

# **Santa Cruz County Affordable Housing Guidelines**

May 2008 – April 2009 Edition

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# Santa Cruz County Affordable Housing Guidelines

May 2008 Edition

These Santa Cruz County Affordable Housing Guidelines are adopted by Resolution of the Santa Cruz County Board of Supervisors pursuant to County Code Chapter 17.10, Affordable Housing Requirements. These Guidelines constitute and were formerly entitled the Santa Cruz County Affordable Housing Program Income, Asset and Unit Price Guidelines from their inception as referenced in the Santa Cruz County Code, including but not limited to Chapter 17.10 and in all documents executed pursuant thereto. These Guidelines are annually revised, updated and adopted by the County to accomplish the objectives of the County's Affordable Housing Program, and establish regulations in addition to all other applicable State and County laws and regulations governing the sale or rental of residential properties. These Guidelines provide supplemental regulations and administrative guidelines for the County's Affordable Housing Program and implement the intent and specific provisions of Chapter 17.10 by providing income and asset limits for participating households, sales and for affordable units, eligibility requirements for purchasing or renting affordable units and development and marketing standards for affordable units.

Second units, authorized and occupied pursuant to County Code Section 13.10.681 ("Second Units"), are also subject to the maximum rents set forth in Section 6, b) of these Guidelines.

## 1. DEFINITIONS

As used in these Affordable Housing Guidelines, unless the context requires otherwise, the following words and terms have the meanings set forth below:

"Administering Agency" shall mean the Planning Department of the County of Santa Cruz, or other department as authorized by the County Board of Supervisors.

"County" shall mean the County of Santa Cruz, a political subdivision of the State of California.

"First Time Home Buyer" shall mean a Principal Occupant (see definition below) who:

- a) Has not held an Ownership Interest (see definition below), whether whole or part, in residential property during the three-year period immediately prior to their certification of eligibility by the Administering Agency to purchase an affordable unit; or
- b) Is a "displaced homemaker" who has not within the past two years worked on a full time basis as a member of the labor force, but has, during such years, worked primarily without remuneration to care for the home and family, and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment and does not have an Ownership Interest in residential property; or
- c) Is a single parent who is unmarried or legally separated from a spouse, and is pregnant or has sole or joint custody of at least one minor child, and does not have an Ownership Interest in residential property; or
- d) Is a current owner-occupant of a mobile home that does not meet local codes and cannot be brought into compliance with codes for less than the cost of construction of a new home.

Owners of mobile homes in mobile home parks who do not hold fee simple title would be considered First Time Home Buyers.

“Household” shall mean all occupants of the affordable unit including the Principal Occupants (see definition below), children, foster children or other persons related by blood, marriage, operation of law, or stable family relationship.

“Ownership Interest” shall mean any of the following interests whether whole or part in residential property:

Fee simple estate, joint tenancy, tenancy in common, tenancy by the entirety, interest in Trust, life estate or land sales contract.

Ownership Interest does not include a remainder interest, or a leasehold interest with or without an option to purchase unless the leasehold interest has been in effect continuously for more than thirty-five (35) years.

“Owner-Occupied” shall mean an affordable unit that is continuously occupied by at least one Principal Occupant for at least 10 months out of each calendar year.

“Principal Occupant(s)” shall mean those members of the Household whose names appear on the property lease or title.

## 2. ELIGIBILITY REQUIREMENTS

### Residency

In order to be eligible to purchase or rent any Measure J affordable unit, at least one Principal Occupant must currently reside within Santa Cruz County (including its incorporated cities); or at least one Principal Occupant must be employed within Santa Cruz County (local employment must be their primary employment and source of income). Principal Occupants for affordable units must provide the Administering Agency with documentation that they have resided and/or been employed within Santa Cruz County for at least 60 days prior to their application to purchase or rent an affordable unit.

### Minimum Household Size

In order to be eligible to purchase or rent a Measure J affordable unit, the Household must be of a size equal to the number of bedrooms in the unit. For instance, in order to be eligible to purchase a three-bedroom unit, a Household must be made up of at least three members. Please see Table One for further clarification. Households must provide the Agency Administering Agency with documentation to verify the Household size claimed.

**Table One: Minimum Household Size**

Unit Size	Minimum Household Size
Studio/One Bedroom	1

2 Bedrooms	2
3 Bedrooms	3
4 Bedrooms	4
5 Bedrooms	5

Applications by smaller-sized Households for larger units will only be considered by the Administering Agency based on documentation by the Principal Occupant that there are unique and compelling individual circumstances that justify a greater number of bedrooms than the number of persons in the Household.

#### First Time Home Buyer Requirement for Purchase of Owner-Occupied Units

All Principal Occupants purchasing Owner-Occupied units must be certified by the Administering Agency as First Time Home Buyers. Exceptions to the First Time Home Buyer requirement shall be made by the Administering Agency in any of the following circumstances:

- i. The First Time Home Buyer requirement does not apply to buyers of units in the two existing “senior only” affordable housing developments commonly know as “Vista Prieta” and “Casa La Familia,” or any future “senior only” development that becomes part of the Measure J Program.;
- ii. Principal Occupants of an affordable unit may sell the unit and purchase another affordable unit that has been marketed to the public for at least 30 days and has not received a valid purchase offer from an eligible Household, provided that their Household meets all current eligibility requirements and that their current affordable unit is sold to another eligible Household; or
- iii. Principal Occupants of an affordable unit may sell their unit and purchase another affordable unit, based on changes in the composition or conditions of their Household, provided that their Household meets all other current eligibility requirements, and that their current affordable unit is sold to another eligible Household. Conditions that warrant consideration for purchase of another affordable unit include marriage, divorce, birth, death, medical conditions, and other conditions due to individual circumstances beyond the control of the Principal Occupant(s). Individual circumstances will be considered, and approved or denied, by the Administering Agency upon submission of documentation to the Administering Agency by the Principal Occupant(s).

Persons that are Ineligible to Purchase, Rent or Occupy a Measure J Affordable Unit:

The following persons are ineligible to purchase, rent or occupy an affordable unit:

- i. All employees and officials of the County of Santa Cruz or the Administering Agency who have, by the authority of their position, policymaking authority or influence affecting Santa Cruz County housing programs.
- ii. The developer or owner of the affordable unit to be purchased or rented.

iii. The immediate relatives, employees, and anyone gaining significant economic benefit from a direct business association with public employees, officials, developers, or owners who are not eligible to purchase or rent an inclusionary unit.

### 3. HOUSEHOLD INCOME LIMITS

To establish the eligibility of individuals participating in the County’s Affordable Housing Program, limits are set on the amount of income Households can earn. These limits are based on median household income estimates for Santa Cruz County issued annually by the Federal Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD). HUD and HCD (pursuant to Title 25, §6932 of the California Code of Regulations) further establish household income ranges by household size into four income categories. The four household income categories commonly used for the administration of affordable housing programs are as follows:

- “Very Low Income” households are defined as those with incomes equal to or less than 50% of median household income;
- “Lower Income” households are defined as those with incomes greater than 50% and up to 80% of median household income. HUD adjusts the upper income limit for lower income households in high-cost and high-income areas such as Santa Cruz County, so that it may not equal exactly 80% of median income every year;
- “Median Income” households are defined as those with incomes equal to 100% of median household income; and
- “Moderate Income” households are defined as those with incomes greater than 80% and up to 120% of median household income.

Table Two defines the maximum annual Household income limits for each income category, by Household size, for Santa Cruz County affordable housing programs. The applicable income limits for larger Household sizes may be obtained from the Administering Agency.

**Table Two: Maximum Annual Household Income Limits for 2008**

Income Category (Percent of AMI)	Number of Persons in Household							
	1	2	3	4	5	6	7	8
Very Low (50%)	\$30,450	\$34,800	\$39,150	\$43,500	\$47,000	\$50,450	\$53,950	\$57,400
Lower (80%)	\$48,700	\$55,700	\$62,650	\$69,600	\$75,150	\$80,750	\$86,300	\$91,850
Median (100%)	\$56,900	\$65,000	\$73,200	\$81,300	\$87,800	\$94,300	\$100,800	\$107,300
Moderate (120%)	\$68,300	\$78,100	\$87,800	\$97,600	\$105,400	\$113,200	\$121,000	\$128,800

Household size is defined to include all occupants of the affordable unit consisting of the principal occupant(s) appearing on the property lease or title, foster children, and other persons related by blood, marriage, operation of law, or other stable family relationship who reside in the unit. At the time a Household first occupies an affordable unit, the Household's income shall not exceed the following annual income limits:

a) Rental Units:

i. The annual income of a Household renting an affordable unit, other than those designated for Very Low Income, shall not exceed the maximum limit for Lower Income Households; and

ii. The annual income of a Household renting an affordable unit designated for Very Low Income shall not exceed the maximum limit for Very Low Income Households.

b) Owner-Occupied Units:

i. The annual income of a Household purchasing a designated Moderate Income affordable unit for owner-occupancy shall not exceed the maximum limit for Moderate Income Households;

ii. The annual income of a Household purchasing a designated Lower Income affordable unit for owner-occupancy shall not exceed the maximum limit for Lower Income Households; and

iii. The annual income of a Household purchasing a designated Very Low Income affordable unit for owner-occupancy shall not exceed the maximum limit for Very Low Income Households.

Households shall be certified as meeting the above income limitations by the Administering Agency prior to occupying an affordable rental or Owner-Occupied unit. Purchasers of affordable units to be utilized as investor-owned affordable rental units are not subject to income limitations.

Where affordable housing units are developed with State or federal housing program assistance, the income limitations of the State or federal housing program shall supersede the income limitations of these Guidelines where they are more stringent.

#### **4. HOUSEHOLD INCOME DEFINITION**

For Households purchasing or renting an affordable unit, Household income is defined as monetary benefits before deductions or exemptions that are anticipated to be received during the 12 months following occupancy of the unit by the Household.

**Income includes, but is not limited to:**

- a) All wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services, before payroll deductions;
- b) The net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness or any allowance for depreciation of capital assets);
- c) Interest and dividends (including income from assets excluded below);
- d) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including any lump sum payment for the delayed start of a periodic payment;
- e) Payments in lieu of earnings, such as unemployment and disability compensation and severance pay;
- f) The maximum amount of public assistance available to the above persons other than the amount of any assistance specifically designated for shelter and utilities;
- g) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
- h) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the household or spouse; and
- i) Any earned income tax credit to the extent that it exceeds income tax liability.

**The following are specifically excluded from the definition of income:**

- a) Casual, sporadic or irregular gifts;
- b) Amounts that are specifically for or in reimbursement of medical expenses;
- c) Lump sum additions to Household assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal losses;
- d) Amounts of educational scholarships paid directly to students or to the educational institution, and amounts paid by the government to a veteran for use in meeting the costs of tuition, fees, books, and equipment. Any amounts of such scholarships or payments to veterans not used for the above purposes are to be included in income;
- e) Special pay to a serviceman head of a family away from home and exposed to hostile fire;
- f) Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- g) Foster childcare payments;
- h) The value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1977;

- i) Payments to volunteers under the Domestic Volunteer Service Act of 1973;
- j) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes;
- k) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- l) Payments received from the Job Training Partnership Act;
- m) Income derived from the disposition of funds of the Grand River band of Ottawa Indians; and
- n) The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims.

## 5. DETERMINATION OF INCOME FROM ASSETS

To determine Household income eligibility for purchase or rent of an affordable unit, a percentage of the Households assets (as defined below) shall be added to the Household income only when the Household's assets exceed the maximum annual Household income by Household size.

When total assets exceed the maximum annual income for the Household, then the amount of income attributed to these assets shall be computed as follows:

- a) The actual annual income generated from the assets; or
- b) Annual income based on a percentage yield that equal to the average mortgage interest rate from Freddie Mac's "Weekly Primary Mortgage Market Survey" used in the Resale Price Formula in Section 9 for new units or Section 10 for existing units, below. Whichever calculation yields a greater amount of income will be added to the Household's annual income, and this combined amount must be less than the maximum annual income for the Household.

For households consisting of at least one senior citizen 62 years of age or older, the first \$60,000 of assets shall be excluded from the above calculation.

For the Second Unit Program, the equity in the property occupied by the senior Household shall not be counted in the asset calculations, but actual income from rent as described above, will be counted as income. (Resolution no. 118-2006)

Households shall be certified as meeting the above asset limitations by the Administering Agency prior to occupying an affordable rental or Owner-Occupied unit. Purchasers of affordable units to be utilized as investor-owned affordable rental units are not subject to these asset limitations.

Where affordable housing units are developed with State or federal housing program assistance, the asset limitations of the State or federal housing program shall supersede the asset limitations of these Guidelines where they are more stringent.

## 6. ASSET DEFINITION

Assets are defined as:

- a) Cash savings, including but not limited to bank accounts, credit union accounts, certificates of deposit, and money market funds;
- b) Marketable securities, stocks, bonds and other forms of capital investment;
- c) Inheritance and lump sum insurance payments, already received;
- d) Settlements for personal or property damage already received;
- e) Equity in real estate, except as stated below; and
- f) Other personal property that is readily convertible into cash.

**The following are not considered assets:**

- a) Ordinary household effects including furniture, fixtures, and personal property;
- b) Automobiles used for personal use;
- c) Equity in the parcel or lot on which an owner-builder unit is to be built; and
- d) Cash, securities, stocks, bonds and other forms of capital held in a tax deferred retirement plan recognized by the Federal Internal Revenue Service.

## 7. MAXIMUM RENTS

Affordable Rental Units

The maximum rents for Measure J Rental Units shall be set at a level affordable to Lower and Very Low income Households as provided in Table Three. Except as otherwise provided in this section, the maximum rents for an affordable unit shall be determined based on 1) a housing allowance of 30% of gross income for a Household size of one person more than the number of bedroom in the affordable unit, and 2) a Household income of 60% of median, except for those units which are designated for Very Low Income occupancy in which case a Household income of 50% of median shall be used.

**Table Three: Maximum Monthly Rents for Affordable Rental Units**

Unit Size	Lower Income Rents	Very Low Income Rents
Studio	\$854	\$711
1 Bedroom	\$975.00	\$813
2 Bedrooms	\$1,098.00	\$915
3 Bedrooms	\$1,220.00	\$1,016

4 Bedrooms	\$1,317.00	\$1,098
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All maximum rents include payment of all utilities by the landlord. If tenants pay for one or more utility services, the maximum rents shall be reduced by an amount equal to the utility allowances established for the HUD Section 8 Rental Assistance Program.

Where affordable housing units are developed with State or federal housing program assistance, the rental price requirements of the State or federal housing program shall supersede the price limitations of these Guidelines where they are more stringent.

The maximum rents for affordable units and maximum Household income limits shall be revised annually by the Administering Agency following the annual publication of HUD/HCD area median income estimates. For affordable rental units initially occupied before August 26, 1986, rents shall not be increased by more than 10 percent annually.

For affordable units in congregate senior housing projects providing services beyond basic shelter, the Board of Supervisors shall, at the time of project approval, provide for payments beyond the rent levels to account for the additional cost of providing such additional services. Unless the Board of Supervisors decides otherwise with respect to a particular congregate senior project, charges allowed for congregate care services in addition to the basic rent charge may not exceed the limits provided in Table Four, which are based on 35% of total Household income for a single person, or 45% of total Household income for a couple, at an income level of 60% of median.

**Table Four: Maximum Congregate Care Service Charges**

Household Size	Maximum Monthly Service Charge
1	\$ 996
2	\$1,463

### Second Unit Rentals

#### i. General Requirements

The following rent levels shall apply to Second Units (unless subsection ii below applies).

The maximum rents for Second Unit rentals (those units built under Section 13.10.681 of the County Code) is the same as the HUD Section 8 Rental Assistance Program, Fair Market Rents as listed in Table Five below.

Section 8 rent limits are adjusted annually by HUD and may change after the publication of these guidelines. Current Fair Market Rents are published on the Housing Authority of the County of Santa Cruz' website located at ([www.hacosantacruz.org](http://www.hacosantacruz.org)).

**Table Five: Maximum Monthly Rents for Second Units**

Unit Size	Section 8 Fair Market Rents
Studio	\$ 883
1 Bedroom	\$1,111
2 Bedrooms	\$1,448
3 Bedrooms	\$2,084
4 Bedrooms	\$2,148

All maximum rents include payment of all utilities by the landlord. If tenants pay for one or more utility services, the maximum rents shall be reduced by an amount equal to the utility allowances established for the HUD Section 8 Rental Assistance Program.

Maximum rents for Second Units and maximum Household income limits shall be revised annually by the Administering Agency following the annual publication of HUD/HCD area median income estimates.

ii. **Second Units built with financial assistance from the Redevelopment Agency (Second Unit Loans)**

Should a property owner receive a Second Unit Loan from the Redevelopment Agency to reimburse costs for County fees and other costs to construct or maintain a Second Unit, maximum rents are set exclusively at the Lower Income Rent levels listed in Table Six below.

**Table Six: Maximum Monthly Rents for Units Receiving Second Unit Loans**

Unit Size	Lower Income Rents
Studio	\$854.00
1 Bedroom	\$975.00
2 Bedrooms	\$1,098.00
3 Bedrooms	\$1,220.00
4 Bedrooms	\$1,317.00

All maximum rents include payment of all utilities by the landlord. If tenants pay for one or more utility services, the maximum rents shall be reduced by an amount equal to the utility allowances established for the HUD Section 8 Rental Assistance Program.

Maximum rents for Second Units and maximum Household income limits shall be revised annually by the Administering Agency following the annual publication of HUD/HCD area median income estimates.

## 8. UNIT STANDARDS

Standard quality units must be finished to allow occupancy and shall have:

a) The minimum sizes as specified by Table Seven:

**Table Seven: Minimum Affordable Unit Size**

Unit Type	Senior Congregate Care	All Other Units
SRO	Comparable to unit size of Market unit	Comparable to unit size of market unit
Studio	400 square feet	400 square feet
1 Bedroom	550 square feet	550 square feet
2 Bedrooms	700 square feet	850 square feet
3 Bedrooms	Not Applicable	1,050 square feet
4 Bedrooms	Not Applicable	1,250 square feet

- c) Washer and dryer connections within the units or access to a common laundry facility within the project;
- c) Garage or paved parking area and sidewalk leading from the parking area to the unit;
- d) At least 1-1/2 bathrooms for units with three or more bedrooms.

The County of Santa Cruz Planning Department Director (“Planning Director”) may allow minor variations from these standards if the unit is otherwise of superior design or amenity level.

The size of the Household renting or purchasing an affordable unit shall not exceed that allowed by the State Uniform Housing Code, or other applicable State laws based on the unit size and number of bedrooms in the unit.

## 9. MAXIMUM SALES PRICE FOR NEW MEASURE J AFFORDABLE UNITS

New affordable units shall be sold, on their first sale, for a price that is no more than the maximum sales price set according to the formula established in this section. The maximum sales price shall be determined at the time of filing of the original “Notice of Intent to Sell” for the affordable unit by the developer.

The maximum sales prices for new affordable units shall be set at a level affordable to Moderate, Lower and Very Low Income Households based on 1) a housing allowance of 30% of the gross income of a Household having one person more than the number of bedrooms in the affordable unit, and 2) a gross Household income as indicated below for the designated type of affordable unit.

### **Formula to Determine the Maximum Sales Price of a New Affordable Unit:**

- a) Determine the annual income for a Household based on whether the unit is designated for occupancy by a Moderate Income, Lower Income or Very Low Income Household:
- i. Determine the Median Income for a Household size that is one person more than the number of bedrooms in the affordable unit from Table Two; then
  - ii. Multiply the Median Income derived by the above method from Table Two by:
    - 100% for an affordable unit designated for a Moderate Income Household occupancy;
    - 70% for an affordable unit designated for a Lower Income Household occupancy; or
    - 50% for an affordable unit designated for a Very Low Income Household occupancy.
- b) Determine the monthly household allowance available for a mortgage payment:
- i. Multiply annual income from step a) by 0.30 to obtain an annual housing allowance of 30% of income;
  - ii. Divide the housing allowance by 12 to obtain a monthly housing allowance;
  - iii. Deduct 20% of the monthly housing allowance for the monthly costs of property taxes, insurance and utilities, and deduct 70% of the monthly homeowner's association (HOA) fees to obtain a net allowance available for mortgage payments. (Note: For the purposes of the amount of HOA fees included in this formula, and for all future transactions, HOA fees shall be set as of September 1, 2006 at their actual amount plus an annual COLA increase based on CPI. If future HOA fees are less than this set amount, then the lesser amount will be used in the formula and thereafter. For new units, the actual amount of HOA dues shall be used and shall become the base amount, with the same formula for the annual COLA increases. In addition, if HOA fees include property taxes, hazard insurance costs or individual unit utility costs, these costs shall be deducted from the set HOA fee amount used in the formula.)
- c) Determine the maximum mortgage that can be financed:
- i. Determine the prevailing interest rate for a 30-year fully amortized fixed-rate home mortgage that is equal to the previous year's average mortgage interest rates from Freddie Mac's "Weekly Primary Mortgage Market Survey." This rate shall be adjusted annually, effective May 1<sup>st</sup>, by the Administering Agency to coincide with the changes in median income by HUD and HCD.;
  - ii. Determine the maximum home mortgage that can be financed at the prevailing interest rate based on a mortgage payment as determined in step b).
- (d) Determine a maximum unit sales price assuming a mortgage of 90% of sales price by dividing the maximum mortgage amount determined in step c) by 0.9.

## **10. MAXIMUM RESALE PRICE OF EXISTING MEASURE J AFFORDABLE UNITS**

(a) Affordable units shall be sold, at the time of resale, for a price that is no more than the maximum sales price established by either of the following two methods that generates the greater resale price:

- i. The maximum unit price as determined in Section 9 above at the time of receipt by the Administering Agency of a Principal Occupant's Notice of Intent to Sell, plus the increased value of the unit created by improvements that the Principal Occupant has made to the unit as determined in Section 11 below; or
- ii. The maximum unit price that represents the sum of the Principal Occupant's purchase price, plus the Principal Occupant's non-recurring purchase closing costs, plus the increased value of the unit created by improvements that the Household has made to the unit as determined in Section 11 below.

(b) Where a Principal Occupant has made improvements to an existing affordable housing unit which results in an increase in the number of bedrooms, as evidenced by a valid Building Permit issued and receiving final inspection by the County, the maximum resale price of the unit shall be based on a total bedroom count which included the additional bedroom(s) and on the method in Section 9 a) above which produces the higher resale price limit.

(c) Where the Administering Agency determines that the Principal Occupant through neglect, abuse or lack of adequate maintenance has created damage to an affordable unit which jeopardizes the integrity of the unit and/or the viability of maintaining the unit as part of the County's Affordable Housing Program, the Administering Agency may require that repairs be made to the unit at the Principal Occupant's expense and paid for either prior to sale or out of the proceeds of escrow as follows:

- i. Upon notice of sale, an inspection of the premises may be made by the Administering Agency. Damage done to the premises, beyond normal wear and tear, shall be identified by the inspector, and the cost to repair the damage estimated. The Principal Occupant shall then have the option, exercisable prior to the close of escrow, of either repairing the identified damage or having the cost to repair the damage deducted from the proceeds of the sale and held in escrow to be used to pay for the repairs.
- ii. The Principal Occupant may also be required to obtain and pay for a structural pest control report and to pay for any necessary corrective repairs. The Principal Occupant shall not be obligated to perform preventative work beyond the repair of damage, but the new Principal Occupant shall have the option to perform such work at his or her expense.

## **11. ADJUSTMENTS TO RESALE PRICE**

The maximum resale price of an affordable unit as determined in Section 10, a), ii above may include the increase in unit value created by improvements made to the property by the Principal Occupant based on the following criteria:

- a) The improvements shall constitute substantial structural or permanent fixed improvements that cannot be removed without substantial damage to the premises or substantial or total loss of value of said improvements;
- b) The improvements shall not increase the resale price by more than ten percent. No improvements shall be deemed substantial unless the aggregate, actual, initial costs of the improvements to the Principal Occupant exceed one percent of the purchase price paid by the Principal Occupant for the premises except as provided below; The Principal Occupant's portion of the cost of improvements to the common areas of a condominium made by a mandatory assessment by the homeowners association shall be considered the same as an improvement made directly by the Principal Occupant. The one percent minimum expenditure requirement shall not apply to such assessments;
- c) The replacement of appliances, fixtures and equipment which were originally sold as part of the unit shall be deemed substantial improvements if the replacement is required by the non-operative or deteriorated nature of the original appliance, fixture, or equipment. The replacement must be of comparative value. The one percent minimum expenditure requirement shall not apply to such replacements;
- d) No adjustment shall be made for the value of any improvements unless the Principal Occupant shall present to the County valid written documentation of paid receipts from vendors for the cost of said improvements and all necessary permits and inspections for the improvements have been obtained; and
- e) The amount by which the sales price shall be adjusted shall be the estimated market value of the improvements when considered as additions or fixtures to the premises (i.e., the amount by which said improvements enhance the market value of the premises) at the time of sale. The Administering Agency shall have an estimate made by a qualified individual of its choice to establish the market value. A qualified individual shall be one who has, as a minimum, experience in residential construction. The Principal Occupant may also have an appraisal made by an appraiser, of his or her choice and subject to approval of the Administering Agency, to establish the market value. If agreement cannot be reached between the parties, the average of the two estimates shall become the market value of the improvements.

## **12. ACTIVELY MARKETING UNITS**

The maximum resale price of new and existing affordable units is valid for only sixty days after written notification of the maximum resale price by the Administering Agency to the Principal Occupant(s). Extensions will be granted at the discretion of the Administering Agency for active marketing efforts or for pending transactions. Actively marketing the unit shall include some or all of the following activities:

- a) Use of a Realtor.
- b) Listing of the home for sale in the MLS.
- c) Returning telephone inquiries about the house.
- d) Holding a series of "open houses".

e) Considering purchase offers from income eligible buyers.

### **13. FINANCING FOR MEASURE J OWNERS**

#### **(a) Maximum Mortgage Debt for New Owners**

The total mortgage debt on a unit must be financed using a conventional fixed rate mortgage fully amortized and subject to standard underwriting criteria. No negative amortization or adjustable rates are permitted.

#### **(b) Maximum Mortgage Debt for Existing Owners**

The maximum mortgage debt (or combined loan-to-value) secured by an existing Measure J unit, cannot exceed 90% of the maximum sales price of the Measure J unit as of the date of the proposed refinancing or other loan. The financing for these loans must be conventional fixed rate mortgages fully amortized and subject to standard underwriting criteria. No negative amortization or adjustable rates are permitted.

### **14. MARKETING OF AFFORDABLE UNITS LAST SOLD PRIOR TO APRIL 5, 1984**

For affordable units which were last sold on or before April 5, 1984, and which have a recorded Declaration of Restrictions that requires that the unit be sold within a limited period of time after being placed on the market or the affordability restrictions will be released, the Principal Occupant shall provide a bona fide marketing program when the unit is offered for the sale. A bona fide marketing program shall be defined to be the equivalent of the complete marketing program and full services available through a reputable real estate brokerage firm for comparable residential property, including placement on the Multiple Listing Service. This marketing effort may be provided by the Principal Occupant, by a real estate brokerage or other representative selected by the Principal Occupant, or by the Administering Agency or its designee for the County's Affordable Housing Program. In every case, this marketing program shall be fully specified and documented by the Principal Occupant, and approved by the Administering Agency prior to the acceptance of a Notice of Intent to Sell for the unit. As an alternative to providing the above bona fide marketing program, the Principal Occupant may execute and submit to the Administering Agency a notarized written waiver of the recorded Declaration of Restrictions' time limit for the sale of the unit.

### **15. FEES**

Upon the resale or refinance of an affordable unit, the Principal Occupant shall be charged a fee by the administrative agency for the preparation of new Declarations of Restrictions and Requests for Notice of Default as may be required, and for the monitoring and processing of the transactions. In addition, the Administering Agency may charge each prospective purchaser and renter of an affordable unit a fee for the determination of eligibility. For units marketed by the Administering Agency, a fee as a percent of the unit sales price shall be charged to the Principal Occupant. Fee amounts for these and other fees necessary to implement the County's Affordable Housing Program shall be established by the County's Unified Fee Schedule, which is adopted by resolution of the Board of Supervisors.

## 16. EXISTING UNIT CONVERSION PROGRAM GUIDELINES

*[This section applies only to developers of affordable housing units in effect since May 24, 2002, with additional amendments to the fee schedule effective August 28, 2002.]*

A developer of a new housing development may opt to participate in the Existing Unit Conversion Program in lieu of constructing inclusionary units if the following conditions are met:

- a) The Approving Body approves the use of this option as part of the original development permit;
- b) Two existing units must be converted to affordable unit status in lieu of constructing each affordable unit required of the project; and
- c) The units to be converted must meet the minimum physical standards for all inclusionary units as described above in Section 7: Unit Standards, as well as the following additional standards for converted units:
  - i. **Bedroom Count.** The average bedroom count of the converted units shall not be less than the average bedroom count in the market rate units in the project. Alternatives may be considered on a case-by-case basis, as outlined in subsection (g) below.
  - ii. **Size.** The size of converted units shall not be less than 75% of the average size of the market rate units. In no case shall an affordable unit size be less than the minimum specified by the Affordable Housing Guidelines.
  - iii. The Planning Director may grant exceptions to the standards of subsections c), i and ii where developers propose to provide a greater number of units or enhanced affordability, if it is infeasible to provide comparably sized units. For example, a developer building a project of 4 bedroom homes cannot locate existing 4 bedroom units to convert, so the developer proposes to substitute two 2-bedroom units (or a 3-bedroom unit and a 1-bedroom unit) for each 4-bedroom affordable unit required.
  - iv. **Physical Quality**
    - 1) Units must meet current HUD Section 8 rent subsidy Program Housing Quality Standards (HQS) to ensure that the units and their sites are decent, safe and sanitary.
    - 2) Units must have been built and permitted under the 1973 or later building and related codes. Or, units must have been substantially rehabilitated, as reasonably determined by an Administering Agency rehabilitation specialist, to meet the 1973 or later building and related codes.
    - 3) Developer must deliver to the Administering Agency a Wood Destroying Pests and Organisms Inspection Report on the unit with a follow-up SECTION 1 ITEM inspection and clearance.
    - 4) As reasonably determined by the rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 10-years:

- Roof coverings and roofing accessories, including but not limited to gutters and downspouts, metal flashings, jacks and caps
- Heating system
- Exterior doors
- Windows
- Floor coverings
- Kitchen and bathroom counter tops
- Tub and/or shower enclosures including glass doors

As reasonably determined by the rehabilitation specialist, the following building components must have a useful remaining life, with routine maintenance, of at least 5-years:

- Exterior painted or stained surfaces
- Water heaters
- Built-in kitchen appliances

Developer must deliver to the Administering Agency a housing inspection report, prepared by a certified housing inspector, that details the condition of the all building and site components including but not limited to: the roof and structural components; foundation and exterior paved surfaces, electrical, mechanical, heating/ventilation, and plumbing systems; windows, doors, and chimneys; paint and other moisture sealants; floor coverings; and any existing fencing, porches, railings, etc. This report must identify any hazards, health and safety code violations, or major deferred maintenance issues that may be found, or certify that no such problems were found.

The rehabilitation specialist will evaluate the inspection report, personally inspect the unit and produce and deliver to the developer a list of deficiencies (if any) needing repair, renovation, alteration or reconstruction. After correcting all deficiencies, the developer shall notify the Agency rehabilitation specialist who will do a final inspection and approve the unit for inclusion in County Affordable Housing Program. The developer shall then submit a "Notice of Intent to Sell" to the Administering Agency for further sale processing.

- d) The units to be converted must be located within the same Planning Area as the proposed project.
- e) The units to be purchased must not be subject to any rent limits, resale price restrictions, or other affordable housing restrictions imposed by any government or non-profit agency or land trust at the time of purchase for use under this program. Conversion of multi-family rental property to condominium ownership will not be approved as part of the project.
- f) If the units to be converted are occupied and rented by Moderate or Lower Income Households at the time of conversion, the occupying tenants must be given the first right of refusal to purchase the units if they meet the eligibility requirements under these Guidelines, and can obtain necessary financing within 60 days of being notified of the sale by the Principal Occupant. If tenants cannot be certified as eligible to purchase or cannot obtain necessary financing, relocation benefits must be provided to the tenants by the developer as a condition of project approval. These relocation benefits shall consist of the immediate payment of three months' fair market value rent for a unit of comparable size, as established by the most current federal Department of Housing and Urban Development schedule of fair market rents, or three months of the tenant's actual rent at the time of relocation, whichever is greater.

g) Alternative Options

The Approving Body may approve, on a case-by-case basis, the use of any other alternatives to satisfy the requirements of the Existing Unit Conversion program if the alternative proposed is deemed to be a preferable contribution to the affordable housing stock, by providing a greater number of rental units and/or an equal number of units at a greater level of affordability. These alternatives may include, but are not limited to, a scenario like the following: A developer proposes to purchase a multi-family rental property and donate it to a local non-profit housing provider for rental to Very Low Income Households.

**17. AFFORDABLE UNIT FEE SCHEDULE**

Fee Schedule for Standard Projects

This fee is due from developers of residential projects where payment of affordable housing in-lieu fees and/or fractional unit fees was included as a condition of project approval in the project’s development permit (or in another contract with the County), in accordance with County Code Chapter 17.10. The in-lieu fee and/or fractional fee amount due from a project shall increase as the average sale price of the market-rate units increases. This slightly progressive rate structure is designed to avoid adding extra costs to lower-priced market-rate units that may be passed on to consumers. The fee amount due per each whole affordable unit required of a project shall be a percentage of the average sales price of the market-rate units in the project, according to the rates shown in Table Eight below:

**Table Eight: In-lieu Fee and Fractional Fee Schedule**

<b>Average Sale Price Of Market-rate Units in Project</b> (or appraised value, if greater)	<b>In-Lieu Fee</b> (% of average sale price)
Up to and including \$600,000	40%
More than \$600,000 but less than \$1,000,000	45%
\$1,000,000 or more	50%

<b>Average Sale Price Of Market-rate lots</b> (or appraised value, if greater)	<b>In-lieu Fee</b> (% of average sale price)
Up to and including \$600,000	100%
More than \$600,000 but less than \$1,000,000	100%
\$1,000,000 or more	100%

Projects with fractional unit requirements shall pay an amount equal to the applicable in-lieu fee amount for a whole unit, multiplied by the fractional requirement. For projects utilizing the in-lieu fee

alternative to providing actual affordable units, the minimum in-lieu fee shall be no less than \$200,000 per whole affordable unit required of the project.

This rate shall be reviewed and may be adjusted as necessary during the update of the County's Unified Fee Schedule.

Fee Calculation Examples. The following two examples are provided to illustrate how to use the fee schedule:

Example 1: Project paying fractional fees

Project 1 is a ten-unit project with a standard inclusionary requirement of 1.5 affordable units (15% x 10 units = 1.5 affordable units required). The project will include nine market rate units with an average sale price of \$500,000, one affordable unit, and pay a fractional fee for 0.5 units. The fractional fee amount due from this project is calculated as follows:

$$\text{Average Sale Price of Market Rate Units} \times (\text{times}) \text{ In-Lieu Fee Rate in Schedule} \times \text{Fractional unit requirement} = \text{Fractional fee due from project.}$$

$$\$500,000 \times 40\% \times 0.5 = \$100,000$$

Example 2: Project utilizing In-lieu fee option

Project 2 is a seven-unit project with a standard inclusionary requirement of 1.05 affordable units (15% x 7 units = 1.05 affordable units required). The project has been approved to pay fees rather than provide an affordable unit. The average sale price of the units is \$700,000. The in-lieu fee due from this project is calculated as follows:

$$\text{Average Sale Price of Market Rate Units} \times (\text{times}) \text{ In-Lieu Rate in Schedule} \times \text{Inclusionary units required} = \text{In-lieu fee due from project.}$$

$$\$700,000 \times 45\% \times 1.05 = \$330,750$$

Payment procedure. Fractional unit fees shall be paid to the County in accordance with the procedure described in 17.10.037(b)(1). Whole unit in-lieu fees shall be paid in accordance with County Code 17.10.034(c).

**Inclusionary Housing In-lieu Fee for Small Residential Projects**

The Inclusionary Housing In-lieu Fee for Small Residential Projects as defined in Section 17.10.031(a) of the County Code shall be paid at a rate of \$10,000 per new residential unit or parcel that is subject to the requirements of Section 17.10.031. Payment shall be made in accordance with the requirements of Section 17.10.031. This rate shall be reviewed and may be adjusted as necessary during the update of the County's Unified Fee Schedule.