

CHAPTER 2. COMMUNITY PROGRAMS

Subchapter 2.03 – Town-Owned Affordable Housing Program

2.03.010. Definitions.

- (a) "Affordable Rent" means the maximum rent permitted by § 3.01.080.
- (b) "Agent" means the agent retained by the Town to manage an Inclusionary Unit.
- (c) "Eligible Persons" means a person who meets the qualifications set forth in Section 6 below.
- (d) "Inclusionary Unit" means any dwelling unit designated by the City Council to meet the criteria of an affordable housing unit under federal and state housing.
- (e) For purpose of determining the qualification of an eligible person, "income" means and includes:
 - (i) all wages and salaries, overtime, pay commissions, fees, tips and bonuses and other compensation for person services, before payroll deductions;
 - (ii) the net income from the operation of a business or profession or from the rental of real or personal property;
 - (iii) interest and dividends;
 - (iv) 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 period receipts, including any lump sum payment for the delayed start of a periodic payment;
 - (v) payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay;
 - (vi) the maximum amount of public assistance available to the eligible person other than the amount of any assistance specifically designated for shelter and utilities;
 - (vii) periodic and determinable allowances, such as alimony and child support payments and regular contributions and gifts received from persons not residing in the dwelling;
 - (viii) all regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the heads of the household or spouse; and
 - (ix) any earned income tax credit to the extent that it exceeds income tax liability.
- (f) For the purposes of determining the qualifications of an eligible person, "income" shall not include:

- (i) casual, sporadic or irregular gifts;
 - (ii) amounts which are specifically for or in reimbursement of medical expenses;
 - (iii) lump sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and workmen's compensation), capital gains and settlement for personal or property losses;
 - (iv) amounts of educational scholarship paid directly to the student of 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 of the above purposes, are to be included in income;
 - (v) special pay to a household member who is away from home and exposed to hostile fire;
 - (vi) relocation payments under Title 11 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
 - (vii) foster child care payments;
 - (viii) the value of coupon allotments for the purchase of food pursuant to the Food Stamp Act of 1977;
 - (ix) payment to volunteers under programs designated in Title 28, California Code of Regulations, § 6914(b)(9);
 - (x) payments received under the Alaska Native Claims Settlement Act;
 - (xi) income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes;
 - (xii) payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
 - (xiii) payments received from the Job Training Partnership Act;
 - (xiv) the first \$2,000 of per capita shared received from judgment funds awarded by the Indian Claims Commission or the Court of Claims; and
 - (xv) the amount of public assistance specifically designated for shelter and utilities.
- (g) "Income Limit" means the applicable income limit for affordable housing as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.
- (h) "Qualifying Income Limit" means the income limit that has been certified by the City Planner as being the applicable income limit for an Inclusionary Unit.

(i) "Utility Allowance" means the amount designated by the Town as a reasonable estimate of the cost of utilities for an Eligible Household for the purposes of calculating the Affordable Rent.

2.03.020. Designated Inclusionary Units. The following dwelling units shall be, and hereby are, designated as Inclusionary Units for the Income Limits shown:

(a) Lower Income Units. The dwelling unit at 1365 Mission Road, Colma, California, being a two (2) bedroom, two and one-half (2½) bath dwelling unit, is designated as an Inclusionary Unit for Very-Low-Income or Lower Income Households.

(b) [Reserved.]

2.03.030. Publication and Notification of Availability of Inclusionary Unit. When an Inclusionary Unit becomes available for leasing, Town shall publish notices of the availability of the Inclusionary Unit in newspapers circulated widely in the cities of Colma, South San Francisco, and Daly City, including newspapers that reach non-English-speaking communities. At least one notice shall be published in a Spanish Language newspaper of general circulation. Examples of appropriate newspapers include the San Mateo Times and the San Mateo Independent News. The notice should briefly explain what inclusionary housing is, state the applicable income requirements, indicate where applications are available, state when the application period opens and closes, and provide a telephone number for questions. Town shall submit proof of publication to the City Planner.

2.03.040. Rental Policy. It is the policy of the Town of Colma to rent, lease, or permit occupancy of an Inclusionary Unit only to Eligible Persons, as defined herein, at the Affordable Rent specified herein, and for a limited five-year duration that shall be specified in any lease agreement entered into by the Town and Eligible Persons.

2.03.050. Qualifications of Eligible Persons.

(a) Only persons and families whose combined household income do not exceed the appropriate Qualifying Income Limit for households in San Mateo County, adjusted annually for the appropriate household size, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937 and Section 50079.5 of the California Health and Safety Code, are eligible to occupy a Town Inclusionary Unit. These limits are those set forth in Section 6932 of Title 28 of the California Code of Regulation.

(b) Persons or households who own more than \$100,000 in total assets are not eligible. An applicant must be able to show, to the reasonable satisfaction of Agent, that the persons or household is ready, willing and able to pay the rent for the Inclusionary Unit.

(c) Only persons who are a United States citizen or national, or, pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193, 8 U.S.C. s 1621, aka PRAWORA) are one of the following types of aliens: (a) a qualified alien (for example, an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act); (b) a nonimmigrant alien under the INA; or (c) an alien who is paroled into the United States under Section 212(d)(5) of the Immigration and Nationalization

Act (8 U.S.C. s 1182(d)(5), aka INA) for less than one year, are eligible to occupy a Town Inclusionary Unit.

(d) Persons who previously rented or leased the Designated Inclusionary Unit, immediately prior to it becoming available, shall not be eligible to re-rent or re-lease the Designated inclusionary Unit unless no other Eligible Person applies.

(e) The following individuals, by virtue of their position or relationship, are ineligible to rent or purchase the Inclusionary Unit:

(i) All employees and officials of the Town or its agencies, authorities, or commission who have by virtue of their position, policy-making authority or influence over the implementation of the inclusionary housing program, as well as the immediate relatives of such employees or officials, including spouse, children, parent, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, aunt uncle, niece, nephew, sister-in-law and brother-in-law.

(ii) A spouse, child, parent, grandparent, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, sister-in-law and brother-in-law of an employee or official identified in the preceding paragraph.

(f) Agent is authorized and required to take reasonable steps, at the time of the initial rental and annually thereafter, to determine that the prospective or current occupant is not ineligible to rent the Inclusionary Unit, to certify the eligibility of the tenant(s) in the Inclusionary Unit, and to certify the income level of prospective or current occupants of the Inclusionary Unit. Agent may request proof of eligibility, including income certification from the proposed occupant of the Inclusionary Unit in one or more of the following methods:

(i) Obtain two (2) paycheck stubs from the proposed occupant's two (2) most recent pay periods;

(ii) Obtain a true copy of an income tax return from the proposed occupant for the most recent tax year in which return was filed;

(iii) Obtain an income verification certification from the employer of the proposed occupant;

(iv) Obtain an income verification certification from the Social Security Administration and/or the California Department of Social Services if the proposed buyer receives assistance from such agencies; or

(v) Obtain an alternate form of income verification acceptable to the Director.

2.03.060. Preferences.

(a) If more than one applicant has met all of the eligibility criteria and are equally qualified for selection, preference shall be given in the following order:

(i) To eligible persons who have lived in the Town for more than two years; then

(ii) To eligible persons who have lived in the Town for more than one year or who have been employed full-time in the Town for more than one year.

(b) If two or more eligible persons have the same preference at the end of the application period announced by the Agent, then the Agent shall select the tenant by lot.

(c) At the end of the application period announced by the Agent, which shall not be later than thirty days after the Inclusionary Unit becomes vacant, if there is no eligible person who is entitled to a preference under subsection (a) above, the unit shall be let to the first eligible person who applied for the tenancy.

(d) Nothing in this section shall authorize or require Agent to hold the Inclusionary Unit vacant for more than thirty days to accommodate an applicant with higher priority.

2.03.070. Changes in Tenant Income.

(a) If the income of a tenant occupying the Inclusionary Unit decreases below the category for which the tenant originally qualified, the tenant shall continue to have the right to reside in the Inclusionary Unit, provided the tenant pays the rent and performs his other obligations to Town.

(b) If after moving into the Inclusionary Unit, the tenant's income eventually exceeds the income limit for that unit, the tenant may remain in the Inclusionary Unit as long as the tenant's income does not exceed 120% of the Qualifying Income Limit. If after moving into the Inclusionary Unit the tenant's income eventually exceeds 120% of the Qualifying Income Limit, Town shall give the tenant six (6) months' notice to vacate the premises and shall terminate the tenancy at the end of such period.

2.03.080. Rent.

(a) The rent for an Inclusionary Unit designated for Low-income Households means a rent that, when added to the Utility Allowance:

(i) Does not exceed thirty percent (30%) of eighty percent (80%) of the median income for San Mateo County, adjusted for household size appropriate for the unit by the California Department of Housing and Community Development; and

(ii) Does not exceed thirty percent (30%) of the adjusted gross income of all members of the household in the Inclusionary Unit; and

(iii) Is not less than thirty percent (30%) of fifty percent (50%) of the median income for San Mateo County, adjusted for household size appropriate for the unit.

(b) The rent for an Inclusionary Unit designated for Very-Low-Income Households means a rent that, when added to the Utility Allowance:

(i) Does not exceed thirty percent (30%) of fifty percent (50%) of the median income for San Mateo County, adjusted for household size appropriate for the unit by the California Department of Housing and Community Development; and

(ii) Does not exceed thirty percent (30%) of the adjusted gross income of all members of the household in the Inclusionary Unit; and

(iii) Is not less than thirty percent (30%) of thirty percent (30%) of the median income for San Mateo County, adjusted for household size appropriate for the unit.

(c) From time to time, but not less than annually, the City Planner shall certify the calculations of rent under subsections (a) and (b) above.

2.03.090. Restrictions on Use.

(a) *Residential use Only.* An Inclusionary Unit shall be used for residential purposes only, except that it may be used for a home office provided that the home office use is incidental to use of the unit as a dwelling unit and that the tenant shall have first obtained a Use Permit from the Town.

(b) *No Subleasing.* A tenant occupying the Inclusionary Unit may not sublet the Inclusionary Unit without the written permission of Agent. The Agent shall not grant permission to lease, rent or sublet the Inclusionary Unit if it finds that the prospective tenant or occupant does not qualify as an Eligible Person under this Agreement. Any individual who subleases the Inclusionary Unit in violation of the provisions of this Agreement shall be required to forfeit to the Town all monetary amounts so obtained.

(c) *Time Restriction.* A tenant occupying the Inclusionary Unit shall do so only for a five-year duration pursuant to the terms of the lease or rental agreement between the Town and tenant. The tenant shall not be eligible for relocation costs of any kind at the conclusion of this five-year period.

(d) *No Violations.* No person may use or permit the Affordable Unit or any portion of the Affordable Unit to be used or occupied in any manner or for any purpose that is in any way in violation of any valid law, ordinance, or regulation of any federal, state, county or local governmental authority, body, or entity, or in violation of any Covenants, Conditions and Restrictions applicable to the unit. No person may maintain, commit, or permit the maintenance or commission of any nuisance as now or hereafter defined by any statutory or decisional law applicable to the Affordable Unit of any part of the Affordable Unit.

2.03.100. Federal and State Laws. Nothing contained herein shall require or authorize Town to do anything contrary to or refrain from doing anything required by Federal and State laws and regulations promulgated there under applicable to the construction, management, maintenance and rental of Low and Moderate-income housing units in the Town.

2.03.110. Prohibition Against Discrimination. Town shall not discriminate against any tenant or potential tenant on the basis of sex, color, race, religion, ancestry, national origin, age, pregnancy, marital status, family composition, sexual orientation, or the potential or actual occupancy of minor children. Town further agrees to take affirmative action to ensure that no such person is discriminated against for any of the above mentioned reasons.

2.03.120. Right to Inspect Unit and Documents. Town may inspect the Inclusionary Unit (subject to the tenant's privacy rights and upon reasonable advance notice) and any

documents or records relating thereto, at any reasonable time to determine Town's compliance with this regulation.

2.03.130. Remedies. Town may institute any appropriate legal actions or proceedings necessary to ensure compliance with this Agreement, including but not limited to actions for specific performance, injunctive relief or damages. These remedies shall be cumulative and in addition to any other remedies that Town may have at law or in equity.