

## **SECTION B. BUYER ELIGIBILITY CRITERIA**

Applicants must meet the following criteria to be eligible to purchase an Affordable Homeownership Unit, either individually as Primary Applicant or Co-Applicant(s), or collectively as a Household, as specified herein:

1. First Time Home Buyer
2. Eligible Household
3. Moderate Income Household (with the exception of certain Low-Income Measure J Homes)
4. Purchase-Ready
5. Living or Working in Santa Cruz County
6. Neighborhood Safety Criteria

The six eligibility criteria terms are defined in Section A of these Guidelines. Applicants must fully document that their Household meets each eligibility requirement by providing all forms of Valid Third-party Documentation requested in the Program application forms.

### **1. First Time Home Buyer Status**

All adults living in the same dwelling unit as the Primary Applicant (“Applicant’s Household”) at time of application must individually and collectively qualify as a First Time Home Buyer pursuant to the definition provided in Section A of these Guidelines, adapted from Title 25 of the California Code of Regulations §8201(l). First-time home buyer status is verified by each adult’s federal and state tax returns, property ownership records, if any, credit reports, and current lease of the Applicant’s primary residence. Applicant’s Household includes all occupants of their current residence, including any homeowner(s), who would not meet the First Time Home Buyer status requirement and therefore would disqualify the entire Household.

If Applicant resides in an owner-occupied home as a guest or family member of the homeowner, or if any member of Applicant’s current household owns any home (residential real property), Applicant and their household shall not be eligible for the Program.

#### ***Exceptions to the First Time Buyer requirement:***

- **An Applicant or other homeowner** in the household meets one of the exceptions listed in the definition of first-time homebuyer (e.g., displaced homemaker) provided in Section A. For those exceptions which involve current ownership of a home of any kind, including manufactured/mobile homes, the Applicant(s) appearing on title must sell or quitclaim off title to that home prior to closing escrow on the affordable home purchase. Actual or estimated net proceeds of the sale, including any proceeds or interest in the home sold or gifted to another party directly or through quitclaim or other means, are counted toward Applicant’s total household assets, and are subject to the Program’s asset limits as shown on **Exhibit 2**. Estimated proceeds will be estimated by recent appraisal or other reasonable third-party analysis of recent real estate comparables, subject to review by the County.

- **An Applicant who is renting** a portion of a home as their primary residence, such as one or more bedrooms, or an accessory dwelling unit, whether Applicant is related to the homeowner or not, must submit a copy of their lease for that portion of the home as part of their Affordable Homeownership Unit application, like all other renter applicants; and evidence of payment of rent for the prior six months; and their tax returns to verify that their household is independent of the homeowner's household. Staff may also request evidence that homeowner and/or other occupants of the home not included in Applicant's household will remain in the current home and not move into the Affordable Homeownership Unit with Applicant, such as a copy of the other occupant(s) lease or title to the home or to other housing for the period after Applicant's home purchase.
  
- **Senior Unit Applicants:** Applicants applying to purchase a Measure J home in an age-restricted housing complex for seniors aged 62 and older (i.e., Vista Prieta or Casa La Familia), are not required to meet the First Time Home Buyer requirement. However, if such applicants own another home at the time of Program application, it must be sold before closing escrow on the Measure J senior unit purchase. Net proceeds from the sale of the home (i.e., net of any outstanding debts secured by the home and usual taxes, sales commission and closing costs) are counted toward Applicant's assets and subject to the applicable asset limits provided in **Exhibit 2**.
  
- **An Applicant living in an overcrowded situation** with one or more occupants who are not part of Applicant's household, such as housemates or extended family members who are not included in Applicant's Measure J application and will not be moving into the Measure J home with Applicant. Overcrowding is defined as an occupancy greater than the maximum household size limits in the Occupancy Standards table provided in **Exhibit 3**. In such cases, Applicant must be filing taxes separately from the homeowner and/or other household members who are not included in the Measure J application.
  
- **Gifted property /"estate planning" exemption:** An applicant(s) who has been gifted and currently owns a partial interest in a home which is not their primary residence, if the applicant is willing to quitclaim off title prior to purchase of the affordable home, and is able to sign a written affidavit that he/she has not done any of the following, or any similar actions indicating an active, intentional ownership role, in relation to this home:
  - a) Paid money to purchase the home or any interest in the home, as reflected by any purchase and sale agreement or related transfer documents, and/or providing any payment or contribution of funds toward purchase of the home or any partial interest in the home;
  - b) Earned rental income or other income of any kind through ownership of the home;
  - c) Been named as a borrower, co-signer, or applicant on any loan applications, mortgages or liens against the home, and/or made any mortgage payments or contributions toward any mortgage payments on the home;

- d) Claimed an income tax deduction for mortgage interest and/or property tax payments made on this home;
- e) Paid any portion of the property taxes on the home at any point time, or filed for a homeowner's exemption at that address; or
- f) Within the time period that applicant's name appeared on title: lived in the home and/or listed this address as their home address in any government document (e.g., DMV license or registration, IRS forms or tax returns, school enrollment, etc.).

Applicants qualifying for this gifted property exception to the first-time buyer requirement will be required to quitclaim off title to the gifted home, prior to closing escrow on the affordable home purchase. The value of the Applicant's ownership interest in the home, once quitclaimed to the remaining owners, will not be included in the Applicant's total household assets, unless there is any evidence in the Applicant's application of any actual proceeds realized by the Applicant from the transfer, in which case those proceeds will be included. A written affidavit will be required to document these details. Applicants in this situation and their co-owners are strongly advised to seek advice from a qualified tax professional or attorney about any tax liabilities that may arise due to the quitclaim.

In the case of any of the above exceptions, the Applicant shall provide all documentation requested by the Housing Manager to verify their eligibility for the requested exception and stated household size and composition as claimed on the Affordable Home application. Any fraudulent statements and/or intentional misrepresentation of the facts will be cause for denial of the application and disqualification from the Program.

The Program is intended to provide prospective first-time homebuyer households who could not otherwise afford to buy any home in the County of Santa Cruz, and have demonstrated the ability to rent a dwelling unit and pay all household expenses independently for at least six months, with an opportunity to purchase a home in the County of Santa Cruz.

## **2. Eligible Household**

In order to be determined eligible for the County Affordable Homeownership Program, the Applicant must demonstrate in its application that it is an Eligible Household as defined in Section A and must verify the household composition and other eligibility requirements, as explained further below and in Program application instructions.

### ***Verification of Household Composition:***

The Program application requires submittal of Valid Third-Party Documentation, as defined in Section A, to prove that each member of Applicant's Household currently resides and has resided together at the same residential address as their primary residence for at least six months. Documents which show only a post office box as an address are not acceptable for the purpose of verifying an applicant's or household member's primary residence. The documents required are

listed in Program application forms. In the event an applicant is not able to provide a particular document, Program staff may agree to accept a legitimate alternative form of Valid Third-Party Documentation, or in the absence of a legitimate alternative, may determine that applicant has not provided sufficient documentation and therefore will not be considered part of the Household. The Housing Manager is authorized to determine what constitutes “legitimate alternative” documentation to substantiate primary residential address or any other eligibility criteria, consistent with these Guidelines.

Only those household members who have adequately verified their membership and residency in the Household will be counted for the purpose of determining the size(s) of Affordable Homeownership Unit (number of bedrooms) the Applicant may purchase, although the income and assets of all household members listed by Applicant on the application form (including any temporary or unverified occupants) must be counted toward the Household’s gross income, as explained below. To be considered part of Applicant’s household, any children under the age of 18 (including foster children) must be under full or partial (at least 50%) physical custody of Primary Applicant or another Co-Applicant taking title to the Affordable home, as indicated on valid court custody documents and current school registration documents, and/or must be listed as a dependent child on that party’s tax returns.

### **3. Moderate Income Household**

In order to purchase an Affordable Homeownership Unit, an Applicant’s household must qualify as a Moderate-Income Household, which means that the total combined income and assets of all adult household members does not exceed the Program’s income and asset limits, provided in **Exhibit 2** to these Guidelines. The County uses HCD’s “Moderate Income Limits” as the household income limit for the Affordable Homeownership Program, unless the home was designated as a Low or Very Low income unit in the project’s Participation Agreement, in which case the applicable lower-income limits are used for applicants to purchase those units. Moderate income is defined as a Gross Household Income that does not exceed one hundred twenty percent (120%) of the Area Median Income (AMI) for Santa Cruz County, adjusted for household size, computed using the Part5 method provided as **Exhibit 2**. Income earned (or imputed) from assets, such as dividends, interest, rental income, etc., is included in the household’s annual income pursuant to the Part 5 method. These income limits are generally updated by HCD on an annual basis. The Program income limits are updated annually on the County’s website shortly after HCD publishes the latest State Income Limits. Applicants must meet the applicable income limits in effect on the date of their application to purchase.

#### ***Asset Limits***

In addition to meeting the income limits, the household’s assets may not exceed the Program’s asset limits provided in **Exhibit 2**. Assets held in IRS-recognized retirement accounts (401(k), 457 Plan, 403(b), IRA, etc.), up to the limits shown in **Exhibit 2**, are not included for the purpose of determining whether an Applicant meets the Program’s asset limits. Total household assets, excluding retirement accounts, are compared to the asset limits using a three-month average of the

Household's total assets according to monthly statements and/or other valuations for each of the three months prior to application date. The monthly average is used to avoid Applicant "asset dumping" (asset liquidation or transfer to other parties) just prior to Program application, in order to meet the asset limits. If an applicant has transferred a home, mobile home, or other property to another party within the prior six months but earlier than the prior three months, the Administering Agency may request up to three additional months of asset statements to cover the period in which the transfer occurred. In such cases, the average monthly assets over that longer time period will be subject to the applicable asset limits.

#### **4. Purchase-Ready**

Applicant must be Purchase-Ready at the time they apply, as follows:

- a) Mortgage Qualification: Applicant must provide a current loan pre-qualification letter from a conventional residential lender for a thirty-year, fixed-rate mortgage in an amount equal to at least 70% of the Affordable home price, which also meets the financing requirements described in Section E, and be able to obtain final approval for such loan by close of escrow. *Exceptions*: Applicants purchasing a home restricted to occupancy by seniors ("Senior Unit Applicants") and/or permanently disabled applicants who are the beneficiary of a special needs trust may use a mortgage of less than 70% of the purchase price, or all cash, to purchase the home, however they are still required to provide a credit report in their application, and are subject to applicable asset limits in Exhibit 2.
- b) Down Payment: Sufficient savings available for a down payment of at least three percent (3%) of the home price, plus closing costs, which are typically approximately three percent (3%) of the home price (collectively, "Down Payment"). Gift funds may be used to provide not more than 50% of Applicant's total Down Payment, or 10% of the Affordable home price, whichever is less. Any gift funds must be documented in the Program application with a gift letter and all Down Payment funds must be "seasoned" for at least sixty days, as described further in the Program application form. Program approval to purchase will be conditioned upon Applicant's deposit of Down Payment in the amount stated in the Application to Purchase into escrow by the closing date noted in the purchase contract. If lender requires a higher down payment, Applicant must meet that requirement as stated in the loan pre-qualification letter. Applicant may also use public or non-profit sector down payment assistance programs, such as closing cost grants from the association of realtors, CalHFA programs, etc., provided that they do not conflict with the Affordable Home Program restrictions and applicant provides a preapproval or commitment letter for the assistance in their Program application.
- c) Credit Score/History: Credit score(s) of 620 or higher, and no bankruptcies or foreclosures within three years prior to application date. Lenders may require higher scores or higher standards regarding credit history.

- d) Homebuyer Education: Primary applicant must have taken a HUD-certified home buyer course. Various online and in-person, HUD-approved home buyer education providers are listed in **Exhibit 4** to these Guidelines. Course must be completed prior to close of escrow on an Affordable Homeownership Unit.

All Purchase-Ready requirements must be fully documented as described in Application form. If any co-Applicant(s), due to their poor credit history or low credit score, would adversely affect Primary Applicant's ability to qualify for a mortgage, such co-Applicant may be exempted from the requirement to jointly apply for the first mortgage as a borrower, however such co-Applicant must take joint title to the home with Applicant upon close of escrow. Co-Applicants who are listed as financial dependents of Primary Applicant, or of another co-Applicant included as borrower on the loan, on such Applicant's tax returns need not be listed as borrowers on the loan application, nor take title to the home (unless desired by Applicant), except that any spouses or domestic partners of Primary Applicant listed as a dependent on Primary Applicant's tax returns are required to take title jointly, either as community property or joint tenant.

#### **5. Live or Work in Santa Cruz County**

In order to purchase a Measure J home, Applicant must qualify as a household that is either Living in Santa Cruz County and/or Working in Santa Cruz County, both as defined in Section A of these Guidelines. This status must be in effect for at least sixty days prior to Applicant's submittal of a Program eligibility application. Applicants to purchase Measure J units restricted for occupancy to applicants aged 62 or older (i.e., Vista Prieta, Casa la Familia) may request a waiver of this live/work requirement if the unit has been actively marketed on the MLS for at least 90 days prior to seller's acceptance of an offer from an Applicant who does not meet the live or work requirement.

#### **6. Neighborhood Safety Criteria**

Adults convicted of serious felonies within the last seven (7) years, including violent acts and controlled substance-related felonies, are not eligible to purchase or reside in an Affordable Homeownership Unit. The list of disqualifying felony convictions is in Penal Code Section 11105.03(b)(1), as amended from time to time, which pertains to screening criteria for public housing authorities. The County follows the procedures set forth in Penal Code Section 11105.03, as relevant, except it uses a private company(s) for criminal background checks. All adult applicants, co-applicants, and any other adult household members shall pay for and obtain the background check from a list of County-approved providers in order to complete the County Application for Homebuyers.

### **SECTION C. APPLICATION PROCESS**

The steps of the homebuyer application process are described in this Section. Housing staff is bilingual in English/Spanish, and customer service in other languages may be requested through the County's bilingual staff directory. Bilingual services are available for the purpose of explaining County housing programs and providing general customer service to Program applicants and