

CITY OF CARLSBAD AFFORDABLE HOUSING RESALE PROGRAM GUIDELINES

1. PROGRAM BACKGROUND

In 2018, the Carlsbad City Council authorized staff to exercise the city's option to purchase restricted affordable housing ownership units when the original lower-income buyer provided notice of intent to sell the unit during the 30-year regulatory/loan term. These units were originally constructed by a private residential developer in Carlsbad to satisfy the requirements of the city's Inclusionary Housing Ordinance and initially sold to a qualified lower-income buyer at an affordable restricted price. Because the units are substantially subsidized to a below market price affordable to lower-income households, the city holds a "silent" second loan on the property that equals the value of the price subsidy (the difference between the fair market value of the unit and the restricted price for a lower income household). As part of the loan agreement between the city and the homeowner, the city has an option to purchase the unit at the time they are made available for sale by the homeowner; this option may be exercised at any time of sale during the 30-year term of the loan and the city pays the restricted price for the unit, calculated at the time of sale.

The City Council has subsequently approved use of federal Community Development Block Grant (CDBG) funds to purchase these units with the intent of preserving and extending the long-term affordability of the units. Because federal and potentially local housing funds have and will be used to purchase these units, the city intends to enhance the public benefit of the program through these resale guidelines by providing affordable homeownership opportunities to lower-income households and potentially providing a larger secondary loan if determined to be needed by the city to allow for the purchase by a qualifying buyer who meets the city's priorities.

2. PROGRAM OVERVIEW

The City of Carlsbad Affordable Housing Resale Program is a homeownership program specifically designed to assist qualified lower-income households to purchase a city-owned residential property at an affordable price; these affordable units (under city ownership) were purchased from the original low-income homeowner at the time the owner decided to sell the unit and provided required notice to the city of the owner's intent to sell the unit. The price the qualified buyer will pay for the unit will be set by the city to ensure that total housing costs for the qualified buyer will not exceed 30 percent of the gross household income of the buyer. Pricing will be based on incomes ranging from 50 to 80 percent of the San Diego Area Median Income (AMI). The difference between the fair market value of the property at time of sale to the qualified buyer and the actual price paid by the qualified buyer will continue to be

structured as a secondary loan documented in a promissory note executed by the new homeowner and with the city as the beneficiary. The loan will become immediately due and payable to the City of Carlsbad if the homeowner fails to comply with the terms of the loan and the requirements set forth within these resale program guidelines. The unit may be sold by the new owner but may only be sold to an eligible buyer at a price that is affordable to the designated income level set forth within the 30-year loan agreement. The city will retain an option to repurchase the unit again at a restricted price throughout the term of the agreement when the owner decides to sell at a later date.

3. PROGRAM REQUIREMENTS AND BUYER ELIGIBILITY

The city has established basic threshold eligibility criteria for participation in this affordable housing homebuyer program.

- A. The buyer must currently be living in San Diego County.
- B. The buyer has not purchased a unit under any other First-Time Homebuyer or Affordable For-Sale Housing Program administered by the City of Carlsbad in the past seven years.
- C. The buyer’s income may not exceed the maximum income limit for the resale program which shall be 80 percent of the San Diego County Area Median Income (AMI) as established by the US Department of Housing & Urban Development and as published by the State Department of Housing and Community Development and in effect at the time of the buyer’s application, adjusted for household size.
- D. The buyer must have a minimum income which allows for the total of all housing costs to not exceed 30 percent of the total gross household income for the buyer. The minimum income shall be determined on a case-by-case basis taking into consideration the size and market value of the unit, the homeowner association fees (if any) and other related housing costs (including a utility allowance) at the time of application to purchase one of the units.
- E. At time of application for a particular unit, the buyer’s household size shall meet the following minimum and maximum household size:

Unit Size	Household Size	
	Minimum	Maximum
1 bedroom	1	3
2 bedrooms	2	5
3 bedrooms	3	7
4 bedrooms	4	9

This requirement is intended to promote efficient use of available affordable housing and to prevent overcrowding at the time of sale; however, this does not limit future growth in the household size after the purchase. The buyer must execute legal documents that prohibit the unit or any portion thereof from being used as a short or long-term rental, and require the owner to use the unit as their primary residence for no less than 10 months out of each calendar year.

- F. Co-borrowers or co-signers who will not occupy the property as their primary residence are not permitted. A non-borrowing spouse is considered a co-borrower if they will occupy the property, even if they will not be on the loan for the first mortgage. Student dependents who live outside San Diego County at or near their college will not be counted as a household member.
- G. For the purpose of determining household size, any person claimed as a household member must have lived with the borrower for a minimum of twelve consecutive months immediately prior to purchase and must provide evidence they will live in the subject property after purchase. In addition, any non-borrowing person listed as having no income on the application must be indicated as a dependent on the applicant's tax return for the previous year to be considered a household member.

Appendix A provides a quick review summary of eligibility requirements, documentation requirements and clarifications of the standards.

4. NOTIFICATION OF AFFORDABLE UNIT FOR SALE BY THE CITY

In an effort to be fair and ensure those that meet the priority criteria set forth by the city have an opportunity to purchase one of the city-owned affordable units, the city will open an application period when there are units available for purchase. The application period will remain open for a period of 60 days, or longer if needed to receive enough qualified applications.

- A. Outreach Strategies
 - o The city will utilize print media and electronic media to inform the public of affordable for-sale housing opportunities.
 - o The city will target outreach to minority and special needs populations that may not otherwise have the opportunity to access affordable housing opportunities.
 - o The city will communicate the status of affordable housing availability to a variety of agencies including social service agencies,

nonprofit agencies, and special interest groups in the community, advising them of eligibility factors and guidelines so that they can make appropriate referrals.

B. Public Noticing and Application Period

- The city will provide notice in local newspapers and the city website when affordable housing units will be offered for sale. The notices will announce when the application period will open and provide information on how to apply to purchase an affordable unit. Notices will be sent 15 days prior to the opening date of the application period.
- Applications for the purchase of an affordable unit must be filed with the City of Carlsbad, Housing Services Division by the date and time specified in the public notice. Applications will be date and time stamped in the order in which they are received.

C. Marketing.

- Informational materials for applicants will include a general description such as the locations and number of affordable units, number of bedrooms, number of parking/garage spaces per unit, amenities, pricing, etc.
- Marketing materials will include photos of the exterior and interiors of available units.

5. APPLICATION PROCESS

- A. Once the application period is opened by the city, an interested buyer will be able to download the application from the city's website (www.carlsbadca.gov/housing), complete it, provide the required back-up documentation and then return the original, signed application and supporting documents to:

City of Carlsbad
1200 Carlsbad Village Drive, Carlsbad, CA 92008
Attn: Homebuyer Program, Housing Services.

- Application forms will be mailed to interested buyers upon request.

- B. The potential buyer shall be required to complete both a program and uniform residential loan application to purchase the unit and must provide all pertinent documentation requested by the City of Carlsbad to determine eligibility as well as to determine sorting priority (see Section 6 below). Applications will only be accepted if all documentation is provided at the time the application is submitted to the city.

Incomplete applications will be returned to the potential buyer with a list of required documentation to be submitted to the city; applications may not be resubmitted until all required documentation is available and included with the completed application.

Please note that all applications must be signed and dated and may be noted on credit reports as an application for a loan.

- C. Submission of an incomplete application will be returned to the applicant, and the application will not be considered for the purchase of an existing unit until it is accepted as complete. A resubmitted application will be date and time stamped when it is received. If the resubmitted application is accepted as complete, the resubmittal date and time will be used for sorting as described in Section 6 below. It is important to review the application closely and ensure that the application is complete, signed and dated, and that all pertinent documents are included upon initial submission.
- D. Persons with disabilities are entitled to request a reasonable accommodation in rules, policies, practices, or services, or to request a reasonable modification in the application process and purchasing process, when such accommodations or modifications may be necessary to afford persons with disabilities an equal opportunity to housing.

6. APPLICATION SORTING

At the conclusion of the application period, based on the following criteria, all verified complete applications will be placed in one of three eligibility lists, and in the order that applications were accepted as complete:

List A	List B	List C
<p>Applicant household has</p> <p style="text-align: center;">BOTH</p> <p>Gross annual household income that is 50 percent of Area Median Income or less, adjusted for household size</p> <p style="text-align: center;">AND</p> <p>Current housing cost burden of 50 percent of gross household income or greater</p>	<p>Applicant household has</p> <p style="text-align: center;">EITHER</p> <p>Gross annual household income that is 50 percent of Area Median Income or less, adjusted for household size</p> <p style="text-align: center;">OR</p> <p>Current housing cost burden of 50 percent of gross household income or greater</p>	<p>All other eligible applicants</p>

Applicants will be selected first from List A in the order in which applications were accepted as complete. If units are still available after selection of applicants from List A has been completed, then applicants from List B will be selected in the order in which applications were accepted as complete. If units are still available after selection of applicants from List B has been completed, then applicants from List C will be selected in the order in which applications were accepted as complete.

Once all units are purchased by applicants on the eligibility list, remaining eligible applicants will be kept on a waiting list as provided in Section 7 below. If units still remain after all applicants from the eligibility lists have been considered and provided an opportunity to purchase a unit, then any remaining units will be sold to an eligible purchaser on a first-come, first-served basis.

7. WAITING LIST AND ASSIGNMENT OF OPTION TO PURCHASE

If there are more qualifying buyers than units available at the time of application, the applicant will be placed on a waiting list (with the same rank order) following the completed sale of the last affordable unit until the next application period is opened by the city. The applicant will then be considered for the opportunity to purchase a restricted affordable housing unit at that time.

As described in Section 1, in many cases the city has the option to purchase an existing affordable unit when the homeowner chooses to sell. The city also has the right to assign its option to an eligible purchaser rather than purchasing the unit outright and then re-selling it. Accordingly, whenever an owner of an affordable unit notifies the city of their intent to sell, the city may assign its purchase option to an eligible buyer on the waiting list created under this program. Note that in these cases, the qualifying household income limits and affordable unit sales prices will be determined by the terms of the original resale restriction agreement with the owner, generally set at 80 percent AMI and adjusted for household size. Therefore, the waiting list will be screened for applicants meeting the qualifying income requirements, who will then be selected in their ranked order.

Applicants should notify the city of any changes in email or mailing address to ensure that the city has the most current contact information for communications regarding unit availability or any program changes. Applicants on the waiting list will be contacted to update their application at the time additional units are made available for purchase.

8. INCOME QUALIFYING FOR PROGRAM ELIGIBILITY

The household's gross annual income must not exceed the income restriction set forth within these program guidelines and as noted above (maximum 80 percent of AMI for San Diego County, adjusted for household size). Gross income will be calculated according to these guidelines. The combined gross annual income of all members of the household age 18 and older who are currently living together and have lived together for 12 months or more and will be living in the property must be included in the determination of income. The household's income must be projected as an annual income. It will be assumed that today's circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary. All households must be income-qualified no more than 60 days prior to the purchase closing date. For the purpose of determining income eligibility, all income is included even if there is less than a two-year work history.

9. HOUSING DEBT-TO-INCOME RATIO (HOUSING AFFORDABILITY)

The buyer/borrower's monthly housing costs/debt—including principal, interest, property taxes, property insurance, and if applicable, private mortgage insurance and homeowner's association dues—shall not exceed 30 percent of the buyer/borrower's gross monthly income; this is known as the housing debt-to-income ratio. Please note that the income of a non-borrowing spouse is included when calculating this ratio if s/he has a work history of two or more years.

All household monthly debt (including home loan, car loans, credit card debt, etc.) shall not exceed 50 percent of the buyer household's gross monthly income.

10. INCOME FOR DEBT-TO-INCOME CALCULATIONS

Program guidelines require the combined income of all persons on title, including a non-borrowing spouse (if applicable), to be included in the calculation of income. The household's actual /average income will be calculated for underwriting purposes. It will be assumed that today's circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary. Applicants, co-applicants and non-borrowing spouses must have a minimum of a two-year continuous work history.

11. DOWN PAYMENT REQUIREMENTS

The following down payment requirements shall apply to this affordable housing resale program with the intent of requiring minimal investment by the buyer to extend the opportunity for homeownership to a larger population of lower income households. But, there is also a cap to the cash investment to ensure maximum public benefit. An all-cash transaction will not be permitted, except where exceptional circumstances demonstrate that is necessary to serve a special population such as very-low or extremely low-income seniors or the disabled.

- B. Minimum required down payment is three percent of the purchase price.
 - The borrower's down payment must be from their personal funds or a gift from an immediate family member. Immediate family members include the following people: father, mother, brother, sister, grandparent, uncle, aunt or child.
- C. Maximum down payment: 20 percent of the purchase price.
 - An exception to the maximum down payment guideline may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability, in which case a down payment sufficient to bring their housing debt-to-income ratio to no less than 30 percent may be accepted.

- As the program is designed for lower-income buyers with limited assets but sufficient income to support a first mortgage payment, large down payments from family members with significant assets to assist the buyers qualify for the mortgage loan will not be considered.
- D. All-cash transactions are not permitted. An exception may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability, and the proposed payment for property taxes, homeowners association (HOA) dues and homeowners insurance is equal to or greater than 30 percent of their income. The buyer must meet all eligibility requirements, have acceptable credit and have sufficient income to support the HOA, property taxes and monthly debt obligations.

12. ASSET LIMITATION

At the time eligibility is determined, the liquid assets of all household members, including children, must not exceed an amount equal to the maximum income limit set for the particular affordable unit, as adjusted for household size.

- A. The term “liquid assets” refers to cash and assets, which are readily convertible to cash within a reasonable period, including but not limited to savings and checking accounts, certificates of deposit of any term, marketable securities, money market and similar accounts, mutual fund shares, and insurance policy cash values.
- B. The term “liquid assets” shall not include retirement account funds if those accounts are not accessible to the buyer.
- C. An exception may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability and a down payment of more than 20 percent is required to reduce their housing debt-to-income ratio to no more than 30 percent. In this case, the borrower’s assets must not exceed an amount equal to the maximum income limit (50 percent of San Diego County Area Median Income), as adjusted for household size after the maximum allowable down payment contribution.
- D. The minimum household reserve requirement is \$1,000. The reserves must be from liquid assets.

13. CREDIT GUIDELINES

- A. Minimum credit score: 640
- B. No foreclosure or bankruptcy (Chapter 7 or 13) within the last seven years
- C. A letter of explanation is required for all derogatory reporting dated within two

years prior to the close of escrow

- D. All collections, charge-offs and judgments must be paid or settled with the creditor through escrow or prior to the close of escrow. Back-up documentation showing the account has been paid is required if paid outside of escrow
- E. A credit report for a non-borrowing spouse is required. All debt of the non-borrowing spouse will be used in the debt-to-income ratio calculations

14. FIRST TRUST DEED LOAN

The borrower shall secure a 30-year fixed rate loan from a private lender. No adjustable rate loans or other financing programs shall be permitted. Conventional, Federal Housing Administration (FHA) and Veterans Administration (VA) financing are acceptable. First trust deed lenders are required to collect and manage an impound account for payment of taxes, assessments and property insurance for the term of the first mortgage.

15. HOMEBUYER EDUCATION CLASS

All applicants, co-applicants and non-borrowing spouses, whether on title or not, are required to attend a homebuyer education class given by a City of Carlsbad-approved Homebuyer Education Provider.

16. OCCUPANCY REQUIREMENTS

As long as the borrower(s) owns the affordable unit, the borrower(s) must reside in the unit as their principal place of residence. The borrower(s) shall not rent or lease all or any part of the restricted unit at any time. The unit shall be occupied full time (at least 10 months out of the year) and may not be used at any time as a vacation home or short-term vacation rental, or allow any other rental transaction or similar use. Borrower(s) must comply with annual occupancy certification requirements and submit the certification to the city upon request.

17. AFFORDABLE RESALE RESTRICTIONS

On the date of the sale of each Affordable Housing Resale Housing Program property, the city will record resale restrictions on the property. The resale restrictions will include income restrictions for new buyers, future sales price restrictions, initial occupancy restrictions, and length of restriction (30 years). Note that future buyer income restrictions and future sales price limits shall apply throughout the entire 30-year affordability term. The resale restrictions are included in the following documents:

- A. Declaration of Restrictive Covenants Regarding Restrictions on Transfer of Property, Occupancy Restrictions, Refinancing Restrictions, and Option to Purchase
- B. Deed of Trust
- C. Promissory Note
- D. Notice of Affordability Restrictions
- E. Buyer’s Disclosure Statement

18. CITY’S CONTINUING ROLE

The City of Carlsbad is the Affordable Housing Homeownership Program administrator and secondary lender. As the program administrator, the city is responsible for oversight and compliance of the affordable resale restrictions. The city’s responsibilities include but are not limited to:

- A. Managing the Affordable Housing Homeownership Program interest and waiting list
- B. Calculating the sales price for affordable for-sale units at the time of the first sale and for each subsequent sale
- C. Ensuring that upon resale, the property is in a “move-in” ready condition
- D. Verifying eligibility of buyers that participate in the program
- E. Monitoring owner-occupancy compliance

The city may use third parties to assist in administering the program.

The City of Carlsbad is a lien holder on each unit and has no further ownership interest in the properties after the initial sale of the unit.

19. REFINANCE

The Deed of Trust and Promissory Note to the city may be subordinated to the refinancing of the existing first trust deed loan in order to lower the interest rate and subsequent monthly payment only. Refinancing that increases the current principal balance (except for reasonable costs of refinance) or increases the monthly mortgage payment will not be permitted. Mortgage loans or equity lines of credit junior in lien priority to the city deed of trust are not permitted. No reverse mortgages will be approved for the affordable units. All refinances are subject to prior written approval by the city.

20. PROPERTY CONDITION

Units offered under this program will be sold by the City “as is”, which the City has determined is in “move in condition”. The city will make no repairs and is not responsible for any defects in the construction of the units or any repairs or replacements that may be required for the units. All buyers are encouraged to engage the services of a home inspector to provide for a full home inspection prior to close of escrow on the purchase transaction. The potential buyer will be permitted to cancel escrow if there are any conditions in the unit which are unacceptable to the buyer and with the understanding that the city will make no repairs or correct any identified defects.

At the time the new owner decides to resell the purchased affordable unit, the unit shall be restored to “move in condition” prior to providing the Notice of Intent to Sell to the City of Carlsbad.

These guidelines are provided as a basis for the determination of program eligibility and underwriting of Affordable Housing Resale Program loans. The City of Carlsbad at its sole and reasonable discretion, and with the City Manager's approval, may make exceptions to any guideline set forth herein, if not inconsistent with City Council Policy No. 73.

Please be aware that reporting fraudulent, untrue and/or incomplete documentation is a serious program violation. This could lead to the termination of your participation in the Affordable Housing Resale Program.

It is also important to acknowledge that Title 18, Section 1001 of the United States Code, states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department or agency of the United States. It is very important to provide complete and accurate information as requested by the City of Carlsbad.



The City of Carlsbad is committed to affirmatively furthering fair housing by promoting fair and equal housing opportunities for individuals living in the City of Carlsbad and San Diego County. This commitment extends to all housing programs managed or owned by the city and to all grant-funded programs provided by the city. It is the policy of the city to provide services without regard to race, color, religion, national origin, ancestry, age, gender, source of income, familial status or physical/mental disability.

Appendix A

Summary of Applicant Eligibility and related standards and acceptable documentation:

Applicant Eligibility	Standards
Co-Signers	Co-signers who will not occupy the property are prohibited.
Documentation	<ul style="list-style-type: none"> • If married: spouse must sign city forms, disclosures and promissory note, regardless of vesting. • If divorced: copy of final divorce decree and judgment from the court. • Death certificate for deceased spouse. • Non-U.S. Citizen: copy of permanent alien registration card (green card). All borrowers must be a U.S. Citizen or Permanent Resident. • Copy of driver’s license or other government-issued photo ID.
Income (Required for ALL household members over the age of 18)	Standards
Alimony and Child Support	Copy of divorce decree and/or child support agreement, with six months proof of payment. To be used for eligibility and underwriting. Support must continue for 12 months or more.
Disability Income	Copy of award letter from payer.
Social Security Income	Copy of award letter from payer.
Pension Income	Copy of award letter or W-2 from payer.
Workers Compensation Benefits	Copy of award letter from payer.
Unemployment Compensation	Copy of award letter from payer.
Financial Aid (student loans, etc.)	Copy of award letter from payer.
Interest or Dividend Income	Two years 1040s, copies of current statements verifying buyer’s assets.
Tax Returns & W-2s	Three years of signed tax returns. Two years W-2s for all employers.
Salaried / Wage Earners	Most recent pay stubs covering a minimum of two month’s income. Pay stubs to reflect year-to-date earnings and deductions. If there are multiple employers, all pay stubs showing year-to-date earnings.
Part-Time Employment	Most recent pay stubs covering a minimum of two months. Pay stubs to reflect year-to-date earnings and deductions.

Bonus and Overtime Income	Must be documented on pay stub. Will be used if there is a two-year history and likelihood of continuation.
Self-Employed	Two years of tax returns with schedule C and a year-to-date signed profit and loss statement. Must have a minimum two-year history of self-employed income.
Commission Only	Two years of tax returns with schedule C and a year-to-date signed and dated profit and loss statement <u>or</u> most current pay stubs covering a minimum of one month. Must have a minimum two-year history of commission income.
Assets (Required for ALL households members over age 18)	Standards
Checking and Savings Accounts	Three months most recent bank statements for ALL accounts.
Stocks and Bonds	Must be verified by brokerage firm or similar company and statement of account.
Saving Bonds	Copy of bond.
401K or Retirement Accounts	Copy of account statement and letter from employer verifying that borrower does <u>not</u> have access to the funds, if applicable.
Liabilities	Standards
Alimony/Child Support	Included as debt if more than six months remaining. Copy of divorce decree.
Installment Loans	Included as debt if more than six months remaining.
Revolving Accounts	Payment stated on credit report or application is used, whichever is higher. If payment is not stated, the higher of \$10 or 5% of the outstanding balance owed is used.
Student Loan	If loan is deferred for one year or more, it is not included as a monthly obligation. If less than a year deferment or borrower making payments, it is included as a debt.
Credit History	Standards
Credit Reports	Must be a "three repository merged" credit report. Any items not belonging to borrower must be removed from the report. Credit report cannot be dated more than 60 days from underwriting. Minimum credit score: 640.

Collections	All unpaid collections must be paid. Need letter of explanation from borrower.
Derogatory Credit	Letter of explanation is required for all derogatory credit. No accounts can be past due at the time of loan application.
Bankruptcy	No bankruptcy (Chapter 7 or 13) within the last seven years.
Short Sales / Foreclosures	No short sale or foreclosure within the last seven years.
Judgments, Garnishments and Involuntary Liens	No outstanding judgments, garnishments or involuntary liens are allowed.
Inquiries	Any inquiries within the last 90 days must be explained.
No or Limited Credit History	Alternative credit history is required. Utility payment records (at least three months most recent statements), rental payments (past 12 months) or other personal loans (past 12 months). Need three forms of credit history, at least one must be a rental history.