

**EL DORADO COUNTY
HUMAN SERVICES DEPARTMENT**

**Deed Restrictions and
Affordable Housing Projects**

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PROGRAM GUIDELINES

Serving the Unincorporated Area of
El Dorado County

January 2008

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Guidelines for Affordable Housing New Development and Conversion Projects

The County of El Dorado, hereinafter referred to as the “County” has established an Affordable Housing Program (hereinafter, “Program”) to provide Affordable homeownership units and rental units, within new and/or Conversion Project market-rate developments. The Program is designed to provide an opportunity for Very Low, Low and Moderate Income Households (defined in Section I below) to purchase Affordable housing units located within the Program’s eligible area (described in Section II below). The Program provides this assistance in the form of deed restrictions recorded against the title of the new development or conversion project. The Program will be administered by the El Dorado County Department of Human Services Housing Programs (hereinafter, “Program Operator”).

Section I: Definitions

The following terms have the following meanings in these guidelines:

“Affordable” means average total monthly housing expenses during the first calendar year of a household’s occupancy, including but not limited to property taxes, homeowner’s insurance, homeowner’s association dues, if any, mortgage loan principal and interest, mortgage insurance, and Mello Roos or other applicable assessments, which are equal to or less than one-twelfth (1/12th) of thirty-five percent (35%) of no greater than one hundred and twenty percent (120%) of Median Family Income, adjusted for Household Size based on an occupancy standard of one-person per bedroom, plus one additional person (for example, a three-bedroom home will be priced based on the income of a four-person family).

“Affordable Purchase Price” means the sales price at which the Affordable unit will be offered to prospective Eligible Buyers. The monthly housing cost factors required to be included in the calculation of the Affordable Housing Price shall be provided by the County.

“Affordable Rental Housing” means a rental dwelling for which the total monthly expense (rent plus the standard El Dorado County Housing Authority utility allowance) does not exceed thirty (30) percent of the maximum monthly income limit for Very Low- and Low- income households in El Dorado County.

“Deed Restricted” means single-family units that are income-restricted for purchase by very low-, low-, or moderate-income households for a term of at least twenty (20) years through an Affordable Housing Agreement and that are located within a project that sets aside at least twenty percent (20%) of its units for purchase or rent. Deed Restricted for-sale units are further secured through a Buyer’s Occupancy and Resale Restriction Agreement.

“Eligible Buyer” means a targeted income household who is eligible to purchase a Deed Restricted Unit as provided herein.

“Front-end ratio” means the total amount of monthly housing costs including principal, interest, property tax, homeowners insurance, mortgage insurance, and Home Owner’s Association dues, if applicable, as a percent of gross household income.

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Section I: Developer Incentives ¶

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Traffic Impact Mitigation Fee Offset Program¶

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The Traffic Impact Mitigation (TIM) Fee offset is one potential incentive in the process of developing affordable housing. The TIM Fee Program includes a provision to allow for an affordable housing TIM fee offset program that provides up to a total of \$1.0 million per year of TIM fee offsets for qualifying affordable housing development.¶

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Residential developers who are developing homeownership or rental units for very low, low and moderate-income households in unincorporated El Dorado County are eligible to apply for an offset of their TIM fees. Applications for TIM fee offsets will be accepted by the County during the Fall of each year and reviewed by the Advisory Committee during the month of January and then on an “as needed” basis to review and rank projects. Tentative funding awards will be announced by the Board of Supervisors in March of each year. ... [1]

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“Back-end ratio” means the total amount of the monthly housing costs defined in the Front-End ratio in addition to all other monthly payments or liabilities as a percent of gross household income.

“Household Income” means the combined adjusted gross income for all adult persons living in a unit, as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.

“Household Size” means the total number of people living in a single legal dwelling unit whether owner-occupied or rented.

“Loan Review Committee” means a committee convened by the Program Operator composed of at least one representative each from the Department of Human Services, the mortgage or banking industry, and from the public sector. Other Department representatives may be requested to participate depending on the scope of the project.

“Low-Income Household” means a household with all income that, at the time of eligibility, does not exceed eighty percent (80%) of the median monthly income for El Dorado County, as defined by the U.S. Department of Housing and Urban Development.

“Maximum Initial Sales Price” means the maximum purchase price for a Deed Restricted Unit that is Affordable to the targeted Household Income level (whether Very Low, Low, or Moderate) as provided in the Developer’s Agreement. A yearly estimate of the Maximum Sales Prices will be prepared on an annual basis by the Program Operator as an attachment to these guidelines.

“Median Family Income” means the median Household Income in El Dorado County published periodically by the State of California pursuant to California Code of Regulations, Title 25, Section 6932 (or successor provisions).

“Moderate-Income Households” means a household with all income that, at the time of eligibility, does not exceed one hundred twenty percent (120%) of the median monthly income for El Dorado County, as defined by the U.S. Department of Housing and Urban Development.

“Qualifying Household” means qualifying incomes that are based upon the total incomes of all household members.

“Release” means the time when any Affordable unit is offered for sale to prospective Eligible Buyers. How many Affordable units may be in each Release and when the Releases may be offered to the prospective qualified purchasers is specified in the Developer’s Agreement.

“Resale Restriction” means an Affordable Housing Buyer’s Occupancy and Resale Restriction Agreement (Buyer’s Agreement), in the form provided by the County, to be executed by each buyer of a Deed Restricted Unit and recorded against the Deed Restricted Unit at the time of purchase by the buyer.

“Conversion Project” means the change of use from a multi-family rental or commercial property into individual for sale residential units.

“Very Low-Income Households” means a household with all income that, at the time of eligibility, does not exceed fifty percent (50%) of the median monthly income for El Dorado County, as defined by the U. S. Department of Housing and Urban Development.

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Section II: Affordable Housing Development – New and Conversion Units

Any residential project involving new construction or Conversion Projects with a single family component can choose to provide Affordable, Deed Restricted Units for-sale, Affordable housing can be located on-site, or, in the case of an exclusively single-family subdivision, on an approved off-site location. Depending on the zoning and planning regulations applicable to the development, Affordable housing can be single-family detached or attached units, such as half-plex, duplex, tri-plex or quad-plex houses, condominiums, or manufactured homes in a common-interest development or on a single-family lot and placed on a permanent foundation system. The provision of Affordable Deed Restricted Units within a development will be formalized through the execution and recordation of an Affordable Housing Agreement (hereinafter referred to as “Developer’s Agreement”) approved by the El Dorado County Counsel.

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1. Eligibility Requirements for Residential Projects to be Included in the Program

Residential projects proposing to provide Affordable housing must meet all of the following criteria to be eligible for the Program. The Program Operator will confirm or assess whether the proposed Affordable housing units meet these criteria.

Eligible Location

To be eligible for the Program, residential projects must be located in the area described as follows: “Within the unincorporated area of El Dorado County”.

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Site and Building Design

If the proposed development is new construction, the location, size, and design of the proposed Affordable, Deed Restricted Units must be approved by the County Planning Department and the Program Operator prior to final site plan approval. If, at time of approval of the Plan, individual home lots have not yet been determined, those lots must be approved by the El Dorado County Development Services Department and the Program Operator prior to the recordation of the final lot subdivision map and the Developer’s Agreement. These changes will be incorporated into the Plan as an amendment to be reviewed and approved by the Development Services Director (or designee) and the Program Operator.

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If the proposed development is a conversion project, then the location, size and design of the proposed Affordable, Deed Restricted Units must be approved by the County Planning Department and the Program Operator prior to final approval.

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Compliance with Law

The proposed development and all Deed Restricted Units must be in compliance with all applicable State and local codes and ordinances.

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Location of Deed Restricted Units within Development

To the greatest extent possible, the Affordable Deed Restricted Units shall be dispersed among the market rate units within the proposed development or conversion project, and shall have the same exterior appearance as the market rate units. This provision can be waived with the approval of the Development Services Department and the El Dorado County Planning

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Commission if the Deed Restricted Units are planned and approved as a unique portion of the overall development, for example, as half-plex units on corner lots, or as a small cluster of attached units.

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Unit Size

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The size of the Deed Restricted Units shall be sufficient to meet the needs of the income eligible household without overcrowding. Generally, this means not more than two (2) persons per bedroom or living room.

Flood Insurance

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Eligible Buyers purchasing Deed Restricted Units that are located within a 100 year flood zone will be required to provide proof of flood insurance in order to close escrow.

2. Initial Sales Procedures for Deed Restricted Affordable Housing Units

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In general, the sale of the Affordable housing units will be processed in accordance with requirements of the particular developer.

It is the buyer's responsibility to secure financing from an institutional lender. The first mortgage must be an arms-length transaction, and must be a fully amortized loan with no balloon payments. No loans with non occupant co-mortgagers or co-signers will be allowed. The Program Operator will require a copy of the loan approval from the lender as proof of availability of financing.

The Primary Loan

The buyer must provide evidence of financing for the maximum amount the Primary Lender is willing to loan (the "primary loan"). The primary loan on the Affordable Deed Restricted Units is subject to the following terms and conditions:

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1. Loan Term

The primary loan shall be fully amortized and have a term "all due and payable" in no fewer than thirty (30) years.

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2. Interest Rate

The rate of interest shall be fixed on the primary loan at the current market rate. Adjustable Rate Mortgages (ARM) will not be allowed. If "Risk Rates" are applied (an interest rate that reflects the primary lender's loan risk) each loan shall be evaluated by the County on a case by case basis.

3. Impound Account

All households will be required to have impound accounts for the payment of taxes and insurance to ensure they remain current.

4. Primary Lender Qualifying Ratios

Primary loans underwritten by FHA, USDA Rural Development, Fannie Mae, Freddie Mac, or CalHFA will be acceptable to establish creditworthiness, repayment ability, and dependability of income. If the primary loans are underwritten by other than the previously mentioned, it will be up to the County to establish the Front- and Back-end ratios that will be allowable in their program.

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The qualifying ratios shall be calculated based on the borrower's fixed monthly expenses in relation to the household's gross monthly income.

The front-end ratio shall be between 28% and 35% and is the percentage of a borrower's gross monthly income (before deductions) that would cover the cost of PITI (loan principal and interest payment + property taxes + property insurance) and Home Owner's Association (HOA) dues.

The back-end ratio shall be between 36% and 42% and is the percentage of a borrower's gross monthly income that would cover the cost of PITI and HOA plus any other monthly debt payments like car or personal loans and credit card debt.

The County may allow the front-end and back-end qualifying ratio guidelines to be flexible depending on the loan-to-value ratios. The higher the loan-to-value (LTV) ratio, the more conservative the ratios will be.

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A qualifying ratio higher than the guidelines may be acceptable in the discretion of the Program Operator if there are compensating factors but under no circumstances may a qualifying ratio exceed 50% of the Household Income. Some examples of allowable compensating factors are 1) The prospective homebuyer has successfully demonstrated over a minimum 12-month period the ability to pay housing costs equal to or greater than the proposed monthly housing costs for the unit to be purchased; 2) The prospective homebuyer is a limited user of credit and they show a history of being able to save money; 3) There will be no more than a five percent (5%) increase in the prospective homebuyer's housing expense; and 4) The prospective homebuyer carries no additional credit debt.

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Completion of Underwriting

The Developer, through their lender of choice will provide a homebuyer's loan package to the Program Operator including: 1) Real estate sales contract; 2) Residential loan application; 3) First lender approval letter; 4) Proof of personal funds for down payment; 5) Credit report; 6) Rent verification; 7) Asset verification; 8) Verified income documentation; 9) Disclosure statement; 10) Breakdown of closing costs; 11) Structural pest control clearance (if applicable); 12) Appraisal with photos (if applicable); 13) Escrow instructions; 14) Preliminary title report; and 15) Home ownership education certificate (if required by Developer).

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Once the homebuyer loan package has been received from the Developer's lender of choice, and has been determined to be complete, the Program Operator will submit a Loan Commitment

Request to the Loan Review Committee for approval. The Committee will review the request and may approve it with or without conditions.

3. Calculation of Affordable Purchase Price

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No later than 45 days prior to each Release, Developer will submit their calculation of the proposed Affordable Purchase Price for the Release based on a calculation provided by the Developer's preferred lender conforming to the criteria described in Section 10 (Affordable Purchase Prices) of the Developer's Agreement. An estimate of the Maximum Sales Prices at specified income levels prepared by the Program Operator is attached hereto as Exhibit A for reference as an estimate only. Exhibit A is updated on an annual basis and may be obtained upon request from the Program Operator.

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The Maximum Initial Sales Price shall be based on a family paying no more than thirty-five percent (35%) of its total gross monthly income on all housing expenses as outlined below. The sales price shall be calculated based on an occupancy standard of one-person per bedroom, plus one additional person (for example, a three-bedroom home will be priced based on the income of a four-person family). Income limits used shall be those published by the U.S. Department of Housing and Urban Development (HUD) for the Sacramento Metropolitan Statistical Area (SMSA), and will be updated annually and published by the Program Operator.

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For the purpose of determining the Affordable Purchase Price, housing expenses include, but are not limited to, the following:

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- Principal and interest (PI)
- Mortgage insurance
- Hazard insurance
- Flood insurance (where applicable)
- Property taxes
- Mello Roos or other assessments (where applicable)
- Home Owners Association dues (where applicable)

For example, a purchase price based on an income limit of \$50,000 (gross) a year, will allow no more than \$1,458 a month ($\$50,000 \div 12 \times 35\%$) to be spent on total housing expenses. Non principal and interest costs will be backed out of this allowance to determine maximum supportable debt. Calculations for principal and interest, taxes, and insurance will be based on current market conditions and rates on similar mortgage products, and will be provided by the Program Operator at time of the pricing of the Affordable housing units. A thirty (30) year mortgage loan term, the minimum allowable by the Program, must be used for the purposes of calculating the Affordable Purchase Price.

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The Program Operator will, within fourteen (14) days of receipt of the Affordable Purchase Price from Developer, either approve the purchase prices or require an appropriate adjustment if the financing program offered by Developer's preferred lender or similar lending institutions does not, in the Program Operator's discretion, qualify the targeted income household (whether very low, low or moderate) for purchase of the Affordable, Deed Restricted Unit.

4. Requirements for Eligible Buyer(s)

The Program Operator will work with the Developer on the selection of the potential Affordable home buyers. In general, the Deed Restricted Units will be sold through a lottery process administered by the Developer unless an alternative selection process is approved by the Program Operator.

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Homebuyer Education

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Developers may require potential buyers to complete a homebuyer education course to be eligible for purchasing a Deed Restricted Unit. If the Developer requires such education, all homebuyers interested in purchasing a Deed Restricted Unit must complete, or be enrolled in, a homebuyer education class through an approved education service to be eligible to participate in any lottery or other selection process for the Deed Restricted Units.

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Pre-Qualification Required for Lottery Participation

The Developer will prepare a "pre-qualification" application which is required for participation in the lottery or other selection process. This application will request: 1) general information on the applicant's income and household characteristics; 2) proof of enrollment in or completion of a homebuyer education class, if applicable (see above); and 3) a lender pre-qualification letter. All applications that report an income and other information sufficient to meet the requirements of the program will be included in the lottery or other selection process.

Income Verification

Once the lottery or other selection process is completed, the selected buyer(s), through the Developer, will provide to the Program Operator full documentation of the reported income of all household members 18 years and older. These documents include, but are not limited to:

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1. Schedule of Household Members and Income;
2. Two years federal tax returns for all income earners who will be living in the home;
3. Two years W-2s for all income earners who will be living in the home;
4. The four most recent, consecutive pay stubs for all income earners who will be living in the home;
5. Verification of other non-wage income, including child support, social security, disability, retirement/pension payments, annuity payments, unemployment, public assistance, alimony or regular gifts for all household members; and
6. Proof of completion of or attendance in a homebuyer education class (if applicable).

Projected annual gross income of the applicant household will be used to determine whether they are above or below the published income limits. Annual income, as determined by the Department of Housing and Urban Development (HUD) and found at 24 CFR §5.609, is defined as the gross amount of income of all adult family members that is anticipated to be received during the coming twelve (12) month period.

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Minimum Household Size Requirement

The minimum qualifying size of the family purchasing the Deed Restricted Units is based on the number of bedrooms in the unit. The following are the minimum family sizes for various housing unit sizes:

<u>Housing Unit Size</u>	<u>Minimum Family Size</u>
2 Bedroom	1 person
3 Bedroom	2 person
4 Bedroom	3 persons
5 Bedroom	4 persons
6 Bedroom	5 persons

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Family size refers to all persons, related or not, living in the home, including all children under the age of 18.

First Time Homebuyer Requirement

To be eligible to purchase a Deed Restricted Unit, the potential buyer must be a first time homebuyer, which means that neither the purchaser nor spouse has owned a home during the past three years, or that the purchaser meets at least one of the following criteria:

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1. The purchaser is a displaced homemaker, defined as a person who has not worked full-time for a number of years, worked primarily without remuneration to care for the home and family, is unemployed or underemployed, is experiencing difficulty in obtaining or upgrading employment, and, while a homemaker, owned a home with a previous spouse;
2. The purchaser is single (unmarried or legally separated), has one or more minor children of whom purchaser has custody, and, while previously married, owned a home with a previous spouse; or
3. The purchaser owns or owned as a principal residence during the past three years, a dwelling unit which structure is not permanently affixed to a permanent foundation in accordance with the County code, or is not and cannot be brought into compliance with County code for less than the cost of replacing the structure.
4. The purchaser is on title to a residential property but does not have the option to occupy the unit as a primary residence. This includes partial ownership in inherited properties, property held in trust which is the primary resident of an elderly or disabled family member, and time share properties where purchaser is listed on title for the sole purpose of accessing time share benefits.

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Continued Household Eligibility After Purchase

Deed Restricted Units shall be occupied by the owner(s) of record, and shall not be rented at any time. The Program Operator will annually verify that the owner(s) of record continues to reside

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in the Unit. Between January 1 and January 15 of each year during the term of the deed restriction, the Program Operator will request documentation verifying that the owner of record is the true resident of the Deed Restricted Unit. Valid documentation of residency includes, but is not limited to, utility bills, phone bills, and verification forms provided by the Program Operator.

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5. Affordable Housing Buyer's Occupancy and Resale Restriction Agreement (Buyer's Agreement)

At time of closing of escrow on a Deed Restricted Unit, the buyer will be required to sign the Affordable Housing Buyer's Occupancy and Resale Restriction Agreement (Buyer's Agreement) which shall be recorded against the property. This Buyer's Agreement will detail the income and occupancy standards for the Deed Restricted Unit, as well as the re-sale and recapture provisions for the Unit based on the guidelines in Section III below. The buyer will also be required to sign the "Buyer's Acknowledgements," which includes as "Attachment A" a document entitled "Buyer's Resale and Program Restriction." The "Buyer's Resale and Program Restrictions" document provides important information regarding the procedure for selling a Deed Restricted Unit as well as recapture provisions. If the Unit is resold as a Deed Restricted Unit per the guidelines below, all subsequent Eligible Buyers shall also be required to sign these documents.

Section III: Procedures for Resale of Affordable Housing Units

Resale provisions

a) Subject to the terms of the Developer's Agreement and the Buyer's Agreement, the Deed Restricted Unit shall only be re-sold to Eligible Buyers at Affordable prices as described in the Developer's Agreement recorded against the Unit, which shall include the following restrictions for resale:

(i) After the initial sale of the Deed Restricted Unit at a price Affordable to the target income level group, the Deed Restricted Unit shall remain Affordable to subsequent Eligible Buyers for a period of not less than twenty (20) years. Subsequent owners are not required to be first-time home buyers.

(ii) During the twenty (20) year period following recording of the Buyer's Agreement, the Deed Restricted Unit shall only be sold by the initial owner and any subsequent owner at the Affordable Purchase Price applicable to the targeted income group to be calculated at the time of offering the Unit for resale. Prior to offering the Unit for sale, the owner shall notify the County in writing at the address specified in the Buyer's Agreement and shall include in the notice a) the owner's intention to sell; b) the address of the property; c) date of original purchase by owner; and d) original purchase price. After receiving written notice of owner's intent to sell, the County will determine the Affordable Purchase Price. Within 30 days after receipt of owner's written notice of intent to sell described in this paragraph, County will respond in writing to owner stating its intent with respect to the proposed resale of the unit.

(iii) If the County does not opt to purchase the Unit as described above and the owner of the Deed Restricted Unit is unable to sell the Unit to an Eligible Buyer within sixty (60)

days of a good faith offering and advertising the unit for sale, the owner may offer to sell the unit to the County or its assignee at the Affordable Purchase Price calculated at the time of making the offer. If the County or its assignee does not complete the purchase of the Unit within ninety (90) days of the owner's offer of sale to the County, the resale obligations stated in the Buyer's Agreement shall terminate; however, the provisions of this section and the Developer's Agreement relating to recapture upon sale shall continue to apply and remain in full force and effect. The termination of resale provisions is conditioned upon offering the Unit for sale to the county as specified in this section.

b) If the Deed Restricted Unit does not sell within sixty (60) days of a good faith offering and advertising the unit for sale and if the County does not acquire the Deed Restricted Unit as specified above, the Unit may be sold at the current market price, and the seller shall pay to the County all proceeds from the sale of the Unit less a percentage of profit, if any, as provided in this section (this requirement is referred to as "equity recapture"). For purposes of this section, profit is defined as the net proceeds from the sale after deducting loan(s), ordinary expenses attributed to the seller, including real estate commissions not to exceed six percent (6%), and after deducting the current Affordable Purchase Price calculated at the time of resale. If the owner has made improvements to the home, profit shall be determined by deducting the adjusted value of the home, or the current Affordable Purchase Price, whichever is higher. The percentage of profit retained by the owner shall vary according to the number of years an owner owns the residential Unit. The percentage of profit to be allocated to the owner is as follows:

Years Current Owner Owned Residence	Percentage of Profit to Current Owner	Percent Profit Paid to the County
less than 1	10	90
less than 2	20	80
less than 3	30	70
less than 4	40	60
5 or more	50	50

Equity Recapture Provisions

"Equity recapture" refers to the requirement that an owner pay the proceeds from the resale of a Deed Restricted Unit to the County. The recapture provisions shall remain in effect for the term of the deed restriction (also referred to as the affordability period), as stated in the Buyer's Agreement and the Buyer's Resale and Program Restrictions executed at time of escrow the owner is obligated to the terms of equity recapture during this period.

The amount of equity recaptured at time of sale will be determined based on the years the current owner has owned the residence and whether the unit was sold to an Eligible Buyer at an Affordable Purchase Price or at the current market rate. Profit is defined in Section III.b above, and the percentage of profit to be allocated to the owner is also outlined in Section III.b above as well as in the Buyer's Agreement.

For households of more than one owner, equity recapture will be determined separately in accordance with their interest in the residence.

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If a fire, storm, or other casualty destroys the residence completely or partially, resulting in a compulsory or involuntary disposition of the residence, the owner will not have to pay the recapture amount if they construct another principal residence on the same site. Such construction must be begun within two years of the end of the taxable year during which the owner received insurance compensation or other amounts as a result of the destruction.

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A recapture amount will not be paid in the event that title is transferred to a spouse or former spouse as a result of divorce or death. The owner remaining on title under these circumstances will be held to the terms of the original recapture provisions as stated in the Buyer's Agreement and the Buyer's Resale and Program Restrictions executed at the original closing date.

Funds recaptured by the Program Operator upon a sale will be placed in an Affordable Housing Trust Fund and used to fund additional Affordable housing units. If a Deed Restricted Unit is sold at a market price before the end of term of the deed restriction in accordance with Section III.b above, the Buyer's Agreement shall be released from the property.

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Receiving Equity Recapture Payments

- A. Program payments will be made to:

COUNTY OF EL DORADO
DEPARTMENT OF HUMAN SERVICES
550 MAIN STREET, SUITE C
PLACERVILLE, CA 95667
ATTN: HOUSING PROGRAMS

- B. The County will be the receiver of recaptured funds and will maintain a financial record-keeping system to record payments and file statements on payment status. Payments shall be deposited and accounted for in the County's Housing Trust Fund. The Program Operator will accept payments from borrowers making payments in full upon sale or transfer of the property. All payments are payable to El Dorado County. The County may at its discretion, enter into an agreement with a third party to collect and distribute payments and/or complete all loan servicing aspects of the Program.

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Transfer of Title Outside These Guidelines is Prohibited.

Any transfer of title of a Deed Restricted Unit before the end of the term of the deed restriction that is not in compliance with these guidelines shall prompt the recapture provisions, unless that party receiving title is an Eligible Buyer and qualifies themselves with the Program Operator. Addition of any person or entity to the deed will also trigger recapture unless the additional party is related to the owner through marriage or registered domestic partnership.

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Section IV: Refinancing and Subordination Approval

In order to assure that the integrity of the affordability provisions are maintained, the Program must assure that the Buyer's Agreement securing the affordability of the property has priority over all liens on the Deed Restricted Unit, other than purchase money liens securing the purchase of the Deed Restricted Unit. Any loans or advances on loans secured by the Unit, other than the purchase money loans, shall be deemed subordinate in all respects to the Buyer's Agreement, including, without limitation, the Program's recapture rights as provided above. An owner's ability to refinance and to obtain funds from refinancing of the Deed Restricted Unit is limited and must be approved in advance by the Program Operator. Refinancing of a first mortgage will be approved only for the purpose of reducing housing costs, such as a loan to reduce the interest rate or the removal of mortgage insurance. Refinance loans must have a fixed interest rate for a term of no less than thirty (30) years. The Program will only subordinate when there is no cash out as part of the refinance. Cash out includes additional charges on the transaction above the loan and escrow closing fees. Refinancing and cashing out for third party debt pay offs will not be permitted, nor will additional encumbrances on the property be allowed. Seconds mortgages or equity lines will also not be permitted.

To receive approval for subordination the homeowner must submit to the Program Operator a letter requesting approval. The letter must include the property address, contact information for the lender, the new loan terms and amount, and an explanation for refinancing. The Program Operator will submit the request to the Loan Review Committee for review. Following review the Program Operator will respond to the request in writing either approving or denying the request to subordinate. If the response is denial, the writing will include the reason for denial.

Section V: Amendment of Guidelines

These guidelines are meant to accompany the Developer's Agreement and Buyer's Agreement, and may be amended from time to time with the recommendation of the Program Operator and the Development Services Director of the County of El Dorado. Should there be a conflict between documents, the Developer's or Buyer's Agreement recorded on the property shall prevail. Interested parties may request to be put on a mailing list to be maintained by the Program Operator to receive notice of any changes to the guidelines.

The Program Operator will annually update the attached Estimated Maximum Sales Prices with the yearly income limits, but these prices shall only be considered estimates, as market conditions will affect actual Affordable Purchase Price calculations.

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Deleted: Housing Unit Eligibility¶

¶ Location and Characteristics¶

¶ Affordable housing units to be purchased must be located within developments on Development Agreements in the eligible area. The eligible area is described as follows, "Within the unincorporated area of El Dorado County"¶

¶ Affordable housing unit types eligible for the Program are new or substantially rehabilitated: single-family detached houses, half-plex, duplex, tri-plex or quad-plex houses, condominiums, or manufactured homes in a common-interest development or on a single-family lot and placed on a permanent foundation system. ¶

¶ All affordable housing units must be in compliance with state and local codes and ordinances. ¶

¶ Affordable housing units located within a 100 year flood zone will be required to provide proof of flood insurance in order to close escrow.¶

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A goal of the El Dorado County General Plan is to provide housing incentives through programs which assist developers in providing affordable housing opportunities while protecting the public health, safety, and welfare of citizens.

Section I: Developer Incentives

Traffic Impact Mitigation Fee Offset Program

The Traffic Impact Mitigation (TIM) Fee offset is one potential incentive in the process of developing affordable housing. The TIM Fee Program includes a provision to allow for an affordable housing TIM fee offset program that provides up to a total of \$1.0 million per year of TIM fee offsets for qualifying affordable housing development.

Residential developers who are developing homeownership or rental units for very low, low and moderate-income households in unincorporated El Dorado County are eligible to apply for an offset of their TIM fees. Applications for TIM fee offsets will be accepted by the County during the Fall of each year and reviewed by the Advisory Committee during the month of January and then on an “as needed” basis to review and rank projects. Tentative funding awards will be announced by the Board of Supervisors in March of each year. The amount of the offset will be determined based on the affordability period and the income level the units will be targeted toward.

Eligible developments are those that have a minimum of five (5) units where 20 percent of the units will be affordable to very low, low and moderate-income households as well as new residential developments that provide legal and deed restricted affordable secondary or accessory dwelling units.

5. First Mortgage Requirements

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The affordable housing units shall be occupied by the Owners, and shall not be rented at any time. Provisions for occupancy of the homes shall be included in the Buyer’s Agreement.

b) The Buyer’s Agreement shall be recorded against the Subject Deed Restricted Unit and shall be subject to the following restrictions:

The initial owner of the Subject Deed Restricted Unit shall be a first-time home buyer.

Subsequent Re-sales

At time of purchase homebuyers will sign the Buyers Resale and Program Restrictions which will provide important information regarding procedures for selling a Deed Restricted Unit as well as recapture provisions. These same provisions shall apply to subsequent income eligible owners for sales to additional income qualified buyers.

Homeowners intending to sell a Deed Restricted Unit must follow the procedures outlined in the Buyer’s Resale and Program Restrictions. To initiate the sale process the homebuyer needs to send a letter to the Program Operator. The letter must state the homeowner’s intention to sell the unit, the address of the property, date of original purchase, and the purchase price. The Program Operator will respond in writing stating what the Program wishes to do in regards to the unit. The Program Operator can opt to purchase the home and resell to another income qualified buyer or the homeowner can sell the affordable unit to another eligible buyer as per the terms of the Buyer’s Agreement.

the net proceeds from the sale after deducting loan(s), ordinary expenses attributed to the seller, including real estate commissions not to exceed six (6) percent, and after deducting the current Affordable Housing Price. Any improvements to the home will not constitute ordinary expenses and are not deducted for purposes of identifying profit.

The percentage of profit to be allocated to the owner is outlined in Section III.c of these guidelines and in the Buyer’s Agreement.

Housing Unit Eligibility

Location and Characteristics

Affordable housing units to be purchased must be located within developments on Development Agreements in the eligible area. The eligible area is described as follows, “Within the unincorporated area of El Dorado County”.

Affordable housing unit types eligible for the Program are new or substantially rehabilitated: single-family detached houses, half-plex, duplex, tri-plex or quad-plex houses, condominiums, or manufactured homes in a common-interest development or on a single-family lot and placed on a permanent foundation system.

All affordable housing units must be in compliance with state and local codes and ordinances.

Affordable housing units located within a 100 year flood zone will be required to provide proof of flood insurance in order to close escrow.

Conditions

Affordable housing unit size shall be sufficient to meet the needs of the homebuyer household, without overcrowding. Generally, this means not more than two (2) persons per bedroom or living room.

F. The Program Operator will: 1) Confirm that the housing unit is within the eligible area, and 2) Review each proposed housing unit to ensure that it meets all eligibility criteria before funding.