

RDO AFFORDABLE HOUSING EXEMPTION PROCEDURE

City of Gilroy

Revised October 7, 2013

Section 1.00 Statement of Intent

It is the intent of this policy to set forth the specific criteria and guidelines for the affordable housing exemption provided in the City of Gilroy Zoning Ordinance, Section 50.62 (b) (3) and (4). The goal of this exemption is to enhance public welfare by meeting the current and future housing needs of all segments of the community. This exemption is intended to encourage private developers to construct housing that is affordable to Very Low, Low and Moderate income households, as specified in this document.

Section 1.01 Definitions

Affordable Housing: A dwelling unit, either rented or owned, which is affordable to households with Very Low, Low, or Moderate incomes, as specified by this document.

Applicant: Any person, partnership, corporation, firm, or any entity or combination of entities, which seek permits or approval for residential development in the City of Gilroy.

Dwelling Unit: Housing which is designed and intended for occupancy as a residence by one (1) household. This term includes condominiums, townhouses, single-family homes, multi-family homes and apartments.

HUD: United States Department of Housing and Urban Development.

Resale Controls: Legal restrictions imposed upon property owners by the City to ensure that the dwelling units will remain affordable to Very Low, Low, and Moderate income households, as defined in this document, for a specified time.

Residential Development (RDO): All development that includes single family dwellings, multi-family dwellings, condominiums, townhouses, cooperative developments, and land subdivisions intended to be sold to the public for residential use.

Residential Development Ordinance: Section 50.60 of the City of Gilroy Zoning Ordinance that encourages responsible growth in the community, and restricts the amount of housing which may be constructed each year.

Very Low, Low and, Moderate Income Levels: Income categories established by HUD for Santa Clara County. Very Low and Low income levels are calculated based on Median household size and income.

Section 1.02 General Requirements

- (A)** One hundred percent (100%) of the housing units granted an exemption from the Residential Development Ordinance under this program must be sold and/or rented at prices that are affordable to Very Low, Low, or Moderate income households, as specified by sections 1.03 and 1.04. The procedure for this exemption shall be as follows:

Procedure:

- (1) The applicant must apply for an "RDO Affordable Housing Exemption," and must submit all required fees at the time of application. Consideration for approval of this application shall be made in accordance with the criteria contained within Zoning Ordinance section 50.62.
- (2) At the time of application for the exemption, the applicant must specify the number of units to be constructed. The applicant must also identify the number of units that will be affordable to households with Very Low, Low, and Moderate incomes, as defined by this document.
- (3) Rental and/or sale prices of all units shall be reviewed and approved by the City, and shall be affordable to households with Very Low, Low, and Moderate incomes, as specified by sections 1.03 and 1.04.
- (4) Approval of the application will be based upon compliance with this policy and all other City requirements, as may be updated from time to time. The applicant must receive approval of the RDO exemption prior to Tentative Map approval. In situations where a Tentative Map is not required, the applicant must receive approval of the RDO exemption prior to Architectural and Site Review approval.
- (5) After approval of this application, and prior to receiving Tentative Map

approval (or Architectural and Site Review approval in situations where Tentative Maps are not required), the applicant must enter into a contract with the City (hereafter referred to as Agreement) agreeing to provide affordable housing as delineated in this policy, and as approved by the City Council. This Agreement will assure affordability of the units. Failure to comply with the terms of the Agreement will void all approvals, and the project will not be allowed to proceed without complying with the Residential Development competition procedures of Zoning Ordinance section 50.60, regardless of the stage of construction of the project.

(B) The applicant shall advertise the existence and terms of this policy to the general public and accept applications from prospective purchasers and tenants. The applicant shall keep a list of all qualified purchasers and tenants, and shall make this list, along with pertinent financial data, available to the City upon request.

(C) All tentative maps, architectural and site reviews, or other development permits approving residential development shall contain conditions sufficient to ensure compliance with the requirements set forth in this policy. These conditions shall include but not be limited to conditions that specify the number of affordable units (whether for sale or rental), their prices and Resale Controls.

(D) All dwelling units proposed under this program must be constructed with the same quality of design, construction and materials as required for market rate housing. This requirement shall apply to projects that consist solely of affordable housing units, as well as projects that combine affordable housing with market rate housing.

(E) Low and Very Low income rental units constructed through this program shall be affordable for a minimum of 55 years, and Low and Very Low income for-sale units shall be affordable for a minimum of 30 years. Grant deeds and/or Codes, Covenants and Restrictions (CC&Rs) for units constructed under this program shall state that these units are required to remain affordable for these time periods, and shall be recorded against the property with the County Recorder of Santa Clara County.

(F) Resale controls shall be incorporated as part of the Agreement signed by individual purchasers of these units. This Agreement shall be recorded against the property with the county recorder of Santa Clara County.

(G) The developer shall provide the City with a detailed outreach and advertising plan, in order to insure the housing needs of existing Gilroy Very Low, Low, and Moderate Income residents are met.

Section 1.03 Procedure for Renting Affordable Units

(A) The City reserves the right to review documents and verify the eligibility of all prospective tenants.

(B) In the event an income increase disqualifies a tenant [from hereon referred to as Over-Income Tenant] from meeting the income requirements to rent a unit through this program, the following rules shall apply:

(1) The property owner shall re-certify incomes annually. If a tenant is found to make more than 120% of the maximum income to qualify as a Low Income household, the tenant will be given up to 90 days to relocate.

(2) During the time the Over-Income Tenant continues to rent the unit, the rental rate of the unit may not increase above the maximum rental rates per bedroom size which are determined by the City (see Appendix).

(C) The developer shall specify, in the Agreement entered into with the City, the number of units that are to be constructed and the number of bedrooms in each unit.

(D) Cost of Housing:

Rental housing constructed through this program shall be affordable to Very Low, Low, and Moderate income households, consistent with the intent of this policy. Rental rates shall be equivalent to the California Tax Credit Allocation Committee (CTCAC) 60% income level rental rates for Santa Clara County. The rental rates shall be revised with every published revision of California Tax Credit Allocation Committee (CTCAC) rental rates. (See Appendix)

Tenants in this program may be required to pay a cleaning and/or security deposit of not more than the cost of the monthly rent.

Section 1.04 Procedure for Selling Affordable Dwelling Units

(A) All saleable dwelling units constructed through this program shall be sold to households that qualify for affordable housing, as defined in this document. For thirty years from the sales date, resale of these homes shall be subject to a resale Agreement that will ensure that these units remain affordable housing for a period of years as specified in the Agreement. The standard time period for affordability should be no less than 30 years. Transfer of these homes shall be to Very Low, Low, and Moderate Income households, and will be subject to the same resale restrictions applied to the original sale. Transfers by gift, devise, or inheritance to an existing spouse, surviving joint tenant, or a spouse as part of a dissolution proceeding, or in connection with marriage shall not be considered a transfer for the purpose of this policy.

(B) The City reserves the right to review and approve documents verifying the eligibility of all homebuyers, prior to sale and transfer of each property.

(C) All dwelling units constructed under the terms of this program shall be sold to owners who occupy the residences as their principal place of residence.

(D) Resale of these units shall be conducted as provided for in this policy. Upon resale, the purchaser's income must correspond to the initial income category established for this unit by the developer.

(E) All homebuyers shall enter into an Agreement, recorded on the property, which provides that the home shall be subject to Resale Controls.

(F) Cost of Housing:

a. Houses constructed in this program should be affordable to Low and Moderate Income households in the following ratios:

1 At least 40% of the units should be affordable to households earning below 60% of Median Income.

2 At least 15% of the units should be affordable to households earning above 60% up to 80% of Median Income.

3 At least 15% of the units should be affordable to households earning above 80% up to 100% of the Median Income.

4 Not more than 30% of the units should be sold to households earning above 100% up to 120% of Median Income.

The Median Income shall be as published by the California Department of Housing and Community Development for Santa Clara County.

- b. Residences constructed in this program shall be sold at or below the City of Gilroy's published sales prices based on the pricing structure calculated using the factors contained in section c., below. Such sales shall be undertaken , prior to initiating outreach and marketing efforts required in Section 1.02.G of this document.
- c. The following factors shall be incorporated into the calculation of the sales prices for all future affordable housing units in Gilroy. Each item shall be separately documented.
 - i. Downpayment: 3.5% of the loan amount
 - ii. Interest Rate: FHA rate at time of purchase
 - iii. Property Tax: City of Gilroy property tax rate of 1.26706% of assessed value
 - iv. Homeowners Insurance: Include in sales price calculation
 - v. Length of Deed Restriction: 30 years
 - vi. Private Mortgage Insurance: FHA rate of 1.35% of the loan amount
 - vii. Homeowner's Association Dues: Include in sales price calculation
 - viii. Mid-Range Income Categories: Evenly distribute the price points in 10% increments over the income categories, rounding to whole units starting from the low point of each category. For example, if the project is required to provide five low income units in the above 60% to 80% of the Average Median Income (AMI) range, three of the units would be priced for households at 70% of the AMI and two at 80%.

(G) If the developer is unable to find Low and Moderate Income buyers who are qualified to purchase homes through this program, the developer shall be required to continue to solicit potential Low and Moderate Income buyers for eight (8) months after the date of issuance of the Certificate of Occupancy. After this time, the developer shall be allowed to sell the homes to any person, without regard to income levels. These homes shall, however, be sold at Low and Moderate Income prices, as determined by the City, and shall remain affordable, in accordance with this policy. The applicant shall provide the City with a report on the marketing efforts of these projects, prior to the end of the eight (8) month period.

(H) For sale homes constructed through this program shall not be leased or rented, unless exceptional circumstances are established by the owner that the leasing or renting of the home is necessary and approved by the City Planning Division and Division of Housing and Community Development. Any such lease or rental shall be consistent with the rental rates as established by this policy for Very Low, Low, and Moderate Income households and limited in time to not more than one-year.

APPENDIX

RENTAL UNITS

Rental rates will be based on unit size, and will not distinguish between the income levels of the renters. The rental rate for a unit is found by using the following steps:

1. The typical household size each unit can accommodate is determined by using *figure 1*, although the number of people actually housed in each unit will vary by circumstance.
2. Rental rates shall be equivalent to the California Tax Credit Allocation Committee (CTCAC) 50% income-level rental rates for Santa Clara County.

Number of Bedrooms In Dwelling Unit	Typical Household Size
Single Residential Occupancy	1
Studios	1
1	2
2	3
3	4
4	6
5	8

Figure 1

The project manager shall provide the City with a rental report in January, April, July and October of each year. This report shall provide the following elements:

1. Name of the project
2. Number of Units in the project
3. Rental rate of each unit
4. Name, unit number, and income level of each lease holder

FOR-SALE UNITS:

HUD income limits shall be used to determine eligibility for participation in this program.

Houses constructed in this program should be affordable to Low and Median Income households in the following ratios:

- 1 At least 40% of the units should be affordable to households earning 50% to 60% of Santa Clara County Median Income, as defined in the Policy.
- 2 At least 15% of the units should be affordable to households earning above 60% up to 80% of Median Income.
- 3 At least 15% of the units should be affordable to households earning above 80% up to 100% of the Median Income.
- 4 Not more than 30% of the units should be sold to households earning above 100% up to 120% of Median Income.

The City Council may permit an exception to the above ratios and approve the allocation of market-rate units from the Market-Rate Exempt pool, not to exceed 25% of the total units in a development, if the development meets the following criteria:

- a) Total Affordable Units in a project meet the following affordability levels (calculated as a percentage of the total affordable units):
 - 20% below 50% of Santa Clara Median Income
 - 25% between 50% and 80% of Santa Clara Median Income
 - 25% between 80% and 100% of Santa Clara Median Income
 - 30% between 100% and 120% of Santa Clara Median Income
- b) The project complies with the requirements of the Neighborhood District policy.
- c) A Master Plan is required
- d) The development provides substantial public and/or private infrastructure improvements, beyond those required by the "Neighborhood District Policy," as negotiated through a Development Agreement.

The applicant shall submit proposed sales rates to staff, with backup documentation demonstrating that the units will be affordable to buyers in each income category in the specified percentages. The following provisions will apply to all homes sold under this program:

- Prices for homes sold in this program will be based on the homebuyer putting a maximum of a 10% down payment on the home.
- The monthly mortgage shall include PITI.
- All projects constructed through this program must provide a minimum of

three bedrooms in twenty percent (20%) of the units.

- Applicants are responsible for financing their units.