and very low income) on the second day and Priority Level 3 (moderate income) on the third day, then all categories during the remaining application time period. If a greater number of applications are received the developer will hold a lottery to select the applications to fully review and rank (those applications received after the first 50 applications in the example used in this paragraph).

b. The initial submittal to the City will include the top ranked qualified application packets equivalent to the number of units being applied for. If those top-ranked applicants are not successfully placed in an Affordable unit, the developer will provide the City with the next highest ranked application(s) until all of the Affordable units are occupied.

4) City Review and Verification. The City reviews the application packets to verify the applicants are Qualified Households. The City will make every effort to review the applications within 15 days of receiving a complete application packet.

5) Qualification/Disqualification. Once the City has verified that the applicant is a Qualified Household, the City will send the developer a conditional qualification letter (or similar document) indicating the applicant's name and income level, the maximum sale price of the unit (see Section 3.5.1 for more detail on establishing the sale price), and any requirements that must be met before moving forward with the applicant. A copy of the application packet, along with income verification for the household, will be retained by the City as proof of the buyer's qualification to purchase the Affordable Unit. If the City determines that the applicant is not a Qualified Household, the City will send the developer an ineligibility letter.

   The developer bears the responsibility of ensuring that applicants are not qualified more than six months before a unit becomes available and closes escrow. Applicants must be requalified if occupancy is to take place more than six months from the date of the conditional qualification letter. Applicants may or may not qualify to purchase an Affordable Unit upon requalification. In addition, the price of the Affordable Unit may change upon requalification. If, upon requalification, an applicant does not qualify, it is the responsibility of the developer to notify the applicant.

   Conditional approvals are based on information supplied to the City by the developer or their agent. If any material changes to the financial conditions, marital status, employment status, or other information are made known prior to loan closing, the developer, their agent, or the lender must notify the City of Beverly Hills in writing of these changes. The City expressly reserves the right to reverify the applicant(s) and may void or cancel any conditional approval at any time prior to the loan closing if material changes affect the qualification status of the buyer(s).

   Qualification determinations may be appealed in accordance with the procedures described in Section 6.2.

   The sale cannot proceed until all required documents are provided to the City and the developer receives a written qualification letter from the City.

6) Offer to Purchase/Purchase Agreement. The developer will offer the unit to Qualified Households based on the priority list, offering the Affordable Unit first to those applicants with the highest priority ranking, then to other applicants in descending order (see Section 4.2.3 Occupancy Priority). The developer and applicant will enter into a purchase agreement. A copy of the signed agreement must be provided to the City.

7) Escrow Instructions. The developer will provide the City with the name and address of the title company closing the sale and the name of the escrow officer. The City will prepare and send escrow instructions and closing documents to the escrow officer.

8) Prepare and Record Documents. When all documents have been received and are deemed to be in compliance with program requirements, the City will prepare the Request for Notice of Default for each of the buyer's loans and secure the signature of the Director of Community Development or his/her designee on the necessary documents.

If at any time during the application, screening, or sale process, an applicant requires translation services, the developer shall provide such services at the developer's sole cost and expense.

3.6 PROCEDURES FOR RENTAL AFFORDABLE UNITS

After the Housing Agreement is executed, and prior to the issuance of any building permits, the developer of a project that includes rental Affordable Units must prepare and submit a Management Plan to the City of Beverly Hills Planning Division for approval. After the Management Plan has been approved by the City, and prior to the rental of any units, the developer must screen, rank, and qualify eligible tenants and send a priority list to the City of Beverly Hills's Planning Division. This should happen within 30 days, if possible.

3.6.1 The Management Plan for Rental Affordable Units

Prior to the issuance of building permits, the developer must submit a Management Plan to the City for its approval. The Management Plan must contain the following information:

- A plan outlining how the management firm will market and maintain the rental Affordable Units;
- How the management firm will maintain a waiting list for the Affordable Units;
- How the management firm will verify applicants' Total Household Income, both initially and annually;
- Information on the units to be made available for publication on the City's website;
- A contact telephone number; and
- The names of those individuals responsible for contact and communication with the City.

3.6.2 Application and Screening Process

The management firm (which could be the owner or builder) is the entity that will be responsible for occupant selection and documentation of rental Affordable Units. The management firm's leasing staff should be trained so the staff understands and can explain the rental application process to applicants.

The management firm must require each applicant to complete and return to the management company a Rental Affordable Unit Application packet.

Complete application packets should include at a minimum:

1) Complete application including name and address of tenant as well as the number of persons comprising their household and their names and ages;
2) Income and asset documentation set forth in Section 4.2.1;
3) Federal and state income tax returns of the tenant and all other members of the tenant's household for the preceding two calendar years, as well as verification of the proposed tenant's salary or wages from their employer;
4) Documentation of the address, number of bedrooms, and proposed rent and other charges;
5) Amount of deposit;
6) A signed credit report authorization and release or other consent and verification letter;

7) A copy of the proposed lease, and any other agreements between the developer/management company/property owner, as applicable, and the proposed tenant; and,

8) A written statement signed by the proposed tenant that the Affordable Unit will be occupied by the tenant and used as his or her primary residence and that the lease will not be assigned and the Affordable Unit will not be sublet.

To lease the Affordable Units, the developer/management company must do the following:

1) Collect applications for a given time period (at least two weeks).

2) Screen applicants to determine whether they satisfy the requirements for Qualified Households set forth in Section 4.1.2.

3) Within 30 days of the application deadline sort and rank the applications of Qualified Households based on the priority ranking and produce a priority list with those applicants with the highest priority ranking at the top, followed by all other applicants in descending order based on priority ranking (see Section 4.2.3 Occupancy Priority). Priority Level 1 (displaced tenant) applications will be accepted on the first day of the application period, Priority Level 2 (low and very low income) on the second day and Priority Level 3 (moderate income) on the third day, then all categories during the remaining application time period. The developer will review up to at least five times the number of available Affordable units (e.g. 50 applications for 5 units). If more than one applicant receives the same level of priority or if some applicants receive no priority ranking, the developer will use a lottery to break ties and to prioritize applicants. If a greater number of applications are received the developer will hold a lottery to select the applications to fully review and rank (those applications received after the first 50 applications in the example used in this paragraph).

4) Complete the priority list within 30 days of the application deadline and submit to the City for approval.

5) Offer the Affordable Units to applicants based on the priority list, offering first to those applicants with the highest priority ranking, then to other applicants in descending order.

6) Execute a Rental Agreement with the tenant that includes a notification to the tenant that he or she may not sublease the unit and that annual certification is required.

7) Maintain applications with income verification and recertification for the City to review at annual on-site monitoring.

If the Director of Community Development notifies the developer/management company that the proposed lease is authorized and approved, the developer/management company shall complete the lease of the Affordable Units within 10 days after the date of lease approval by the City and shall send a copy of the fully executed lease to the City. Qualification determinations may be appealed by the developer in accordance with the procedures described in Section 6.2.

3.6.3 Annual Report and Monitoring

The management entity for the development must provide the City an annual report. The annual report must include the following information:

- Total Household Income for the prior year for each Affordable Unit;
- Number of people residing in each Affordable Unit;

- Monthly rents charged for the prior year and proposed to be charged for the coming year for each Affordable Unit; and

- Vacancy of Affordable Units during the prior year, including which unit(s) and for how long.

The management firm must submit the report annually by October 31. The Annual Report form is available on the City's website at **XXXXXXX [web link to be included after guidelines are approved and associated information is uploaded to the City's website].**

The City may perform an annual site visit to monitor the records of all Affordable Units. The City will provide at least two weeks' notice to the developer / management firm / property owner as to the date of the site visit. Files for all Affordable Units must be made available for review at the request of the City. The purpose of the monitoring is to ensure compliance with these Guidelines and the City-approved Management Plan.

The tenants' household income will be recorded during the annual monitoring. If a household's income rises more than 20 percent above the income limit for their unit, when averaged over a period of three years of monitoring (three year rolling average) they will no longer be considered qualified for an Affordable unit and will be required to vacate. The tenant shall have up to one year to vacate the Affordable unit.

If a Residential Development is financed through a government program that has stricter occupant selection or occupant documentation requirements than the City, the City may elect to rely on those requirements and associated documentation and not require additional documentation. The City will require tenant income verification and restriction of the Affordable Units for 55 years; however, the management firm may send to the City copies of the documentation that is required and produced for other monitoring agencies.

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4 AFFORDABLE UNIT BUYER AND RENTER QUALIFICATIONS

4.1 HOUSEHOLD QUALIFICATIONS

4.1.1 Affordable Unit Buyers

A household is qualified to purchase an Affordable Unit if it satisfies the requirements stated in Table 4.1. Section 4.2 provides additional detail on certain requirements.

TABLE 4.1
OWNERSHIP AFFORDABLE UNIT HOUSEHOLD QUALIFICATIONS

Qualification Requirement	Description
Income	The household's Total Household Income must not exceed the applicable Maximum Income set forth in Section 4.2.1.
First-Time Homebuyer	No member of the household may have owned any interest in real property during the three-year period[1] prior to the household's Affordable Unit application date. Exceptions to this definition include: • An individual who owned a home with a former spouse during their marriage. • A displaced homemaker who has only owned a home with a spouse. • An individual who has owned a Principal Residence that was not permanently affixed to a permanent foundation (trailer or manufactured home), according to applicable regulations. • An individual who has owned a property that was not in compliance with state or local building codes and which cannot be brought into compliance for less than the cost of constructing a permanent structure.
Owner Occupancy	The household will occupy the unit as its Principal Residence within 30 days of the close of escrow on the unit.
Homebuyer Education	All proposed title holders of the property must take a HUD-approved or City-approved eight-hour homebuyer education workshop and receive a certificate of completion. The certificate of completion must be dated within six months of the date of application.
Credit Score	All applicants have a minimum FICO credit score of 620 (see Section 4.2.2).
Residency/Citizenship	The City will require all household members to be either a citizen or national of the United States or a qualified alien defined by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).
Loan Preapproval	Homebuyers must be preapproved for a home loan that conforms to the requirements established in Section 5.1.5.
Debt to Income Ratio	Homebuyers' proposed debt (based on current liabilities and proposed housing payment) may not exceed a certain percentage (contact the City for the current maximum percentage).

Qualification determinations may be appealed. Refer to Section 6.2 for appeal procedures.

[1] Real estate ownership valued at $30,000 or less is exempt.

Qualified Households in the three levels of priority will receive priority over other Qualified Households (see Section 4.2.3 Occupancy Priority). For information on the application and screening process, see Section 3.5.3.

Qualified Households are subject to specific requirements and restrictions regarding Affordable Unit financing and title and loan structure. Refer to Section 5 for procedures and regulations relating to ownership Affordable Units.

4.1.2 Affordable Unit Renters

A household is qualified to rent an Affordable Unit if it satisfies the requirements shown in Table 4.2. Section 4.2 provides additional detail on certain requirements.

TABLE 4.2
RENTAL AFFORDABLE UNIT HOUSEHOLD QUALIFICATIONS

Qualification Requirement	Description
Income	The household's Total Household Income must not exceed the applicable Maximum Income set forth in Section 4.2.1.
Residency/Citizenship	All members of the household must be Legal Residents of the United States.
Occupancy	The household must occupy the unit as its Principal Residence within 30 days of executing the lease.
Real Property Interest (not allowed)	No member of the Qualified Household must own any interest in any real property, including but not limited to, any dwelling unit, commercial real estate, or land.

The names of all non-dependent household members must appear on the lease for the Affordable Unit.

Qualified Households in the three levels of priority will receive priority over other Qualified Households. For information on the application and screening process, see Section 3.6.2. Qualification determinations may be appealed. Refer to Section 6.2 for appeal procedures.

4.2 DESCRIPTION OF QUALIFICATION REQUIREMENTS

4.2.1 Household Income

4.2.1.1 Maximum Total Household Income

To be eligible for an Affordable Unit, the applicant's Total Household Income must not exceed the applicable Maximum Income. Total Household Income means the household's Gross Household Income (see Section 4.2.1.2) plus assets calculated pursuant to Section 4.2.1.4. Maximum Income is determined annually by HCD based on Area Median Income. Table 4.3 shows the Maximum Incomes for Los Angeles County for 2015.

TABLE 4.3
LOS ANGELES COUNTY INCOME LIMITS PER INCOME CATEGORY (2015)

Income Category	Household Size (Number of Persons)							
	1	2	3	4	5	6	7	8
Extremely Low	$17,950	$20,500	$23,050	$25,600	$28,410	$32,570	$36,730	$40,890
Very Low	$29,900	$34,200	$38,450	$42,700	$46,150	$49,550	$52,950	$56,400
Low	$47,850	$54,650	$61,500	$68,300	$73,800	$79,250	$84,700	$90,200
Moderate	$54,450	$62,200	$70,000	$77,750	$83,950	$90,200	$96,400	$102,650

Source: HCD Income Limits 2015

4.2.1.2 Gross Household Income

Gross Household Income means all income from all adult household members (18 years of age and older) derived from all sources as provided in the Internal Revenue Code (Title 26, Subtitle A, Chapter 1, Subchapter B, Part I, Section 61), whether or not such income is exempt from federal income tax. Such income includes, but is not limited to, the following:

- Compensation received from an employer.
  - Compensation includes, but is not limited to, salary, overtime pay, and other pay
  - Other pay can include, but is not limited to, compensation for special working conditions or one-time payout of unused vacation and sick leave
- Alimony or spousal and child support
- Cash
- Pensions, if at an age where pension is being received as income
- Public benefits including, but not limited to, CalWorks, SSI, and disability income
- All interest, dividends, and royalties
- Income derived from private businesses
- Rental income
- Income from pensions
- Compensation for services rendered including fees, fringe benefits, commissions, tips, and bonuses
- Stipend received for participation in a mentor, learning, or education opportunity
- Gains from dealings in private and/or commercial property
- Gambling winnings
- Annuities, life insurance, and endowment contracts

- Income from discharge of indebtedness
- Gross partnership contributions or distributions
- Income from an interest in an estate or trust

4.2.1.2.1 Exceptions

1) Gross Household Income does not include income earned by a household member who is between the ages of 18 and 26 and meets both of the following criteria:

- Is claimed as a dependent of a household member on such member's federal income taxes; and
- Is a full-time student (12+ units; school transcript must be provided).

2) Gross Household Income does not include payments to a household member from a governmental fund if all of the following requirements are satisfied:

- The payments are based on the recipient's or the recipient's family's financial need;
- The payments do not represent compensation for services rendered; and
- The payments are part of a governmental housing subsidy program including, but not limited to, so-called Section 8 federal housing assistance payments.

For purposes of determining Gross Household Income, each person 18 years of age or older must present the following:

- A complete set of federal and state income tax returns for the past three years, including all schedules (signed and dated) and W-2 forms (in the case where taxes have not been filed for any of the past three years, a letter of verification of non-filing from the Internal Revenue Service is required);
- Four most recent and consecutive pay stubs; and
- Three recent and consecutive statements for all financial accounts, including, but not limited to, savings accounts, checking accounts, retirement accounts, 401(k) accounts, stock accounts, and another accounts held in the applicant(s) name(s), whether held individually or together.

If a household member is self-employed, in addition to the information above, the member must submit profit and loss statements for the past three years (if applicable), and a current profit and loss statement for the year.

4.2.1.3 Income Calculation

1) Wage and Salary. If an applicant is a full-time employee (usually 30 to 40 hours per week) or an employee with consistent regular hours or income, or income with overtime or adjustments as a regular part of their job, one of the formulas listed in Table 4.5 will be used to determine the applicant's salary. Bonuses, commissions, and limited overtime may be calculated into the annual income calculation. In the case of unclear income or income that is somewhat difficult to calculate, please contact the City. The City will make the final determination as to which income calculation formula to use.

TABLE 4.5
ANNUAL INCOME CALCULATIONS BY PAY FREQUENCY

Pay Frequency	Annual Income Calculation
Monthly	Monthly income amount x 12
Twice Monthly	Monthly income amount x 24
Biweekly	Biweekly income amount x 26
Weekly	Weekly income amount x 52
Hourly	Hourly income x 40 (or other normal amount of weekly hours) x 52

2) Variable Income. For applicants who are part-time employees or employees with variable hours every pay period (or variable hours less than 40 hours per week), inconsistent income or hours, frequent overtime, bonuses and commissions, etc., their annual salary will be calculated using year-to-date income, plus the previous year's income (from same income source or employer), divided by the number of months reviewed (up to but not exceeding 12 months) times 12 to arrive at their annual income. If there is no previous year income from the same employer, or the job was started mid-year, the current income year to date using the calculation explained in (1) above will be used. If an applicant works consistently 40 hours per week and has occasional or regular overtime, the calculation listed in (a) above will be used to calculate income.

3) Inconsistent or Temporary Change in Income Due to a Temporary Circumstance. If an applicant has a temporary situation (seven months or less) that makes income calculation difficult, a Verification of Employment may be used to calculate the applicant's income based on a normal annual time period. Alternatively, the income may be calculated based on the person's hourly rate times their normal working hours (as shown in item (a) above).

4) Self-Employed or Non-Corporation. A self-employed applicant is also considered to have variable income. Gross annual income calculations will be based on the previous two years' net income shown on Schedule C of the federal income tax returns, plus net income before taxes from the applicant's signed, year-to-date Profit and Loss Statement, divided by the appropriate number of months (not to exceed 12 months) times 12 to arrive at the annual income.

4.2.1.4 Assets

An asset test will be applied to all applicants to determine whether they satisfy the income requirements. If an applicant has assets that exceed $30,000, the following amounts will be added to the applicant's Gross Household Income to determine the household's Total Household Income:

- 10% of all assets valued at between $30,001 and $130,000
- 30% of all assets valued over $130,000

The maximum assets allowed are $250,000. Households with assets in excess of $250,000 will be disqualified. Assets include, but are not limited to, cash, all savings and checking accounts, stocks, bonds, real estate, gifts, and other sources of money. Pensions and federally approved retirement savings accounts, such as IRAs, Roth IRAs, and 401(k)s, are excluded; however, retired applicants who receive income from their retirement account must include such income as Gross Household Income on their application. For first-time homebuyers of for-sale units real estate ownership may be allowed under certain circumstances as detailed in Table 4.1

4.2.2 Credit Score

For ownership Affordable Units, a credit check will be conducted on all adults (other than dependents) in the household. Applicants must have sufficient creditworthiness to qualify. Creditworthiness means that:

1) All household individuals shall have a minimum of three years since Chapter 7 or Chapter 13 bankruptcy discharge date and/or foreclosure/short sale and evidence of reestablished credit is provided; and

2) All persons appearing on the mortgage shall have a minimum FICO credit rating of 620 points from all three credit agencies.

4.2.2.1 Alternative Credit History Parameters

Alternative credit history is permitted with satisfactory references from a minimum of four trade lines and 12 months of consistent payment records. One of the trade lines must be a 12-month verification of rent history.

4.2.3 Occupancy Priority

Applicants for Affordable Units will be screened by the developer or their designated party for initial eligibility based on the requirements set forth in Section 4.1.1 (for ownership units) or Section 4.1.2 (for rental units). Qualified Households will then be ranked based on their level of priority based on the occupancy priority regulations below.

The occupancy priority regulations set out below provide priority to certain households who are deemed to have a priority need for housing in Beverly Hills.

4.2.3.1 Priority Households

In establishing the list of households eligible to occupy affordable units, the developer shall adhere to the following priorities:

1) First Priority

   a. Displaced Tenants: If tenants are required to vacate existing dwelling units where they have resided for at least five years so that an owner or developer may perform any construction, renovation, or addition pursuant to a density bonus permit or other affordable housing agreement, then each displaced tenant shall be given a right of first refusal to occupy any Affordable unit for which the tenant qualifies in the newly constructed or renovated building. Tenants shall be offered the units in the following priority:

      i. Households in which at least one member is 62 years of age or older;

      ii. Households with the lowest annual income.

2) Second Priority

   a. Low- and Very Low-Income Households: After accommodating displaced tenants as provided in subsection 1)a of this section, for rental units designated for low- and very low-income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated affordable units in the following priority:

      i. Qualified households in which at least one member is:

1. Employed by the Beverly Hills Unified School District as a state-certified classroom teacher; or

2. Employed by the Beverly Hills police department as a sworn law enforcement officer; or

3. Employed by the Beverly Hills fire department as a sworn firefighter;

ii. Households with the lowest annual income;

iii. All other qualified households.

3) Third Priority

a. Moderate-Income Households: During the initial sale of units designated for sale to moderate-income households, and subject to any limitations imposed by federal or state law, the owner or developer shall offer the designated units in the following priority:

i. Qualified households in which at least one member is:

1. Employed by the Beverly Hills Unified School District as a state-certified classroom teacher; or

2. Employed by the Beverly Hills police department as a sworn law enforcement officer; or

3. Employed by the Beverly Hills fire department as a sworn firefighter;

ii. Households with the lowest annual income;

iii. All other qualified households.

4.2.3.2 Eligibility Guarantees

The following eligibility guarantees are required for Affordable Units per the state Government Code Sections 65916 et seq. (density bonus provisions).[2]

1) Prior to the construction of a development project pursuant to these Guidelines, the developer shall ensure continued affordability of units designated for lower and very low income households to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute.

2) Also prior to the construction of a development project pursuant to a density bonus permit or other affordable housing agreement, with regard to dwelling units designated for qualifying senior residents, the developer shall ensure continued restriction of those units to qualifying senior residents and qualified permanent residents to the satisfaction of the city attorney and as provided in California Civil Code section 51.3 or its successor statute.

[2] Amendments to City Code Article 15.2 Section 10-3-1529 are forthcoming.

3) Additionally, prior to the issuance of a density bonus permit or other affordable housing agreement for a development in which the units will be sold to very low, low and/or moderate income households, the developer shall ensure that the initial occupants of such units meet the applicable income limits to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute. In addition, if the City has made an initial investment in the project, upon resale, the city shall recapture its proportionate share of the appreciation of such units to the satisfaction of the city attorney and as required by California Government Code section 65915 or its successor statute.

   a. Additionally, the developer/seller of an affordable unit is entitled to retain the value of improvements, down payments, and a proportionate share of appreciation per Government Code Section 65915(c)(2).

4.2.3.3 Persons Ineligible to Occupy an Affordable Unit

The following categories of persons shall be disqualified from occupying Affordable Units:

1) All employees and officials of the City or its agencies, authorities, or commissions who have, by virtue of their position, policy-making authority or influence over the implementation of the Affordable Housing Program, as well as the immediate relatives of employees of such City employees and officials.

2) The immediate relatives of the applicant or owner, including spouse, child, parent, grandparent, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, sister-in-law, and brother-in-law.

5 REQUIREMENTS FOR BUYERS AND OWNERS OF AFFORDABLE UNITS

5.1 AFFORDABLE UNIT APPLICATION AND PURCHASE PROCEDURES

5.1.1 Application Procedures

The following are the general steps for qualifying for and purchasing an Affordable Unit:

1) **Review qualification requirements.** Potential Affordable Unit buyers should review these Guidelines and confirm that they meet established qualification requirements (see Section 4).

2) **Pre-qualify with a lender.** Potential Affordable Unit buyers should work with a lender of their choosing to get pre-qualified to purchase a home. Potential financing must meet the requirements described in Section 5.1.5. This will be necessary for preparing a complete application and will give the buyers a clear understanding of the amount of money they are eligible to borrow for a home purchase.

3) **Homebuyer education.** Potential Affordable Unit buyers must complete an eight-hour homebuyer education course (see Section 5.1.3).

4) **Identify an Affordable Unit.** If eligible, potential buyers should identify and view Affordable Units available for sale (most available Affordable Units are listed on the City's website).

5) **Prepare application package.** When the Affordable buyers find an Affordable Unit that they would like to purchase, the potential buyers should work with the real estate agent or developer's sales staff to confirm eligibility, complete the application, and compile qualification materials. The complete application must be submitted to the real estate agent or developer's sales office.

6) **City review and qualification determination.** The City will make every effort to review the application and qualification materials and determine program eligibility within 15 working days of receipt of a complete application. If approved, the City will send the developer or agent a conditional qualification letter (or similar document). Applicants who are determined to be ineligible will receive an ineligibility letter.

7) **In-person consultation.** Potential Affordable buyers must schedule and complete an in-person consultation with City staff (see Section 5.1.2).

8) **Execute contract.** The developer or Affordable owner will enter into a purchase contract with the buyers and submit the escrow information to the City. The City will prepare escrow instructions and submit them to the escrow officer.

9) **Monitoring and correspondence.** The Affordable Unit Owner must complete annual surveys to the City and should contact City staff with any questions. The Affordable Unit buyer must contact the City when considering a refinance and to notify the City of intent to sell.

5.1.2 In-Person Consultation

All adult household members must attend an in-person meeting with City staff to discuss ongoing requirements. City staff will work with the buyers to determine a mutually convenient meeting time.

5.1.3 Homebuyer Education Program

Homebuyer(s) must successfully complete a City-approved Affordable eight-hour homebuyer education class prior to the close of escrow and must provide the City with evidence of completion.

5.1.4 Title and Loan Requirements

All adult household members must appear as an owner or co-owner on the Affordable Unit title and must co-sign for any purchase loan for the Affordable Unit.

5.1.5 Financing Requirements

All Affordable Unit buyers must be able to secure a loan through a lending institution for an Affordable Unit. For new Affordable Units, the developer may require that all applicants get preapproval from the developer's preferred lender at the time of application. However, once an applicant receives approval to purchase a unit, applicants may use a lender of their choice, provided that the lender adheres to the City's Guidelines for acceptable loan products.

The City reserves the right to reject loan products if the City believes in its sole discretion that there is a stronger likelihood that the loan product would potentially result in loss of the Affordable Unit due to the purchasers' inability to comply with the terms of the loan.

Prohibited Loan Products and Unacceptable Mortgage Features

- Interest-only loans
- Negative amortizing loans
- Adjustable rate loans
- Balloon payment loans
- Lines of credit that exceed the sale price of the unit
- Stated income loans
- Excessive points and fees (more than what is typical of the market at the time)

Down Payment

The applicant(s) is required to make a minimum down payment of at least 3% of the sales price. Funds must be placed into escrow prior to the close of escrow and must come from acceptable sources and be verified and properly documented per Federal Housing Administration guidelines. The 3% down payment may not be used toward closing costs.

Debit-to-Income Ratios

The applicant(s) is required to have a maximum front end ratio of 38% and back end ratio of 41%.

Front end ratio is the ratio of total monthly housing costs (including mortgage principal and interest, property taxes, property insurance, homeowners association dues, and mortgage insurance, if applicable) to total gross household income.

Back end ratio is the ratio of total monthly housing costs (including mortgage principal and interest, property taxes, property insurance, homeowners association dues, and mortgage insurance, if applicable) plus other monthly payments on long-term household debt to gross household income.

Closing Costs and Deposits

The buyer is responsible for all closing costs related to the purchase of the Affordable Unit, including, but not limited to, title fees, escrow fees, and loan origination fees (approximately 2% to 3% of the purchase price). The buyer may be "gifted" funds to pay for closing costs.

The buyer may take advantage of other down payment assistance programs to assist with closing costs with approval from the City.

5.2 Ownership Requirements

5.2.1 Owner Occupancy Requirement

The Affordable Unit must be owner-occupied and shall not be used as an investment or rental property. Affordable Unit Owners are required to occupy the Affordable Unit as their Principal Residence at least 10 months of the year. Affordable Owners are prohibited from renting their unit without prior written approval from the City.

Owner Occupancy Exception

Ownership Affordable Units are subject to an owner occupancy requirement. However, under the following circumstances, an Affordable Unit Owner may be permitted to temporarily rent his or her unit to a Qualified Household (see Section 4.1.2 for renter qualifications) to alleviate one or more of the following specified hardships:

- The Affordable Unit Owner must temporarily relocate for employment purposes; or
- The Affordable Unit Owner must attend to personal health problems or the health problems of an immediate family member.

The Affordable Unit Owner must request and obtain advance written permission from the City to rent the Affordable Unit before advertising the unit and selecting a qualified tenant. Once the request is approved and a qualified tenant is selected, the Affordable Unit Owner must execute a rental agreement that clearly states:

1) That the term of the rental is for a limited period of time (not to exceed 12 months);
2) The monthly rental payment (set in accordance with the maximum monthly rent calculated in accordance with the Ordinance and published annually or the Affordable Unit Owner's total monthly housing costs, whichever is less).

Annual Survey/Monitoring

Each year, the City of Beverly Hills will monitor and require occupancy certification for all Affordable Units. An annual survey will be mailed to the owner(s) of each Affordable Unit, usually around the anniversary date of the purchase of the unit. Each owner must complete and return the survey along with qualifying documentation. Failure to return the survey and documentation could place the owner(s) in default of the Equity Sharing Agreement.

5.2.2 Refinance Requirements

Affordable Owners may refinance their units; however, financing terms are subject to the restrictions noted in Section 5.1.5 above, and the terms stated in the Equity Sharing Agreement. In addition, the following requirements will apply to any refinance:

- The principal amount for the new first mortgage is for the amount equal to or less than the original first mortgage plus closing costs.
- The interest rate for the new first mortgage is less than the interest rate on the original first mortgage.

Affordable Unit refinances are subject to an administrative fee. Affordable Owners should contact City staff for the current fee schedule.

5.2.3 Refinance Procedure

Affordable Unit Owners must comply with the following procedures when refinancing an ownership Affordable Unit:

1) **Submit Subordination Application.** The Affordable Owner must complete and submit a subordination application to the City.

2) **City Review.** The City will review the refinance request to verify that the proposed loan terms are in keeping with City requirements and terms outlined in the Equity Sharing Agreement. If the loan is found acceptable, the City will issue a conditional authorization letter to the Affordable Owner.

3) **Document Preparation and Closing.** Once all requested documents are received and deemed acceptable, City staff will issue escrow instructions to the title company. The instructions will outline the final documents the City needs to prepare closing paperwork. Once received, the City will prepare and submit a subordination agreement to the title company to be reviewed and signed by the Affordable Owner and recorded.

5.2.4 Maintenance of Affordable Unit

The Affordable Unit Owner is required to maintain the unit throughout the ownership period. All appliances shall be in good and working order, and the unit must be sanitary and free of code violations as well as in compliance with all the health and safety laws of the City of Beverly Hills. Ordinary wear and tear are not excepted.

5.3 Resale of Affordable Unit

5.3.1 Resale Procedure

Affordable Unit Owners for ownership units approved prior to January 1, 2015 (and any other units subject to this section per the terms of their specific Affordable Housing Agreement) must comply with the following procedures when reselling an ownership Affordable Unit:

1) **Inform the City.** The owner must inform the City of his or her intent to sell the unit by notifying the City in writing. The City will send the Affordable Unit Owner a packet of information on the resale process, income limits, and maximum resale price.

2) **Schedule an Inspection.** The Affordable Unit Owner or agent must schedule an Affordable Housing unit inspection with the City.

3) **Marketing.** The Affordable Unit Owner must market the unit and pay all fees associated with the sale of the unit. The seller must use a licensed real estate agent, and the agent must contact the City to learn the requirements for listing the property.

4) **Potential Buyer Application.** At least 30 days prior to the anticipated date of the close of escrow, the Owner must submit the potential buyer(s) application and supporting documentation to City staff for review and approval.

5) **Execute Purchase Contract.** The Affordable Unit Owner executes a purchase contract with the potential buyer(s) and open escrow. The agent must provide a copy of the contract to the City along with the name, address, and phone number of the title company handling the transaction and the name of the escrow officer.

6) **Potential Buyer Qualification.** The City shall notify the owner within 15 working days of receipt of complete packet of documentation of its approval or disapproval of the prospective buyer.

5.3.2 Resale Price Calculation

In most cases, the maximum sales price will be determined based upon the then-current Housing Affordability Table as approved by the City Council of the City of Beverly Hills. The maximum sales price is based on several factors, including the applicable State of California Income Limits for Los Angeles County in effect at the time the unit is put on the market, homeowners associations dues for the unit, and assumptions regarding mortgage interest rates, down payment, property taxes, utilities/maintenance, insurance, and private mortgage insurance (if applicable). Refer to Section 3.5.1 for more details.

5.3.3 Equity Recapture

Affordable unit owners for ownership units approved after January 1, 2015 must comply with an equity sharing agreement with the developer approved upon initial sale of the unit. If an investment is made by the City, the City may recapture a share of their initial investment as specified in Section 4.2.3.2.

In addition, an equity sharing agreement may be made between the City and the developer for the City to recapture the difference between the value of the project with the density bonus units included minus the value of the project without the additional density bonus units. The recapture by the City would occur when the project is fully built out and occupied.

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6 Exceptions and Appeals

6.1 Exception Requests

Any applicant believing that his/her situation warrants an exception to any part of these Guidelines due to circumstances outside of his/her household's control, such as refugee status, special needs, or other hardships or special circumstances, may request an exception by submitting a written letter to the City prior to submitting an application of any kind.

The exception request must specify which particular guideline or requirement the household cannot meet for reasons beyond their control or other valid reasons, and/or describe the household's unique circumstances which warrant one or more specific exceptions to be identified in the letter, referencing the page(s) and section(s) of these Guidelines and/or application form related to the request.

If the need for an exception arises while an application is being reviewed, a request may be submitted at such time. If the need for an exception arises only after receipt of a determination letter issued by City staff, an exception request shall be submitted as an appeal of such determination, according to the appeal process described in Section 6.2.

Exceptions related to disabilities (reasonable accommodations) may be requested according to this procedure, with a brief description of the exception(s) needed due to the applicant's disability. Such requests will be handled in accordance with the City's reasonable accommodations policy and these Guidelines.

The City will consider the requested exception and will provide a letter response within 10 calendar days, stating whether the requested exception can be granted in full or part and the reason for such decision. If denied, applicants may submit an appeal, as explained in Section 6.2.

6.2 Appeals Procedure

Applicants may appeal any determination letter, including denial of a requested exception, by providing a written explanation of the reasons for their appeal, and any supporting evidence they wish to provide.

City staff is not authorized to assist applicants in drafting appeal letters, nor in determining appropriate grounds for appeal or appropriate forms of supporting evidence, beyond advising them of the contents of these Guidelines, application forms, and other published program materials. Applicants may refer to these Guidelines and application forms and/or seek their own advisors/counsel for guidance in determining what types of documentation would be reasonable.

The appeal shall be heard by the Director of Community Development. The appeal letter must be delivered by mail, e-mail, or personal delivery within 10 calendar days of issuance of the determination letter being appealed. The Director of Community Development will review the appeal and make a determination within 10 calendar days.

If denied, the applicant may submit an appeal letter to the City Manager. The City Manager will review the appeal and issue a determination within 10 calendar days or less of receipt. Determinations by the City Manager shall be final.

Unless the appellant opened escrow to purchase an Affordable Unit prior to submittal of an appeal letter, no Affordable Unit will be held or reserved for the applicant while an appeal is being considered, and offers from other prospective buyers may be accepted by the seller(s) of Affordable Unit(s) during this time. If the appellant is in escrow to purchase an Affordable Unit, the City shall not issue any escrow instructions until a final determination regarding the appeal has been made, other than to inform the escrow officer that he/she may not close until further written notice from the City.

The City is not responsible for any actions of seller, lender, or other parties regarding the escrow during the appeal period which may jeopardize buyer's ability to purchase the Affordable Unit.