

Part IV. Model Affordable Housing Guidelines for Major Subdivisions in Crested Butte.

Relationship to Subdivision Regulations.

This Part IV of the TOWN OF CRESTED BUTTE AFFORDABLE HOUSING GUIDELINES, including Sections (1, 2, 3, 4, 5, 6 and attachments) are hereby promulgated by the Town Manager and approved by the Town Council to implement the provisions of Section 15-3-7.V. of the Town of Crested Butte Municipal Code.

Definitions.

Approved Entities - Any entity, approved by the Town Council, having a purpose of providing or administering affordable housing, or any other non-profit entity which would own a Unit for the purpose of housing necessary employees thereon, provided the entity agrees to continue to enforce the herein Qualifications for Ownership and Qualifications for Rental for owners and renters, as well as the resale restrictions for owners with respect to whom a Unit may be sold and for what price.

Area Median Income -

Area Median Income ("AMI") means the median income for Gunnison County, adjusted for household size as published by the U.S. Department of Housing and Urban Development (HUD), or the agency that publishes such a number in its place in the future, each year.

Consumer Price Index -

("CPI") the latest published version of the Denver-Boulder-Greeley, CO Consumer Price Index for Urban Wage Earners, published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor agency.

Customary Closing Costs -

The normal, ordinary costs associated with the sale and purchase of real property, including costs and expenses associated with the closing of a loan for real property. The customary closing costs shall be allocated as follows:

| Seller | Buyer |
|---|--|
| 50% of the Crested Butte "Land Transfer Excise Tax". | 50% of the Crested Butte "Land Transfer Excise Tax". |
| 50% of the Title Company's Closing/Settlement fees. | 50% of the Title Company's Closing/Settlement fees. |
| All real property taxes prorated to the date of closing based | Survey, if applicable. |

upon taxes for the calendar year immediately preceding closing or the most recent mill levy and most recent assessment.

Pro-rated water and sewer monthly use fees to the date of closing.

Recording fees.

All other outstanding fees and assessments, such as home owners association dues, prorated to the date of closing.

Certificate of Taxes Due.

Owner's title insurance.

100% of Loan fees.

Town Administration Fee, up to 1½% of total sale price, if applicable.

Lender title insurance.

Document preparation fees.

Inspection fees.

All real estate commissions.

- Dependent -** A minor child (18 years or younger) or other relative of the renter or owner of a Unit, which child or relative is taken and listed as a dependent for federal income tax purposes by such renter or owner, or his or her present or former spouse, significant other or life partner (said child must also be related by blood or adoption and residing with the individual at least 180 days out of every 12-month period of time).
- Disabled Person -** A person who meets the definition of "individual with a disability" contained in 29 U.S.C. Section 706(8), as amended, and/or defined in the Americans with Disabilities Act of 1990; and/or a person who has a "handicap" as defined in C.R.S. § 24-34-301(4), the Colorado Anti-discrimination Act.
- Grievance -** Any dispute that an owner, purchaser or tenant may have with the Town or its designee with respect to action or failure to act in accordance with the individual owner's, purchaser's or tenant's rights, duties or status.
- Gross Assets -** Anything which has tangible or intangible value, including property of all kinds, both real and personal; includes among other things, patents and causes of action which belong to any person, any blind trust(s), as well as any stock in a corporation and any

interest in the estate of a decedent; also, the entire property of a person, association, corporation, or estate that is applicable or subject to the payment of debts. Gross assets shall include funds or property held in a living trust or any similar entity or interest, where the person has management rights or the ability to apply the assets to the payment of debts.

Gross Household Income -

The total income to include alimony and child support derived from a business trust, securities, trusts, employment and from income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances.

Habitat for Humanity -

Habitat for Humanity of Gunnison Valley Incorporated, a Colorado nonprofit corporation ("Habitat").

Household Assets - Gross assets minus liabilities of a Qualified Buyer or Qualified Renter and his or her Dependents.

Household Income - Combined gross income of all household income is the income reported on the previous year's Federal Income Tax Return(s) of a Qualified Buyer or a Qualified Renter and his or her Dependents. Only the income of people who are eighteen years old or above will be counted in the household income for people applying for Habitat for Humanities units.

Household Size - Household size or "household" is computed by adding up the Qualified Buyer or Qualified Renter and his or her Dependents and any other people whose names will be on the lease.

Liabilities - Existing financial obligations or debts.

Lottery - A drawing to select a winner from equal applicants in the same priority.

Maximum Sale Price - The maximum amount for which a Tract or Unit may be transferred, calculated as described in Section 1. sub-section G.

Net Assets - Gross assets minus liabilities. Retirement accounts will be reviewed on a case-by-case basis to determine whether or not they shall be included as a net asset.

Owner Occupied Affordable Housing -

Owner Occupied Affordable Housing in Crested Butte is deed restricted owned housing intended to serve many segments of the

community that need affordable housing with emphasis on the lower income market. The intended beneficiaries for such housing are people who cannot afford unrestricted market prices for owner occupied housing.

Physically Challenged

Accessible Units - Those Units designed and constructed to specifically meet the needs of a Disabled Person.

Qualified Buyers - Persons or households meeting the Qualifications for Ownership. for eligible owners set forth in Section 1.C. below.

Qualified Renters - Persons or households meeting the Qualifications for Rental set forth in Section 2.C. below.

Rental Affordable Housing -

Rental Affordable Housing in Crested Butte is deed restricted rental housing intended to serve many segments of the community that need affordable housing with emphasis on the lower income market. The intended beneficiaries for such housing are people who cannot afford unrestricted market rental prices for housing.

Roommates - Those people occupying a Unit who are neither Qualified Buyers nor Qualified Renters.

Total Maximum

Household Income - The combined income of a Qualified Buyer or a Qualified Renter and his or her Dependents.

The Town - The Town Manager of Crested Butte, or his/her designee.

Town Council - The Town Council of the Town of Crested Butte, acting in its official capacity.

Section 1. Owner Occupied Affordable Housing.

Deed restrictions for Owner Occupied Affordable Housing which may be rented in certain circumstances and for all units designed to be rentals shall include a provision conveying an interest in the Unit to the Town, a Town housing authority (or similar agency acceptable to the Town) meeting the requirements of § 38-12-301, C.R.S. Such interest may include, without limitation:

- A fractional undivided ownership or trustee interest provided that the Town shall be indemnified against any and all liability by reason of its interest.
- A lease to the Town of the unit or units with authorization to the Town to sublet pursuant to these Guidelines, provided that the Town assumes no liability by reason thereof. The Town may in its sole discretion accept or reject any proposed conveyance or lease, or lease purchase agreement offered pursuant to this section.

The Town will not participate in any financing or future investments regarding any Tract or Unit which is owned by a third party.

A. Rationale.

The reason to create owner occupied, deed restricted, affordable housing in Major Subdivisions is to serve many segments of the community that need affordable housing. The target groups for this housing are people who qualify for affordable housing and who cannot afford to purchase units or tracts for long term housing in Crested Butte.

The 1992 Crested Butte/Gunnison Area Housing Needs Assessment, the 1999 Gunnison County Housing Needs Assessment, the 2000 Residential Job Generation Study, and the Housing Section of the Crested Butte Land Use Plan, Amended, 2003 demonstrate that affordable housing is needed and that most respondents prefer to own their home when they can afford to do so.

B. Administration.

The Town of Crested Butte, or its designee, shall administer these owner occupied affordable housing Guidelines

C. Qualifications for Ownership.

Any Approved Entity may own a unit in the subdivision, provided the entity agrees to continue to enforce the herein Qualifications for Ownership and Qualifications for Rental for owners and renters, as well as the resale restrictions for owners with respect to whom a Unit may be sold and for what price.

Unless an Approved Entity is the owner, to qualify for and be eligible to purchase an affordable housing unit or vacant tract, hereafter "tract", at least one member of the applying household of the Qualified Buyer must meet all of the following criteria except income and assets which are based on the income and assets of all the people in the household:

1. Percentage of Earned Income, Property Ownership, Work, and Disabilities.

Table IV-1
Summary of Eligibility Qualifications for Owner Occupied Affordable Housing

| Worked In Gunnison County at Least: | Minimum % Earned Income in Gunnison County | Ownership of Improved Residential Property | Reside on Site | Resident of Gunnison County | Average Minimum Hours Worked Each Month |
|-------------------------------------|--|--|----------------|-----------------------------|---|
| 1 year | 80% | no | yes | yes | 116 |

Table IV-1. Explanations

a. Minimum Percent Earned Income in Gunnison County.
80% of all income must be "earned income" in Gunnison County. "Earned income" is defined by the Internal Revenue Service (IRC Sec. 32(c)(2)) EARNED INCOME (3/20/1995).

b. Ownership of Residential Property.
No person in and household of a Qualified Buyer shall own an interest, alone or in conjunction with others, in any improved residential real estate except residential property which according to the terms of a deed-restriction cannot be owner-occupied at the time of closing on a Unit. Improved residential real estate must be sold to an unrelated person or an entity in which such person has no interest, prior to closing on a Unit. An owner of a fifty percent (50%) or less undivided interest in improved residential real estate may convey that interest to the other joint owner(s) with or without receiving consideration.

Notwithstanding the above provisions, an otherwise Qualified Buyer for an unimproved deed-restricted lot, tract or parcel, may continue to own a primary residence in Gunnison County after acquiring title to an unimproved deed-restricted lot, tract or parcel until such time as a dwelling unit is constructed. However, no Certificate of Occupancy will be issued for a residence on the deed-restricted lot, tract or parcel until the other primary residence has been sold. Unimproved residential real property outside the Subdivision may also be owned by a Qualified Buyer but must remain unimproved during the time a Unit is owned in the Subdivision. If the land located outside the Subdivision is improved with a residence, the owner must sell the deed-restricted lot, tract or parcel, with or without a dwelling unit, upon issuance of a Certificate of Occupancy on the other real property.

c. Reside on Site.

Upon purchase of a Unit, the Qualified Buyer must make and continuously maintain the Unit as their principal place of residence unless granted a Leave of Absence. During any five (5) year period, all owners must occupy their affordable housing unit for a minimum of three (3) years. See Part IV, Section 1.sub-section I. "Leave of Absence."

d. Work in Gunnison County.

Qualified Buyers must work in Gunnison County and must have worked in Gunnison County for minimum of one year.

e. Minimum Hours Worked Each Month.

Qualified Buyers shall work at least an average of one hundred sixteen (116) hours each month:

- 1) in Gunnison County, or
- 2) for a company headquartered in Gunnison County. Since some jobs are seasonal, the Town may determine that a person who works at least 1,392 hours each calendar year in the County, or for a company headquartered in Gunnison County, also qualifies to own affordable housing. The Town may waive this requirement after finding just cause for a person who suffered from a major illness or accident and is unable to engage in any substantial gainful activity.
- 3) Up to ten percent (10%) of the required hours per year may be filled by verifiable Volunteer Community Service with a qualified nonprofit organization in Gunnison County which has received its 501(c)(3) status from the U.S. Internal Revenue Service in those same boundaries.

2. Asset Limits.

The Net Assets of a Qualified Buyer, and all members of the household including his or her Dependents, shall not exceed three times the maximum Gross Household Income he, she, or they qualify under, unless the Qualified Buyer or his or her Dependents is/are a senior citizen (aged 59 1/2 or older), in which case the Household Asset Limit is one hundred fifty percent (150%) of three (3) times the maximum Gross Household Income. For purposes of this Qualification, vacant land, which can be owned by a Qualified Buyer, will be valued as stated in the Gunnison County Assessor Notice of Valuation. Asset limits will be based on the actual household size, not the target household size for the Tract or Unit listed in Exhibit A.

At the time of application, a Qualified Buyer may own other undeveloped or developed residential or commercial property (see Part IV, Section 1.sub-section 1.C.1.b.). The fair market value of such property will be taken into consideration when determining Household Net Assets. Any change in the fair market value of such property shall be taken into consideration in evaluating the Household's continued Qualification to own a Tract or Unit.

Any member of a Household who has assigned, conveyed, transferred or otherwise disposed of property or other assets within the last two years without fair consideration in order to meet the net asset limitation or the property ownership limitation shall be ineligible.

The Town may from time to time employ outside accounting expertise to evaluate the reasonability of Applicant or Household representations of Income and Assets, especially in cases of self-employment, business ownership and complex asset portfolios and the applicant shall pay for such services.

3. Income Categories.

Each owner occupied unit shall be assigned an Income Category at the time of subdivision and shall be approved by the Town so the number of units in each Income Category meets the needs of the Town. The Income Categories will be assigned from the Income Categories in Table IV-2.

**Table IV-2
Maximum Gross Household Income by Category for
Owner Occupied Affordable Housing Units, or Tracts**

| | Percent AMI | Minimum Income | Maximum Income Household size | | | |
|-------------------|-------------|----------------|-------------------------------|----------|----------|-------------------|
| | | | 1 person | 2 person | 3 person | 4 or more Persons |
| Income Category 1 | 50% AMI | \$17,400 | \$21,750 | \$24,900 | \$28,000 | \$31,100 |
| Income Category 2 | 80% AMI | 24,000 | 34,850 | 39,800 | 44,800 | 49,750 |
| Income Category 3 | 100% AMI | 30,000 | 43,563 | 49,750 | 56,000 | 62,188 |
| Income Category 4 | 140% AMI | 45,000 | 60,988 | 69,650 | 78,400 | 87,063 |
| Income Category 5 | 180% AMI | 65,000 | 78,413 | 89,550 | 100,800 | 111,938 |

Notes for Table IV-2

- i. AMI = Area Median Income
- ii. Numbers shown are from the U.S. Housing and Urban Development FY 2008 Income Limits Summary for Gunnison County, Colorado found at www.huduser.org
- iii. As the incomes in this table are periodically updated, by the U.S. Department of Housing and Urban Development (HUD) the incomes to qualify for each unit or tract of affordable housing will be automatically modified to comply with the updated figures from HUD.
- iv. Maximum income will be based on the actual household size, not the target household size for the Tract or Unit listed in Exhibit A.

4. Qualified Essential Services Employees.

The following employees are Qualified Essential Services Employees, presented in no particular priority, who also meet all above qualifications, and are eligible to own Essential Services Employee Tracts or Units:

- a. Full-time employees of the Town of Crested Butte as defined by the Town,
- b. Part time employees of the Town of Crested Butte as defined by the Town,
- c. Mountain Express employees,
- d. Other Essential Services Employees, who work north of Round Mountain in the Crested Butte Fire Protection District (CBFPD), or for a company headquartered in the CBFPD, including but not limited to:
 - 1) Fire personnel,
 - 2) Emergency Medical Technicians (EMT's),
 - 3) Public school teachers and administrators,
 - 4) County Sheriff personnel, and
 - 5) Others as identified by the Town Council.

5. Co-borrowers.

- a. Co-borrowers, such as but not limited to parents helping their child, are permitted so long as the person who meets the Qualifications for Ownership (See Section 1. subsection C.1.,2.,3., and may also meet the requirements of subsection 4.) is a record owner of the property.
- b. The co-borrower's name may be on the title if a lender requires both the purchaser and the co-borrower's names to be on the title.
- c. If title transfers solely to the co-borrower, spouse, dependent, or person who inherits the unit, the unit or tract must be relinquished unless the co-borrower or spouse meets the requirements for Qualifications for Ownership in Section 1. subsection C.1., 2., and 3. and may also meet the requirements of subsection 4. This requirement may be waived by the Town for good cause shown. Co-borrowers who do not meet the Qualifications for Ownership and who receive title to the unit or tract may not occupy or rent the unit prior to selling it.

6. Exemptions from Eligibility Qualifications.

A request for an exemption from the Eligibility Qualifications may be requested from the Town Council. Variations from the strict application of these Guidelines must be consistent with the intent of these Guidelines, and may be granted only upon a showing of unusual hardship, special circumstance or a compelling reason for the exemption.

- a. A request for an exemption must be submitted in writing to the Town, and shall include documentation, is sufficient to establish that the exemption is justifiable. The applicant shall submit any additional information reasonably requested by the Town, in support of such request.
- b. The request shall be reviewed by the Town Council in a timely manner. Upon demonstration that an exemption is appropriate, the

Town may grant the request, with or without conditions. The approval should not compromise the public good and should not substantially impair the intent and purpose of these Guidelines.

- c. Examples of hardships, exceptional circumstances or compelling reasons include, but are not limited to:
- 1) a person who suffered from a major illness or accident and was unable to engage in any substantial gainful activity during the past year;
 - 2) a person who temporarily left Gunnison County to attend college or other educational training;
 - 3) a recently hired employee of the municipal government of Crested Butte or any other employee providing essential services to the Town;
 - 4) those who are certified as being unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last indefinitely;
 - 5) those with federally recognized disabled dependents;
 - 6) those persons who are court-appointed legal guardians with wards who are otherwise Qualified Buyers; or
 - 7) those who wish to acquire Units owned or administered by Habitat, who may be found to be exempt, by the Town Council, from the Eligibility Qualifications relating to Work in Gunnison County, Percentage of Income in the County, Minimum Hours Worked and Maximum Income.

7. Requalifying.

Owners of owner occupied affordable housing units or tracts need not be requalified, but all "Qualifications for Ownership" criteria in subsections C.1., 2., 3., and 4. must be met continuously so long as the Qualified Buyer occupies the Unit, except maximum incomes in the Income Categories and Maximum Asset Limits. Maximum Assets limits shall not exceed twenty (20) times the income in the Income Category for each unit in the current year unit age 50. After age 50 Maximum Assets shall be unlimited.

If at any time the Qualifications for Ownership are not met (excluding income) or the maximum assets of the Qualified Buyer exceed twenty (20) times the Income Category for a Tract or Unit, the Town may give notice requiring the owner to sell the Tract or Unit within one year from the date of the notice.

8. Town Makes Determination.

The Town will decide which applicants meet the criteria for eligibility and which category each applicant is in.

D. How to Qualify for Owner Occupied Affordable Housing.

1. Documentation as Proof of Residency and Income.

In order to determine that a person or household desiring to purchase an affordable housing unit or tract meets all of the Qualifications for Ownership, the Town shall request any combination, or all, of the following documentation as proof of residency and income source:

- a. Federal income tax returns for the year prior to applying for owner occupied affordable housing. At a minimum, form 1040, 1040E or 1040EZ and any forms necessary to explain the 1040 form will be required.
- b. Verification of employment in Gunnison County i.e. Wage and Tax Statements; Form W2.
- c. An applicant must also furnish a current income statement, a current financial statement and a statement that the applicant owns no residential land, in a form acceptable to the Town verified by the applicant to be true and correct; or other documentation acceptable to the Town, or its designee. When current income is twenty percent (20%) more or less than income reported on the prior year's tax returns, the applicant's income will be averaged based upon current income and the prior year's tax returns to establish an income category for the purpose of purchasing a unit or tract.
- d. Landlord verification (proof of residency by physical address);
- e. Copy of valid Colorado driver's license;
- f. Vehicle registration;
- g. Voter registration;
- h. Other verification deemed necessary by the Town (e.g. wage stubs or employer name, address, and phone number).

2. Confidential Information.

All personal and financial information provided to the Town will be kept strictly confidential, except as follows:

- a. Signed contracts between the applicant or household and the Town or developer including but not limited to contracts to purchase a Tract or Unit, deed restrictions, any document to be recorded with the sale of a Tract or Unit along with the deed restriction, and any document that would customarily be a matter of public record in the property records of the applicable jurisdiction.
- b. The names and lottery positions of all persons who have participated in any lottery held under these Guidelines; and,
- c. Any other information which is subject to disclosure under applicable law, including, without limitation, the Colorado Open Records Act.
- d. In addition, the Town may provide for access to personal and private information to any person or entity undertaking an independent audit

of the records kept under these Guidelines. In such a case, the Town shall endeavor to obtain an agreement from such persons to keep such information confidential.

E. Procedures for Sales of Units.

The sale of all Tracts or Units shall be in accordance with the procedures set forth below, except that where a conflict exists between the rules and regulations of other funding sources or Approved Entities, the rules and regulations of the funding sources or Approved Entities shall take precedence over these Guidelines, to the extent of the conflict only, except as otherwise indicated.

1. Consulting Legal Counsel.

All purchasers and sellers are advised to consult legal counsel regarding examination of title, all contracts, agreements and title documents pertaining to the purchase or sale of property discussed herein. The retention of such counsel or such related services shall be at purchaser's or seller's own expense.

2. Initial Sale of Units.

Upon a determination by the Town that a Tract or Unit is available for sale, the Town shall place an announcement in the legal publications section of the official newspaper of the Town announcing the address of the Tract or Unit for sale and information regarding where to obtain applications to purchase the Tract or Unit, or the Town Council may convey the Tract or Unit directly to an Approved Entity.

a. Applicants shall complete an application for the Tract or Unit, which application shall contain sufficient information for the Town to determine whether or not the applicant is a Qualified Buyer, including a letter from a lending institution stating the applicant is qualified to borrow adequate funds to pay for the Tract or Unit. Applicants shall sign a release of information so that the Town may obtain such information. The Town will require a sworn statement of the facts contained in the application including at least the following certifications:

- 1) that the facts contained in the application are true and correct to the best of the Applicant's knowledge;
- 2) that the Applicant has been given the standard application information packet by Town staff; and,
- 3) that the Applicant, on the basis of the application presented, believes that the Applicant qualifies to own the Tract or Unit in question according to the deed restriction, these Guidelines and all other applicable procedures, rules and regulations.

Any material misstatement of fact or deliberate fraud by the applicant in connection with any information supplied to the Town shall be cause for

immediate expulsion from the application process and/or forced sale of the Tract or Unit.

b. Applicants will be notified in a timely manner by the Town as to whether they meet the eligibility requirements to be a Qualified Buyer. Applicants who have been determined not to be a Qualified Buyer may request an exemption from the Town Council.

c. Approved Entities may select Qualified Buyers pursuant to their own established rules and regulations, so long as the purchaser selected is a Qualified Buyer. Approved Entities may request exemptions from the Qualifications for Ownership as appropriate.

d. Qualified Buyers must close on a Tract or Unit within 90 days of selection as the buyer unless the buyer requests and is granted an extension by the Town. Any extension may be granted by the Town Council in its sole discretion for good cause only. No such extension shall be for more than 60 days. If the selected buyer fails to close on the tract or unit within 90 days, and if no extension is granted, the tract or unit shall be sold to the next person on the Chosen People list (See subsection E.2.d.ii.).

e. Lotteries.

If more than one Qualified Buyer applies to purchase a Tract or Unit, lotteries shall be held to choose which Qualified Buyer will be offered the opportunity to purchase a Tract or Unit. Lotteries for Qualified Buyers, who meet only the various levels of qualifications discussed below, will be held in the following order:

- 1) Lotteries for Qualified Buyers, who meet only the various levels of qualifications discussed in each paragraph below.
 - i. Essential Services Employees (ESEs) who meet the Target Income Categories and Household Size identified in Exhibit A and who have worked in Gunnison County more than four (4) years. Such Essential Services Employees, referred to in this paragraph and in subsequent lottery paragraphs, must meet the Qualifications for Ownership described in Section 1.C. 1.a., b., c., d., e., f., g., 2., 3., and 4. Each such ESE will receive the number of chances in the lottery as set forth in Table IV-3, below. (An Exhibit A will be created for each phase in a new subdivision. Exhibit A will identify each Tract or Unit, the Target Income Category and the Target Household Size for each Tract or Unit as appropriate.) This lottery will only be held if less than fifty percent (50%) of the tracts or units, whichever is being applied for, are owned by ESEs.
 - ii. Qualified Buyers (QB), including ESEs, who meet the Target

Income Categories and Household Size identified in Exhibit A and who have worked in Gunnison County more than four (4) years. Each such QB will receive the number of chances in the lottery as set forth in Table IV-3, below.

- iii. ESEs who do not meet the Target Household size but who have worked in Gunnison County at least four (4) years and who meet the Target Income Categories, as explained below. Each such ESE will receive the number of chances in the lottery as set forth in Table IV-3, below. When household size is different from the Targeted Household Size identified in Exhibit A, Household Income will be based on the actual size of the household applying (the ESE plus his or her Dependents) for a unit and will not be based on the target size for the Unit identified in Exhibit A. For example: if the targeted household is a two (2) person household earning not more than 80% of AMI, but a three (3) person household ends up qualifying for the Unit, the maximum income will be based on 80% of AMI for a three person household. This lottery will only be held if less than fifty percent (50%) of the tracts or units, whichever is being applied for, are owned by ESEs.
- iv. QBs, including ESEs, who do not meet the Target Household size but who have worked in Gunnison County at least four (4) years and who meet the Target Income Categories, as explained in paragraph 3) above. Each such QB will receive the number of chances in the lottery as set forth in Table IV-3, below. When household size is different from the Targeted Household Size identified in Exhibit A, Household Income will be based on the actual size of the household applying (the QB plus his or her Dependents) for a unit and will not be based on the target size for the Unit identified in Exhibit A.
- v. QBs, including ESEs, who have lived in Gunnison County less than four years but more than one year and who meet the Target Income Categories and Household Size identified in Exhibit A. Each applicant will receive a single chance in that lottery.
- vi. QBs, including ESEs, who have lived in Gunnison County less than four years but more than one year and who do not meet the Household Size identified in Exhibit A and who meet the Target Income Categories, as explained in paragraph 3) above. Each applicant will receive a single chance in that lottery.
- vii. QBs, including ESEs, who have lived in Gunnison County less than one year and who do not meet the Target Income and Target Household Size. Each applicant will receive a single chance in that lottery. When household size is different from the Targeted Household Size identified in Exhibit A,

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Household Income will be based on the actual size of the household applying (the QB plus his or her Dependents) for a unit and will not be based on the target size for the Unit identified in Exhibit A.

**Table IV-3
Number of Chances in Lottery Based on Number of Years Worked in
Gunnison County**

(This table applies to those Essential Services Employees and Qualified Buyers in the first and second lotteries of each of those categories – those who have worked in Gunnison County more than 4 years prior to application date)

| Years Worked Category | Number of Chances |
|--|--------------------------|
| 1. More than 4 years, fewer than 8 years | 5 chances |
| 2. More than 8 years, fewer than 12 years | 7 chances |
| 3. More than 12 years, fewer than 16 years | 9 chances |
| 4. More than 16 years | 11 chances |

2) Maintaining a List of the Chosen People.

A list of the order in which names are chosen will be retained. In the event the first name drawn cannot complete the transaction, the next name chosen will be offered the opportunity to purchase the Tract or Unit. In the event the next name drawn cannot complete the transaction, the subsequent name chosen will be offered the opportunity to purchase the Tract or Unit, and so on, until a purchaser has been found for the Tract or Unit. Once a name has been drawn, on subsequent times the same name is drawn, that name will be discarded. The lottery shall continue until each applicant's name has been drawn.

3) Exception to Lottery Procedures.

In the event more than one Qualified Buyer applies to purchase a Physically Challenged Accessible Unit, first priority for such Unit shall be given to households with Qualified Buyers that include Disabled Persons, prioritized by length of time the Qualified Buyer has worked in Gunnison County. Such household shall have the first right to purchase such Units.

4) Other Guidelines Concerning Lotteries.

Prior to any lottery, the date, time and place of the lottery will be published in the legal publications section of the official newspaper of the Town for at least one week prior to the lottery. All lotteries

will be administered by the Town Manager or his/her designated representative.

3. Procedures for Resale for all Tracts or Units.

a. Town's First Option to Purchase.

1) Offer to Town.

No owner, including Approved Entities, may sell a Tract or Unit or any interest therein except pursuant to the provisions of this Section. Any owner preparing to sell his or her Tract or Unit shall first offer it to the Town for purchase by writing a letter to the Town Manager offering the Tract or Unit for sale.

2) Term of Town's Right.

Within twenty-four days beginning on and including the date of the actual receipt of such information, the Town shall have the right to purchase the Tract or Unit at the Maximum Sales Price, or at an agreed upon sale price less than the Maximum Sale Price.

3) Exercise of Right.

In order to exercise its right, the Town must, on or before the end of such twenty-four-day period actually deliver to the owner a written contract to purchase the Tract or Unit. The Town shall also tender to the offering owner a \$2,000 down payment or escrow payment.

4) Non-exercise of Right.

If the Town does not exercise its right hereunder within the time period provided, the offering owner shall be free to accept and close upon offers from Qualified Buyers, as described above.

5) Failure to Comply.

Any sale of a Tract or Unit without full compliance with the terms and provisions of this Section may be voided at the election of the Town.

6) Certificate.

After full compliance with this Section by an offering owner, and after the period of time provided for purchase by the Town has expired and the right of first refusal has not been exercised, the Town shall execute a certificate of record stating that the provisions of this Section have been met, and any right of first refusal vested with the Town has terminated.

7) Exceptions.

The following transfers or conveyances are excepted from the provisions of this section:

i. A transfer to, or purchase by, any mortgagee who acquires title as a result of foreclosure proceedings or conveyance in lieu thereof; and a transfer or sale by any such mortgagee after acquisition of the Tract or Unit by foreclosure or conveyance in lieu thereof.

ii. A transfer or conveyance between or among co-tenants of the same Tract or Unit, spouses, children or parents of owners (who must be Qualified Buyers).

iii. A transfer or conveyance by gift, devise or inheritance or by operation of law.

b. Application of these Resale Regulations if not to the Town.

Paragraphs b) through l) apply to all Tracts or Units where the Town has executed a certificate of record stating that the provisions of this Section have been met, and any right of first refusal vested with the Town has terminated, except that Approved Entities may select Qualified Buyers pursuant to their own established rules and regulations, so long as the purchaser selected is a Qualified Buyer. Approved Entities may request exemptions from the eligibility qualifications for purchasers as appropriate, pursuant to the procedures set forth herein for requesting exemptions from the eligibility qualifications. Habitat is exempted from the herein resale restrictions as to resale price, and shall implement the rules and regulations of Habitat regarding resale price and the Eligibility Qualifications for a Qualified Buyer, which will be more restrictive than those set forth herein.

c. Sellers Decide to Whom They May Sell.

Sellers may sell to any Qualified Buyer. If a Tract is being sold and less than fifty percent (50%) of all Tracts in a subdivision are owned by Essential Services Employees, then the Tract must first be offered to Essential Services Employees. If a Unit is being sold and less than fifty percent of all Units in a subdivision are owned by Essential Services Employees, then the Unit must first be offered to Essential Services Employees. (See paragraph e. below).

d. Qualified Buyers.

Subsequent Qualified Buyers must meet the same Eligibility Qualifications and be qualified in the same manner as initial applicants.

e. Offering Tracts or Units for Sale.

Owner(s) shall notify the Town of the intent to sell the Tract or Unit prior to advertising the Tract or Unit or listing it for sale. The Owner shall consult with the Town to confirm the correct Maximum Sale Price for the Tract or Unit prior to announcing the Tract or Unit for sale. The Owner shall list the Tract or Unit with the Town if a licensed transactional broker is available through the Town. If no transactional broker is available, the Seller may sell a Tract or Unit directly, or the Seller may list the Tract or Unit with a real estate broker licensed to do business in the State of Colorado. After notifying the Town of the intent to sell the Tract or Unit, the Owner must also place an announcement in the legal publications section of the official newspaper of the Town, at Owner's expense, containing:

- 1) The address of the Tract or Unit;
- 2) A statement that potential buyers must meet Town Eligibility Qualifications, or receive an exemption from the Town;
- 3) The contact address for the Owner; and
- 4) The offered sale price of the Tract or Unit, not to exceed the Maximum Sale Price, as established in Section 1. subsection G.

f. Offering a Tract or Unit to Essential Services Employees and Other Qualified Buyers.

- 1) If less than fifty percent (50%) of all Tracts in a subdivision are owned by Essential Services Employees, the Tract must first be offered to Essential Services Employees. If less than fifty percent (50%) of all units in a subdivision are owned by Essential Services Employees, the unit must first be offered to Essential Services Employees.
- 2) The initial listing period for Essential Services Employees shall be for a period of not less than forty five (45) days.
- 3) If no contract has been signed by the seller during the first forty five (45) days, or if fifty percent (50%) of all Tracts or Units, as applicable, are owned by Essential Services Employees, the seller may list the Tract or Unit for sale to Essential Services Employees and Qualified Buyers who meet the targeted household income and targeted household size for the Tract or Unit as described in Exhibit A.

4) The listing period for Essential Services Employees and Qualified Buyers who meet the targeted household income and targeted household size shall be for a period of not less than forty five (45) days. During this period the seller may accept an offer from any Essential Services Employee or Qualified Buyer who meets the targeted income and targeted household size.

5) If no contract has been signed by the seller during the second forty five (45) day period, the seller may list the Tract or Unit for Essential Services Employees, and Qualified Buyers who do not meet the targeted household income and targeted household size for the Tract or Unit as described in Exhibit A, and all other Qualified Buyers.

g. Determining the Maximum Sale Price.

The Maximum Sale Price for each Tract or Unit shall be calculated according to the appropriate formula set forth in Section 1. subsection G.

h. Town Notification.

The owner shall submit to the Town the purchase contract and the documentation establishing the prospective purchaser's qualifications at least thirty (30) days prior to the scheduled closing. The Town shall, within 15 days of receipt of the purchase contract and prospective purchaser information, provide a letter to the owner and prospective purchaser indicating whether or not the prospective purchaser is an Eligible Owner as set forth in Section 1. subsection A. hereof.

i. Customary Closing Costs.

Owner shall not permit the prospective purchaser to assume any or all of the seller's customary closing costs. Owner shall not accept any other consideration which would cause an increase in the sales price of the Tract or Unit above the Maximum Sale Price, or for any other reason induce the owner to sell the Tract or Unit to a purchaser in violation of these Guidelines.

j. No Guarantees.

The Town does not represent or guarantee that the owner will obtain the Maximum Sale Price.

k. Deadline for Building.

Owners who have purchased a vacant Tract shall obtain a building permit for a dwelling unit thereon no later than forty eight (48) months after closing the purchase. Any owner who fails to meet this deadline shall forthwith offer the Tract for sale and as soon as practicable, sell their Tract.

1. Administration Fees.

1) Maximum Sales Price Determination Fee. A fee of \$100 will be charged to any owner or seller requesting a required determination of Maximum Sales Price from the Town at the time of the request.

2) Transaction Fee.

If a licensed transactional broker is available through the Town, at the closing of the sale of a Tract or Unit, the owner will pay the Town an administration fee in an amount to be established by the Town. The amount shall not exceed one and one-half percent (1 1/2%) of the total sale price of the Tract or Unit. One-half of the administration fee shall be paid by the seller at the time of listing, which is applied to the total administration fee payable at closing. The Town may instruct the title company to pay the balance of administration fees owed to the Town out of the funds available to the owner at the closing. In the event the owner fails to perform under the listing contract, rejects all offers at Maximum Sale Price in cash or cash-equivalent terms, or withdraws the listing after advertising has commenced, that portion of the administration fee paid will not be refunded. In the event the owner withdraws for failure of any bids to be received at Maximum Sale Price or with acceptable terms, the advertising and administrative costs incurred by the Town shall be deducted from the administration fee, and the balance refunded or credited to the owner's administration fee when the Tract or Unit is sold.

3) If a licensed transactional broker is not available at the Town, there will be no administration fees.

4. Deed Restriction.

The purchaser must execute, in a form satisfactory to the Town and for recording with the Gunnison County Clerk and Recorder concurrent with the closing of the sale, a document acknowledging the purchaser's agreement to be bound by the recorded Deed Restriction covering the purchased Tract or Unit.

F. Maximum Sales Prices for Initial Sales of Affordable Housing Units and Tracts in Major Subdivisions.

The maximum sales price for the initial sale of a deed restricted Affordable Housing unit or tract shall be based upon the buyer paying no more than thirty percent (30%) of his/her/their income on housing. Exhibit A identifies each Tract and Unit Income Category and Targeted Household Size.

1. Sample Maximum Sale Prices for Particular Incomes.

The maximum sales prices in Table IV-4 are shown as example only and are based on the maximum incomes in paragraph C.3. The housing costs assume no

more than thirty percent (30%) of the income in each category is used for housing and they take into account assumed property taxes, insurance, mortgage insurance, and they assume a five percent (5%) down payment. It is likely that most multifamily deed-restricted units will also pay a home owners association fee. The number in Table IV-4 does not include this fee since there will also be deed restricted single family homes which are less likely to pay a home owners association fee. As the incomes for each income category in Table IV-2 change, the numbers in Table IV-4 will also change.

**Table IV-4
Maximum Unit Sales Prices by Category**

| | Maximum AMI | Household size | | | |
|------------|-------------|----------------|----------|-----------|-------------------|
| | | 1 person | 2 person | 3 person | 4 or more persons |
| Category 1 | 50% AMI | \$79,275 | \$90,615 | \$101,903 | \$113,400 |
| Category 2 | 80% AMI | 127,155 | 145,215 | 163,328 | 181,598 |
| Category 3 | 100% AMI | 159,075 | 180,495 | 203,700 | 226,853 |
| Category 4 | 140% AMI | 222,600 | 254,100 | 285,968 | 317,625 |
| Category 5 | 180% AMI | 286,125 | 326,655 | 367,868 | 408,450 |

2. Initial Sale prices.

The initial sales price of deed-restricted tracts and/or dwelling units controlled by these Guidelines will be determined by the developer of the land. However, the initial maximum sales price for the initial sale of a deed restricted Unit and Tract shall not exceed the price affordable to a buyer in the identified Income Category and shall be no more than what twenty five percent (25%) of the income in said Income Category can afford for principal and interest on their mortgage, plus a five percent (5%) down payment, and assuming that property taxes, insurance, mortgage insurance, and home owners association fees and other costs will be in addition to the twenty five percent (25%) and should not exceed thirty percent (30%) of the maximum income allowed for the income category and household size.

3. Vacant Tract Sales Price.

In the event a vacant deed-restricted tract is sold, the maximum sales price shall not exceed the maximum sales price described in 2. above and shall account for the cost per square foot of a unit on the tract, so that the cost for the tract and the unit does not exceed thirty percent (30%) of the income for the targeted household income. The cost per square foot to build a deed restricted Affordable Housing unit shall be based on the average cost to build existing deed restricted units, of similar size, over the previous five (5) years and must be approved by the Town, prior to advertising any tract sales prices.

4. Household Income Based on Actual Household Size.

The Maximum Income Limit and Target Household Size for each Unit are listed in Exhibit A. Household income will be based on the actual size of the household applying (the Qualified Buyer plus his or her Dependents) for a unit and will not be based on the target size for the Unit identified in Exhibit A. For example: if the targeted household is a two (2) person household earning not more than eighty percent (80%) of AMI, but a three (3) person household ends up qualifying for the Unit, the maximum income will be based on eighty percent (80%) of AMI for a three person household.

Developers of tracts shall assume a unit size as described in Table IV-5 for each Tract. Each Tract will be labeled in Exhibit A with regard to Targeted Income Category and Targeted Household Size.

G. Resale Controls.

1. Appreciation Will Use CPI or Three Percent (3%) Per Annum

The maximum resale price of a unit, including a proportionate share of the Tract, shall be controlled by the Deed Restriction for each Tract or Unit which shall limit annual increases in resale value to the annual rate of change in the Denver / Boulder / Greeley Urban Wage Earners Consumer Price Index, published by the U.S. Bureau of Labor Statistics or three percent (3%) per annum, not compounded, whichever is less.

2. Resale of Units After a Certificate of Occupancy is Issued.

No Unit may be sold for an amount in excess of the Maximum Sale Price. Maximum Sale Price will be established as of the date the seller notifies the Town of the seller's desire to sell the Unit.

- a. Ascertaining Maximum Sale Price.
For purposes of these Guidelines, the "Maximum Sale Price" of a Tract or Unit shall be calculated by one of two methods, Method 1 or Method 2, whichever results in the lower Maximum Sale Price.
- b. Calculating Maximum Sale Price.
 - 1) The Maximum Sale Price includes:
 - i. The most recent purchase price of a Tract or Unit.
 - ii. The documented costs (costs for which a receipt is submitted) for all initial and Permitted Subsequent Improvements made during ownership of a Unit, including the cost of materials and labor. Only the cost of improvements for which a Town building permit ("BP") has been issued, and decks less than 18 inches high, are permitted to be utilized in calculating costs. The cost of labor cannot exceed the cost of materials.
 - iii. All closing costs incurred by seller at purchase of the Tract or Unit.
 - iv. Tap fees paid by seller.

- v. Building permit fees paid by seller; and
 - vi. Landscaping costs incurred prior to issuance of the initial certificate of Occupancy ("CO").
- 2) Permitted Subsequent Improvements. The costs of Permitted Subsequent Improvements are permitted to be included in the Maximum Sale Price of a Unit in order to allow owners to be reimbursed for enhancing the value of their Unit through improvements that require Town building permits (and the cost of decks less than eighteen (18) inches high, which are included as Permitted Subsequent Improvements, but do not require a building permit).
- i. "Permitted Subsequent Improvements" include only the following permitted, permanent, durable improvements to real property, for which receipts must be provided to the Town and for which a Town building permit has been issued (and the cost of decks no greater than eighteen inches high, for which a building permit is not required and major landscaping. Improvements include the cost of materials and labor (the cost of labor cannot exceed the cost of materials.):
 - (1) Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements;
 - (2) Improvements for energy and water conservation;
 - (3) Improvements for health and safety protection devices;
 - (4) Improvements to add and/or finish permanent/finished storage space;
 - (5) Improvements to finish unfinished space;
 - (6) The cost of adding decks and balconies and any extensions thereto;
 - (7) Tap fees;
 - (8) Building permit fees; and/or
 - (9) Major landscaping, such as trees, bushes sidewalks and structures, but not bedding plants or annual flowers, after the initial improvements (after the initial CO).
 - ii. Permitted Subsequent Improvements shall not include the following:
 - (1) Upgrades/replacements of appliances, plumbing and mechanical fixtures, carpets and other similar items included as part of the original construction of the Unit;

- (2) Improvements required to repair, replace and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, floor coverings, floor tile and other, similar items; and/or
- (3) Upgrades or addition of decorative items, including lights, window coverings, floor tile, carpeting and other similar items.

iii. All Permitted Subsequent Improvement items and costs shall be approved by the Town prior to being added to the Maximum Sale Price as defined in these Guidelines and must be documented with receipts.

3) Maximum Sale Price Does Not Include:

- i. Taxes and insurance;
- ii. Homeowners' or condominium association fees;
- iii. Maintenance costs;
- iv. Loan points or origination fees;
- v. Property taxes;
- vi. Water and sewer fees (both availability of service fees and monthly service fees);
- vii. Construction loan interest and permanent mortgage interest;
- viii. Special improvement district assessments;
- ix. Crested Butte Real Estate Transfer Tax;
- x. Costs for which no receipts are provided.
- xi. Costs for which receipts are provided but that do not state the product purchased;
- xii. Costs to cleanup the job site;
- xiii. Costs to install telephone, cable television, satellite television, computer services and other similar services which will most likely be reinstalled for the next owner; and
- xiv. Fire extinguishers and other non-permanent accessories such as appliances that are not intended to be sold with the unit.

4) Information That Must be Provided When the Town Calculates Maximum Sale Price.

The Owner shall submit to the Town such documentation as the Town may require to calculate the Maximum Sale Price, which shall at a minimum include the following:

- i. Records establishing the purchase price of the Unit;