

# The City of Lafayette

## Community Housing Guidelines

Amended March 25, 2014 – see purpose below

Table of Contents	Page
I. Purpose and General Description	2
II. Definitions	2
III. Program Requirements for Eligible Households	5
A. Eligibility	5
B. Preference for Charter Affordable Units	5
C. Lottery	6
D. Application, Certification and Purchasing	7
E. Income Guidelines	8
F. Co-Ownership and Co-Signing	9
G. Occupancy	9
H. Leave of Absence	9
I. Deed Restriction/Resale Covenant	10
J. Re-sale of Community Housing Units	11
K. Sales and Other Fees	12
IV. Development of Charter Affordable Housing Units	12
A. Community Housing Plan	12
B. Home Owners Associations	14
C. Unit Quality	15
D. Form of Deed Restriction	15
E. Sales Prices/Lease Prices	15
F. Procedures for the Sale of Community Housing Units	16
V. Potential for Fee Waivers and Use Tax Exemptions	17
VI. Grievance Procedures	17
VII. Amendments and Adoption of Community Housing Guidelines	18
VIII. Addendum	18
A. Sales Price Methodology	18

- March 2014: Amended to update 2014 income levels
- October 2013: Amended to clarify language regarding marketing efforts to be considered in releasing the permanently affordable deed restriction
- July 2012: Amended to update 2012 income levels and pricing.
- February 2012: Amended to remove Permanently Affordable requirements.
- January 2010: Amended to remove Market Rate Affordable Requirements and update pricing.
- August 2007: Amended to remove minimum square footage requirement and allow City Council greater flexibility for off site units
- April 2007: Amended to include separate pricing for townhomes, include ability to increase re-sale price based on capital investment , insert language specific to rental program units, including maximum monthly rental pricing.
- April 2005: Amended to update 2005 pricing, clarify timing of deed restriction recording, add table of contents
- July 2004: Amended to update 2004 pricing, require training for buyers, differentiate between attached and detached prices, amend date to lift deed restriction
- June 2003: Original adoption by City Council

## I. PURPOSE AND GENERAL DESCRIPTION OF GUIDELINES

The purpose of The City of Lafayette Community Housing Guidelines is to implement and effectuate the purposes and requirements of Chapter 28 of the Code of Ordinances of the City of Lafayette (the “Code”) by providing standards, procedures and submittal requirements in connection with said section. In recent years, the cost of housing in Lafayette has increased at a rate that is faster than increases in the earnings of lower-income households, and housing problems have escalated due to population increase, a limited supply of developable land and as a result of the lack of residential building permits available due to the adoption of Lafayette Charter Section 6.10. This has affected the range of housing options that are needed and available to support the growing and changing needs of Lafayette residents and employees.

*“Lafayette is special because it is a community that is small enough to have a “hometown” feeling, but large enough to accommodate households of different ethnic, social and economic backgrounds”.*

To address the legislative findings and purposes set forth, respectively, in Chapter 28 of the Code a housing strategy has been adopted to manage certain exceptions provided for in the City’s Growth Management regulations of Charter Section 6.10.

The citizens of Lafayette approved an amendment to Chapter VI, Sections 6.10, 6.12, 6.14 and 6.15 of the Charter for the City of Lafayette that authorized the construction of up to fifty (50) “permanently affordable dwelling units per year”, (referred to herein as “Charter Affordable Housing Units”).

The City of Lafayette recognizes that affordable housing is a valuable community resource that needs to remain available not only for current residents and employees, but also those who may come to the area in the future. For this reason, Charter Affordable Housing Units are to be legally restricted to be permanently affordable.

## II. DEFINITIONS

The terms, phrases, words and clauses used in the these Community Housing Guidelines shall have the meanings as provided below or, if not provided below, shall have the meanings provided in Chapter 28 of the Code. Any terms, phrases or words not defined in the Code shall have the meanings as provided in Webster’s Third New International Dictionary, 1993, Unabridged. The definitions are presented in alphabetical order for ease in locating the definition.

**A. Applicant:** means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or affiliated entities, or combination of any of the foregoing, and any transferee of all or part of the real property at one location.

**B. Charter Affordable Housing Unit:** means a dwelling unit that is constructed under building permits that are available from time to time under Section 6.10 of the Charter of the City of Lafayette for “permanently affordable dwelling unit[s],” and that are to be created, sold, resold and

rented only in accordance with the standards and under the procedures set forth in these Community Housing Guidelines, and which dwelling units are permanently deed restricted or encumbered in perpetuity by a real covenant or other legal restriction to ensure that the units shall be priced and sold, or rented, to be affordable at the time of the initial and each subsequent sale or rental to a household earning not more than eighty percent (80%) of the HUD Area Median Income, except that, at each sale after the initial sale, the units may be sold by the owner/occupant for a price that is lesser of (a) the initial sales price, plus three percent (3%) per annum simple interest on that sales price, and (b) the initial sales price, plus a percentage per annum of simple interest that is equal, on an annual basis, to the percentage increase in the Consumer Price Index for each year in which the determination is made.

**C. Community Housing Unit:** means a Permanently Affordable Housing Unit and/or a Charter Affordable Housing Unit.

**D. Consumer Price Index or CPI:** means the Consumer Price Index – U.S. City Average and Regions, Urban Wage Earners and Clerical Workers (CPI-W), All Items, as published from time to time by the Bureau of Labor Statistics of the United States Department of Labor.

**E. Eligible Household:** means a Household (i) that has complied with the procedures set forth in these Community Housing Guidelines for a determination of eligibility for purchase of a Permanently Affordable Housing Unit or a Charter Affordable Housing Unit and that has received a certificate of said eligibility pursuant to such procedures, and (ii) whose income and financial assets qualifies the Household to purchase a Permanently Affordable Housing Unit or a Charter Affordable Housing Unit according to the standards set forth in these Community Housing Guidelines.

**F. Household:** means one or more persons who intend to live together in the premises of a dwelling unit as a single housekeeping unit, but does not mean a group of four (4) or more persons unrelated by blood, adoption or marriage.

**G. HUD AMI or HUD Area Median Income:** means the median annual income for the Boulder/Longmont Primary Metropolitan Statistical Area, as adjusted for household size, that is calculated and published annually by the United States Department of Housing and Urban Development (“HUD”).

**H. Numerical Eighty Percent (80%) Area Median Income:** means the number derived by multiplying 0.80 times the number that is the one-hundred percent (100%) of the Area Median Income, which Numerical Eighty Percent (80%) Area Median Income is anticipated to be a number that is higher than the eighty percent (80%) area median income published by HUD as a result of the fact that, for the Boulder/Longmont Primary Metropolitan Statistical Area, HUD’s practice has been to adjust the eighty percent (80%) area median income number downward to reflect the fact that earnings within said statistical area are generally higher than earnings on a national basis.

**I. Permanently Affordable Housing Unit:** means a dwelling unit that was previously created by private developments prior to January 13, 2012, and constructed and sold to an initial owner pursuant to Section 28-5 of the Lafayette Code of Ordinances, as established and amended by

Ordinances No. 14-2003; Ordinance No. 27-2004; Ordinance No. 10-2005; Ordinance No. 22-2006; and Ordinance No. 5-2010, and potentially resold in accordance with the standards and under the procedures set forth in these Community Housing Guidelines, and that is permanently deed restricted or encumbered in perpetuity by a real covenant or other legal restriction that ensures that the unit shall be sold, at the time of each subsequent sale, to a household earning not more than the numerical eighty percent (80%) area median income, provided, however, that at each sale after the initial sale of a permanently affordable housing unit, the unit may be sold for a price that is the lesser of (a) the purchase price paid by the then owner, plus three percent (3%) per annum simple interest on that price, and (b) the purchase price paid by the then owner, plus a percentage per annum of simple interest that is equal, on an annual basis, to the percentage increase in the CPI for each year in which the determination is made. Per Ordinance No. 47-2011, the foregoing notwithstanding, the owner of a Permanently Affordable unit may apply to the City for release of the permanently affordable deed restriction when it can be demonstrated that the owner has made a bona fide effort to market the Permanently Affordable unit, and an eligible household has not been found or referred to the owner by the Program Administrator. In determining whether there has been a bone fide effort to market the property, consideration shall be given to matters such as: whether the unit has been listed on the City's website; the unit has been listed with a licensed real estate broker or otherwise been listed locally on available "multiple listing service"; the frequency and means by which the unit has been advertised for sale through customary electronic and/or print media; the extent to which the unit has been posted with signage indicating that it is for sale; any other means by which the owner has publicized the availability of the unit for purchase; and, the number of open houses that have been held. The unit may, upon release of the covenant or restriction by the City, be sold and re-sold free of the deed restriction, real covenant or other legal restriction. The Director of the Community Development Department (the "Director") is authorized to review and approve requests for such releases, and to execute such documents that may be necessary to effectuate such releases under the following conditions:

1. The required marketing period before the deed restriction or covenant can be considered for release by the Director shall be a minimum of one hundred eighty (180) days.
2. The owner and the City shall share equally that portion of the "net proceeds" from the sale of the Permanently Affordable unit that result for a sales price that is greater than that originally allowed by the City's Affordable Housing program for Permanently Affordable dwelling units. The "net proceeds" of the sale shall be calculated based upon the gross proceeds minus realtor commission and/or other expenses incurred that are directly related to the cost of selling the unit. The payoff of any debts or obligations secured by the property shall not affect the calculation of "net proceeds" for the purpose determining the amount to be paid to the City. A recordable document shall be executed by the Owner to reflect the City's interest in the proceeds of the sale. All funds paid to the City as a result of this condition shall be used by the City to further affordable housing opportunities in Lafayette.

Any decision of the Director on an application for such a release may be appealed by the applicant to the City Council by providing a written notice of appeal to the City Clerk within 20 days of the decision of the Director. If a request for a release exceeds the authority of the Director as provided above, the Director shall refer the request to City Council.

**J. Program Administrator:** Means the Administrator of the City of Lafayette or his designee.

### **III. PROGRAM REQUIREMENTS FOR ELIGIBLE HOUSEHOLDS**

#### **A. Eligibility**

In order to be eligible to purchase a Community Housing Unit under this program, an interested Household must meet the income limitations set forth herein at the time a unit is purchased. An interested Household must also agree to record a deed restriction, covenant or other legally binding document that identifies the method for calculating future sales prices of the unit if such document does not already encumber the unit at the time of purchase. At least one member of an interested Household must attend and complete a city-approved homebuyer training course.

Prospective buyers are to notify the Program Administrator, at the time they have entered into an agreement to purchase a Community Housing Unit, of the address of the unit and sales price.

Eligibility for the purchase of Community Housing Units will be made without regard to race, color, creed, religion, gender, handicap, national origin, familial status or marital status.

#### **B. Preference for Charter Affordable Housing Units**

The intent of the Community Housing Program is to provide housing opportunities for households that live and/or work in Lafayette. Preferences for the purchase of a Charter Affordable Housing Unit will be given to Eligible Households that meet at least one of following:

- Where at least one person of a Household is a full-time employee working in Lafayette or for a business with its principal office located in Lafayette. For purposes of this section a “full-time employee” is an employee who is employed for a minimum of 1,000 hours worked per calendar year, and who averages at least 25 hours of work per week, during ten (10) months of each year, or 22 hours of work per week, during eleven (11) months of each year and who intends to reside in the Charter Affordable Housing Unit a minimum of nine (9) months out of each year; and/or
- Where at least one person of a Household has been a resident of Lafayette for one year prior to applying to purchase a Charter Affordable Unit;
- Where at least one person of a household is a retired person who has been a full-time resident in Lafayette for a minimum of one year, or a disabled person who has been a full-time employee or resident in Lafayette a minimum of one year; and/or
- Where at least one person of a Household is a graduate of a high school located within the City of Lafayette.

An Eligible Household that is provided a preference under this section will hold such a preference with regard to a given Charter Affordable Unit during the first 30 days that such Charter Affordable Unit is available for sale. In order to receive a preference, the Eligible Household must apply to the Program Administrator to receive a certification that the Household holds a preference for the purchase of a Charter Affordable Unit. To verify that a Household satisfies these requirements, any

of the following information may be required:

- Copies of pay check stubs for the previous three months of a member of the Household applying for the preference;
- A letter from an employer indicating that a member of the Household is employed in Lafayette;
- A copy of utility statement or lease indicating the name and address of the person who is a member of the Household applying to purchase the unit;
- Copy of a pre-approval letter from a lender of their choice indicating place of employment and/or residence of the member of the Household applying for the preference; and/or
- Proof of graduation from a high school within the City of Lafayette.

Upon submission of all required information and after a determination as to whether an Eligible Household is eligible for a preference, the Program Administrator will provide the Eligible Household with a letter stating that it holds a preference for the purchase of a Charter Affordable Unit. This letter will be effective for six months from the date it was written and may be used whenever the person wants to purchase a Charter Affordable Unit that is available for sale under this program. The developer of a Charter Affordable Unit must allow 30 days from the time pre-marketing efforts begin to give a purchasing priority to an Eligible Household holding a preference.

### **C. Lottery**

A lottery will *not* be held for Community Housing Units unless, at the discretion of the Program Administrator, it is determined that a lottery is in the best interests of the City and those Households seeking to purchase a Community Housing Unit, and then only for a Charter Affordable housing unit. A decision as to whether or not a lottery will be held will be made at least 30 days prior to the date the developer proposes that units will be available for purchase. It is the intent of the City of Lafayette to conduct a simplified lottery process and there will not be any weighting of lottery applicants for the time worked/resided in the area. If it is determined that a lottery will be held, the Program Administrator will take the following steps to notify the public of the availability and status of Charter Affordable Housing Units:

The program administrator will advertise the lottery at least 30 days prior to the date that the lottery will be held. Sources of information about prospective lotteries will include, but not be limited to a local newspaper and the web site established for this purpose. Information may include:

1. A description of the unit(s) that is available for purchase that contains information about the unit type, square footage, bedroom configuration and address of the properties.
2. A description of the maximum income a household may have in order to qualify to purchase the advertised units. For example, some units may be priced as affordable to households earning 60% of the HUD Area Median Income and others may be priced as affordable to households earning 80% of the HUD Area Median Income.
3. Notification of where more detailed information can be obtained concerning the application process for units to be sold under the lottery.
4. Date, time and location of lottery.

5. Results of the lottery will also be published. The results will include the number and types of units, the number of participants in the lottery and the name of the Household(s) that purchased a home.

Households who are interested in purchasing a unit must have a completed letter certifying that they are eligible to purchase a unit. It is the responsibility of the Household to notify the Program Administrator at least seven working days prior to the date of the lottery that they would like to enter into the lottery. This may be done by notifying the Program Administrator by phone, in writing or by internet (if available). Any such notification shall include the Household's name, address and telephone number where it can be reached. The Household must indicate which Charter Affordable unit(s) it is interested in purchasing by providing the address of such unit(s). Upon notification of a Household's interest, the Program Administrator shall provide the Household with a lottery confirmation number.

Households with incomes below the maximum range established for a specific unit may ask to be placed into the lottery for that unit if they are able to qualify for a mortgage that would support purchasing such unit; however, Households with incomes that exceed the maximum range for a specific unit may not ask to be placed in the lottery for that unit. For example, a Household earning 60% of the HUD AMI may ask to be placed in the lottery for a unit priced for a household earning 80% of the HUD AMI, if they have a letter indicating that they could qualify for a higher mortgage and have sufficient funds available for a down payment. A Household earning 80% of the HUD AMI may not, however, ask to be placed in the lottery for a unit priced for a Household earning 60% of the HUD AMI.

#### **D. Application, Certification and Purchasing**

A Household seeking to purchase a Community Housing Unit must apply to the Program Administrator to receive a certification that it is eligible to purchase such a unit. To verify that a Household satisfies these requirements, at least the following information will be required, in addition to a completed application form that requests information needed to verify the Household meets the program requirements.

- Copies of federal and state income tax returns of each member of the Household for the previous two years;
- W-2 Forms and verification of employment or an offer of employment of each member of the Household;
- Copies of pay check stubs for the previous three months for all wage earners within the Household;
- A current statement as to the value of each asset, except assets in bona fide retirement plans, held by each member of the Household indicating the current value of the asset, the interest rate or annual dividend or other amount earned annually on the asset, including but not limited to a bank verification of all accounts held in a bank; and,
- Copy of a pre-approval letter from a lender of the Household's choice demonstrating that it is financially able to purchase the unit or financial documentation that they can purchase the unit without the aid of a lender.

Upon submission of all completed information, the Program Administrator shall provide the Household with a letter stating whether it is eligible to purchase a Permanently Affordable Housing Unit or a Charter Affordable Housing Unit. The purpose of this letter is to assure the developer/realtor/seller that the Household has been pre-qualified for the purchase of such a unit. It is the responsibility of the Household to locate and enter into a contract to purchase a Permanently Affordable Housing Unit or a Charter Affordable Housing Unit. The Program Administrator will maintain a list of Eligible Households that includes the income category in which they were deemed to be eligible. Households entering into a contract to purchase a Community Housing Unit must be income eligible at the time the contract to purchase is signed. Prior to finalizing the purchase of a Community Housing Unit, a prospective Household shall be required to submit an updated income certification form, with the required attachments indicated above, in order to verify that the prospective Household's income qualifies it to purchase a Community Housing Unit. All required documentation submitted to verify a Household's income shall be kept confidential and is not subject to public disclosure.

Upon closing, the Program Administrator shall ensure that the required covenant, deed restriction or other legal restriction shall be or has been recorded with the Boulder County Clerk and Recorder's Office.

**E. Income Guidelines**

A Household seeking to purchase a Community Housing Unit shall submit a completed application form with the documents indicated above at least 30 days prior to the purchase of a Permanently Affordable Housing Unit or Charter Affordable Housing Unit. Permanently Affordable Housing Units that are provided through this program will be priced to be affordable to Households whose incomes are at or below the Numerical Eighty Percent (80%) Area Median Income. Charter Affordable Housing Units that are provided through this program will be priced to be affordable to Households whose incomes are at or below eighty percent (80%) of the HUD Area Median Income.

For all Community Housing Units, the maximum qualifying income levels have been established and set forth in the chart below based upon the Area Median Income as published by HUD for Boulder County, with adjustments for household size and as described in the definitions section of these Community Housing Guidelines. The Program Administrator, upon publication of any new Area Median Incomes, will adjust these levels.

The maximum gross Household income is set forth in the following table.

<b>Maximum Incomes and Category</b>		
	<b>Charter Affordable Units</b>	<b>Permanently Affordable Units</b>
Area Median Income	HUD 80% AMI	Numerical 80% AMI
1 Person Household	\$44,750	\$53,840
2 Person Household	\$51,150	\$61,520
3 Person Household	\$57,550	\$69,200



---

4 or more persons	\$63,900	\$76,880
-------------------	----------	----------

---

The above data is based on 2014 data.

**F. Co-ownership and Co-Signing**

Any co-ownership interest in a Community Housing Unit, other than joint tenancy or tenancy in common, must be approved by the Program Administrator. Co-signers may be approved for ownership of such units, but shall not occupy the unit unless qualified under this program as part of the Eligible Household. In other words, a Household may use a co-signer, but the co-signer must not also live in the unit unless he or she qualifies under these guidelines as part of the Household. For example, a single-person may have a sibling co-sign a loan. The sibling may only live in the unit if they are qualified under the program as part of the Household to which the income and asset limitations apply.

Purchasers of a Community Housing Unit who desire to purchase such a unit and use a co-signer must earn at least 75% of the income needed to qualify for the purchase of the unit with the lender of their choice.

**G. Occupancy**

The Household purchasing a Community Housing Unit must occupy the unit as his or her primary residence during his or her ownership of such unit and shall agree and record a deed restriction, covenant or other legal encumbrance to that effect if such an encumbrance does not exist at the time of the purchase of such a unit. The owner shall be deemed to have ceased to use the unit as his or her primary residence by residing in the unit for fewer than nine (9) months out of any twelve (12) months.

**H. Leave of Absence**

If an owner of a Community Housing Unit must leave Lafayette for a limited period of time and desires to rent such unit during his or her absence, a leave of absence may be granted by the Program Administrator for up to two years. The owner must submit a request to rent the unit at least 30 days prior to when the owner plans to leave the area. The request shall include the reason(s) for the leave of absence, expected duration and the intent of the owner to rent the unit. The rent that may be charged by such an owner during a leave of absence shall not exceed the owner's monthly mortgage, plus homeowner's association dues, plus utilities remaining in the owner's name, plus taxes and insurance not included in the monthly mortgage amount and land lease costs, if any. An additional \$ 25 per month may be included. The owner may impose a security deposit and damage deposit at the time a lease is executed; however, the combination of security deposit and damage deposit may not exceed 1.5 times the monthly rent. The owner shall rent such unit to a Household that meets the eligibility and income provisions that are required to be an Eligible Household with respect to the type of unit in question. The Household to be the tenant must be qualified as an Eligible Household pursuant to the provisions of these Community Housing Guidelines and shall agree to abide by the homeowner's association covenants, and rules and regulations for the unit, if any. Both the owner and tenant must sign a statement indicating that any such covenants have been provided to the tenant for his/her review. In addition, a copy of the lease agreement executed between the owner and tenant shall be provided to the Program Administrator.

With the landlord's permission, a lessee of a Community Housing Unit may use the same process as described above to sub-lease a rental unit.

### **I. Deed Restriction/Resale Covenant**

In order to assure that there is an on-going supply of housing that is affordable in Lafayette, all Community Housing Units will be subject to a deed restriction or covenant. Generally, the restriction will dictate any requirements that must be met for the sale and resale of a Community Housing Unit and require the unit to be owner-occupied, or in the case of program rental units, be occupied by an eligible household. Such agreement must be executed concurrently with the closing of the initial and each subsequent sale of the unit and will be recorded, or in the case of Charter Affordable Units that are to be rented, such agreement must be executed and recorded prior to the unit being occupied. The restriction will describe the occupancy requirement and any procedures for the sale or rental of the unit. The restriction will be recorded in the property records of the Boulder County Clerk and Recorder's Office. The purchaser(s) of a Community Housing Unit must sign an agreement acknowledging the purchaser's(s') agreement to be bound by the recorded restriction. Each lessee shall sign an agreement acknowledging the rental restrictions. Such agreement and the restriction will be placed in perpetuity and shall authorize, among other things, the title company conducting the closing to collect and deliver to the City and/or the Program Administrator, respectively, any and all fees due to the City and/or the Program Administrator, respectively, in connection with the affordable unit.

Community Housing Units will carry a deed restriction, real covenant or other form of recorded legal restriction that limits the future sales price or rental rates of all such units. The restriction will allow for a limited amount of appreciation in the value of the unit for the purposes of resale. The sales restriction will allow for the resale of the unit at a price that is lesser of (a) the initial sales price, plus three percent (3%) per annum simple interest on that sales price, or (b) the initial sales price, plus a percentage per annum of simple interest that is equal, on an annual basis, to the percentage increase in the CPI for each year in which the determination is made.

The Program Administrator may authorize an increase to the maximum resale price of a Community Housing Unit above the price defined in the deed restriction or covenant if either or both of the following are demonstrated by the owner:

- If the owner has expanded interior living space, the Program Administrator may add 65% of the actual cost, plus appreciation as calculated above, from the time of the final inspection, if applicable.
- If the owner has invested in capital improvements that were found by the Program Administrator to be "qualified capital improvements" in accordance with the policy for capital improvements kept with the Program Administrator as may be amended from time to time, then the Program Administrator may add 65% of the actual cost, plus appreciation as calculated above, from the time of completion.

Increases in resale pricing allowed for capital improvement investments, above the appreciation allowed under the program, is limited to 10% of the purchase price.

Future buyers will be bound by the terms of the recorded restriction, where applicable. Only the City of Lafayette may modify the form of the restriction, see additional information in Section IV.E.

The Program Administrator shall supply the form of the recorded restriction, which shall be approved as to form by the Lafayette City Attorney.

#### **J. Re-Sale of Community Housing Units**

An owner of a Community Housing Unit who intends to sell their home shall contact the Program Administrator to review the recorded restriction encumbering the unit to determine the maximum sales price permitted and other applicable provisions concerning the sale. Unless otherwise provided in the recorded restriction, the unit must be listed as being for sale with the Program Administrator. If the Program Administrator engages in any activity that, by law, is required to be conducted by a licensed professional, the Program Administrator shall engage a licensed professional to conduct such activity.

The Program Administrator will oversee the sale in accordance with these Community Housing Guidelines. In no event will the recorded restriction be released except in compliance with Ordinance No. 47-2011, as adopted by City Council on January 3, 2012 for Permanently Affordable Units only. Any termination of the listing may require the owner to pay advertising and administrative costs up to a maximum charge of the fee paid at the time the unit was listed.

These procedures are intended to assure that all purchasers and all sellers will comply with the terms and conditions of these Community Housing Guidelines and Chapter 28 of the Code. Questions will be answered and help will be provided equally to any potential purchasers or sellers in accordance with these Community Housing Guidelines.

The Program Administrator will be acting on behalf of the City of Lafayette. It should be clearly understood by and between all parties to a sales transaction that the Program Administrator is not acting as a licensed broker to the transaction, but as representative of the City and its interests. The role of the Program Administrator is to assist both parties to consummate a sale in accordance with these Community Housing Guidelines and Chapter 28 of the Code.

All purchasers and sellers have a right to engage licensed professionals or any other agent of their choosing and are hereby advised to consult legal counsel regarding examinations of the title to the unit being sold and of all of the contracts, agreements, and other documents related to the sale. The retention of counsel, licensed real estate brokers, or such related services, shall be at the purchasers or seller's own expense. The fees paid to the Program Administrator are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire on their own.

If a Permanently Affordable Housing Unit or Charter Affordable Housing Unit is listed for sale and the owner must relocate to another area prior to completing the sale, the unit may, upon approval of the Program Administrator, be rented to a qualified individual for a maximum period of two years, at the owner's cost, under the procedures and pursuant to the terms described above in the section titled "Leave of Absence". A written request must be sent to the Program Administrator seeking permission to rent the unit until sold. A minimum six-month written lease must be provided to the tenant with a sixty-day move out clause upon notification that the unit is sold. All tenants must be qualified as described above in the section titled "Leave of Absence". In addition, the lease must

stipulate that the Permanently Affordable Community Housing Unit or Charter Affordable Housing Unit is listed for sale and that the tenant will be required to allow for showings of the property, with reasonable notice. The lease must also stipulate that the agreement may be terminated after six months, with sixty days notice, due to the sale of the property.

**K. Sales and Other Fees**

Unless otherwise set forth in the recorded restriction encumbering the Community Housing Unit, at the closing of each sale of a Community Housing Unit, the seller will pay the Program Administrator a fee in an amount set by resolution of the city council. The fee will apply each time a Community Housing Unit is sold. Instructions may be provided to the title company to pay such fees out of funds held for the seller at closing.

Unless otherwise specified in the recorded restriction encumbering the Community Housing Unit, the seller of such a unit will pay fifty percent (50%) of the fee to the Program Administrator at the time of the listing, which will be applied to the total fee that is required to be paid at closing. This portion of the fee will be used to cover costs incurred by the Program Administrator in advertising the home for sale, qualifying potential buyers and related administrative expenses. In the event that the sale does not proceed for any reason after the listing has occurred, this portion of the fee will not be returned to the seller.

**IV. DEVELOPMENT OF CHARTER AFFORDABLE HOUSING UNITS**

**A. Community Housing Plan**

An Applicant for a development proposed to contain Charter Affordable units must demonstrate compliance, or his/her plan for compliance, with the requirements of Article II of Chapter 28 of the Code and these Community Housing Guidelines by submission of a community housing plan (the “Community Housing Plan”), the terms of which plan will become a condition of final approval of the development. Prior to submitting a formal application, the Applicant shall confer with the Director of Community Development or the director’s representative in order to familiarize the applicant with the requirements of Chapter 28 of the Code and these Community Housing Guidelines.

An Applicant shall submit a proposed Community Housing Plan for meeting the requirements of Chapter 28 of the Code and these Community Housing Guidelines along with the sketch plan and preliminary plan submittal for a subdivision or planned unit development to which Chapter 28 of the Code applies. A one-time Community Housing Plan review fee will be imposed at the time the Community Housing Plan is submitted for review. The fee shall be in an amount set by resolution of City Council. The purpose of submitting the information at the sketch plan stage is to identify any major problems that must be resolved and to assess the overall approach for meeting the requirements of Chapter 28 of the Code and the Community Housing Guidelines. The preliminary Community Housing Plan shall provide an overall description of the proposed development, including the mix of detached and attached housing for the development. This information will include the number of units, unit type(s), proposed bedroom configurations, location(s) within the proposed development, square footage and lot size and the timing of construction of the Charter Affordable Housing Units relative to any market rate units within the development. The preliminary Community Housing Plan must include the proposed sales price(s) for the Charter Affordable

## Housing Units.

A Community Housing Plan shall provide for diversity in unit types, square footages and numbers of bedrooms that is substantially similar to the diversity of such items that is proposed for construction of any market rate units within the development.

The City of Lafayette Director of Community Development or his/her designee will review the proposed Community Housing Plan and advise the Applicant as to the degree to which the plan meets the requirements of Chapter 28 of the Code, and these Community Housing Guidelines and will advise the Planning Commission of the same.

In order to receive final approval for a subdivision or planned unit development that is proposed to contain Charter Affordable Housing Units, an Applicant must also receive final approval of a Community Housing Plan. The final Community Housing Plan shall be submitted to and approved by the City Council of City of Lafayette prior to, or concurrently with, the application for the final approval of the subdivision or planned unit development and, if approved, shall be made a condition of approval of the subdivision or planned unit development. At a minimum, the final Community Housing Plan must include the following information:

1. The total number of proposed attached residential units, and the number of bedrooms, square footage and proposed location of each unit within the subdivision or planned unit development. The plan shall provide a separate description for market rate units and Charter Affordable Housing Units in a format that allows for easy comparison of the proposed product type(s);
2. The total number of proposed detached residential units, and the number of bedrooms, square footage and proposed location of each unit, within the subdivision or planned unit development. The plan shall provide a separate description for market rate units Charter Affordable Housing Units in a format that allows for easy comparison of the proposed product type(s);
3. The average size of finished square footage, excluding garages and unfinished basements, of the proposed Charter Affordable Housing Units and the average size of finished square footage, excluding garages and unfinished basements, of all other residential units within the subdivision or planned unit development;
4. The average lot size of proposed Charter Affordable Housing Units and average lot size of all other residential units within the subdivision or planned unit development.
5. The construction schedule under which the Charter Affordable Housing Units will be built and its relation to the construction schedule for all other market rate housing units within the subdivision or planned unit development;
6. A plan for marketing to Households that may be eligible for purchase of the Charter Affordable Housing Units;
7. The sales price at which each of the Charter Affordable Housing Units will be marketed, with the understanding that the maximum sales price that is permitted under the then-current version of the Community Housing Guidelines (with a notation to the effect that, depending on the time of sale of said units, the actual initial sale price permitted by the Community Housing Guidelines may vary) will not be exceeded; and

8. A plan that shows that the Charter Affordable Housing Units will be substantially similar to other dwelling units in the project in terms of architectural detail, quality of materials and finish and general appearance and that such affordable units will have such amenities, including but not limited to dishwashers, garbage disposals, air conditioning and energy efficient windows, as are provided as standard features in the other dwelling units in the project.

The City of Lafayette shall certify its approval, approval with conditions or denial of the final Community Housing Plan. Such approval, approval with conditions or denial shall be based on compliance with the then-current Chapter 28 of the Code and the Community Housing Guidelines effective at the time of final plan approval. However, in all cases, initial sales prices are established in accordance with the section below entitled “Sales Prices”.

An approved Community Housing Plan will become part of, and enforceable under, the development agreement executed by the City of Lafayette for any approved project.

Major amendments to the Community Housing Plan shall require preliminary approval by the Planning Commission and final approval by the City Council. Minor amendments, such as the relocation of a Charter Affordable Housing Unit within the subdivision based on a consumer preference, may be approved by the Program Administrator. The Program Administrator shall have the authority to determine if a proposed amendment is a major or minor amendment.

**B. Home Owners Associations**

Any documents creating a condominium or home owners association shall state that Charter Affordable Housing Units shall only be assessed monthly dues and other shared assessments based on whichever of the following two formulas results in the lower cost for the Community Housing Units:

1. The average square footage of all of the Charter Affordable Housing Units relative to the average square footage of all other residential units in the development. For example, if the average square footage of all of the Charter Affordable Housing Units is 60% of the average square footage of all other residential units in the development, then the homeowner’s association dues and other shared assessments of the affordable units would be 60% of the amount charged, on average, for all other residential units in the development.

**Example – Computation  
Based on Square Footage**

	<b>All Other Residential Units in Subdivision</b>	<b>Charter Affordable Housing Units</b>
Average Square Feet	1,500	900
% of Square Footage of All Other Residential Units in Development	100%	60%
HOA Dues	\$175	\$105

2. The average square footage of all of the lots on which Charter Affordable Housing Units are located relative to the average square footage of the lots on which all other residential units in the development are located. For example, if the average square footage of the lots on which all of the Charter Affordable Housing Units are located is 65% of the average square footage of the lots on which all other residential units in the development are located, then the home owners association dues and other shared assessments of the affordable units would be 65% of the amount charged, on average, for all other residential units in the development.

**Example- Computation  
Based on Lot Size**

	<b>All Other Residential Units in Subdivision</b>	<b>Charter Affordable Housing Units</b>
Average Lot Size	10,000	6,500
% of Market Rate Unit Size	100%	65%
HOA Dues	\$175	\$114

In order to comply with this provision, the applicant/developer must include these calculations in the Community Housing Plan. In addition, the HOA documents that are required to be submitted with the preliminary and final plans for a project must include these calculations and must provide that their provisions relating to dues and assessments for Charter Affordable Housing Units may not be amended without the written consent of the City of Lafayette.

**C. Unit Quality**

Charter Affordable Housing Units are an asset that the City of Lafayette hopes to have available for years to come. Because of this, the quality of the housing construction is very important. It is expected that all units will meet all applicable local building codes or HUD Manufactured Housing Codes (for manufactured housing units) and be built to a standard that will enhance durability over time. If market rate units include features such as dishwashers, disposals, air conditioning and energy efficient windows as standard features, it is expected that the Charter Affordable Housing Units will contain similar features. The city planning staff will review the plans for the units to assure that there are requisite similarities between the market rate units and the Charter Affordable Housing Units and the developer of each such unit shall certify in a writing to the city, prior to the issuance of a certificate of occupancy, that each of their Charter Affordable Housing Units conforms in all respects to the approved Community Housing Plan for the project.

**D. Form of Deed Restrictions**

All Charter Affordable Housing Units are required to have a deed restriction, real covenant or other legal restriction that will control and limit the initial sales price or rental rate of the home, and the resale price. The form of deed restriction or covenant will be provided to the developer for review at the time of approval of the Community Housing Plan. A developer may offer another form of deed restriction or covenant to the city for consideration; however, acceptance of that deed restriction or

covenant is at the sole and absolute discretion of the city.

Prior to issuance of any Certificate of Occupancy, the developer shall amend the deed restriction or covenant, if necessary, to reflect changes approved by the Program Administrator which may have occurred during construction or conversion of a Charter Affordable Housing Unit. Such amended deed restriction or covenant shall be executed and recorded, with the original returned to the Program Administrator for his files.

**E. Sales Prices/Lease Prices**

Sales prices or lease rates for all Charter Affordable Units will be established at the time the building permit for the unit has been issued in accordance with the then-current Community Housing Guidelines. It is the responsibility of the developer to submit a copy of the approved building permit to the Program Administrator to receive a confirmation of the sales price based upon the published sales price at that time. The methodology used for determining the maximum sales prices of Community Housing Units is described in the Addendum hereto under the heading “Sales Price Methodology.”

The maximum monthly lease price shall be in accordance with the Community Housing Guidelines in place at the date of the lease.

**Charter Affordable Housing Units:** The following table sets forth the maximum sales price for each unit produced as a Charter Affordable Housing Unit. These sales prices are based upon what is affordable to households earning 80% or less of the HUD Area Median Income (AMI).

**Maximum Sales Prices for  
Charter Affordable Housing Units**

Studio	\$168,854
1BR	\$180,915
2BR	\$193,833
3BR	\$205,947
4BR	\$218,062

The above data is current as of 2012

**Maximum Monthly Rental Prices for  
Charter Affordable Housing Units**

The following rent table is meant to include all costs of housing, including rents payments, all utilities, trash pick-up, lawn maintenance, etc.

Studio	\$1,137
1BR	\$1,218
2BR	\$1,462
3BR	\$1,690
4BR	\$1,885

Rental limits are based on the Colorado Housing and Finance Authority’s data for 2012

**F. Procedures for Sale of Charter Affordable Housing Units**



Several steps are involved in the initial sales of Charter Affordable Housing Units.

1. The developer is required to provide the Program Administrator, at least 30 days prior to initiating a marketing program, with a schedule that indicates the anticipated date that the Charter Affordable Housing Units will become available for sale. The schedule must indicate when pre-marketing activities will begin and when a model may be available, if applicable. The initial marketing schedule should also include the unit type(s), bedroom configuration(s), square footage(s), address(es) and sales price(s) for these homes.
2. The Program Administrator will provide information to prospective buyers. This may be done through a website dedicated to listing Charter Affordable Housing Units, as well as by distributing literature (provided by the developer), to prospective buyers who stay in contact with the Program Administrator. This information will include the date(s) for the lottery (if held) and how a prospective buyer will notify the Program Administrator of their interest in being included for a particular lottery. The Program Administrator will be acting on behalf of the City of Lafayette. It should be clearly understood by and between all parties to a sales transaction that the Program Administrator is not acting as a licensed broker to the transaction, but as representative of the city and its interests. The role of the Program Administrator is to assist both parties to consummate a sale in accordance with these Community Housing Guidelines and Chapter 28 of the Lafayette Code of Ordinances. All purchasers and sellers are advised to consult legal counsel regarding examinations of the title to the unit being sold and of all of the contracts, agreements, and other documents related to the sale. The retention of counsel, licensed real estate brokers, or such related services, shall be at the purchasers or seller's own expense.
3. Evidence that a deed restriction has been recorded against the property will be provided to the prospective buyers by the Program Administrator;
4. The Program Administrator and developer shall conduct a good faith marketing effort to attract income qualified buyers who are currently employed and/or live in Lafayette for at least 30 days prior to accepting contracts from other buyers.
5. The developer must notify the Program Administrator at least 15 days prior to the closing of the date and location of the closing, the address of the unit being purchased, the sales price and name of the Household purchasing the home. The developer must present the deed restriction or covenant consent form to the buyer at the closing for signature and recordation.

#### **V. Potential for Fee Waivers and Use Tax Exemptions**

The City of Lafayette is interested in promoting more affordable housing for households at lower incomes. Projects that construct Charter Affordable Housing Units in compliance with the requirements of Chapter 28 *et seq.* of the Lafayette Code of Ordinances may be eligible for fee waivers and tax exemptions in accordance with the provisions of Section 30-405.5 of said Code.

#### **VI. GRIEVANCE PROCEDURES**

Except as provided in Section 28-12 of the Lafayette Code of Ordinances, any party in interest that alleges that there is error in any order, requirement, decision, refusal or interpretation made by an administrative official or agency based on or made in the enforcement or administration of these

guidelines or Chapter 28 of the Lafayette Code of Ordinances shall take his appeal to the Lafayette Board of Adjustment to be heard in accordance with the applicable provisions of Section 26-24 *et seq.* of the Lafayette Code of Ordinances.

## **VII. AMENDMENTS AND ADOPTION OF COMMUNITY HOUSING GUIDELINES**

From time to time, it may be necessary to amend these Community Housing Guidelines to reflect changing conditions, respond to unforeseen events or incorporate new priorities established by the City Council. The Lafayette Director of Community Development or his/her designee, after consultation with the Program Administrator, will review these Community Housing Guidelines at least once per year to assure consistency with other ordinances and practices of the City of Lafayette. Substantive changes will be presented to the Planning Commission for consideration at a public hearing. The City Council may amend the guidelines after the Planning Commission has reviewed and made a recommendation with regards to any proposed amendments. Any of the foregoing notwithstanding, the Program Administrator shall, without the review and recommendation of the Planning Commission and without the approval of the City Council, provide revised schedules of income eligibility and sales prices within thirty (30) days after any changes to the HUD Area Median Income and shall provide revised sale price schedules at least annually based upon changes in the average mortgage interest rate, and may, without the review and recommendation of the Planning Commission and without the approval of the City Council, provide revised sale price schedules at any time based upon changes in the average mortgage interest rate if such changes would result in a sales price changes of plus or minus three percent (3%) or more.

## **VIII. ADDENDUM**

### **A. Sales Price Methodology**

The sales prices of Community Housing Units vary according to Household income, Household size, unit type and number of bedrooms in the unit. The following factors were used to establish the sales prices for all unit types (Permanently Affordable Housing Units and Charter Affordable Housing Units):

1. The sales price assumes a 95% loan to value ratio, based upon a 30-year mortgage at prevailing interest rates. The interest rate is based on an average of the interest rates published by FNMA or FHLB for the previous 12 months. Using an average helps to adjust for the highs/lows that may occur;
2. Sales prices may be adjusted quarterly by the Program Administrator to reflect the most recent changes in mortgage interest rates and shall be adjusted annually to reflect the most recent changes in mortgage interest rates and Area Median Income;
3. The price is calculated based on principal, interest, taxes, insurance including private mortgage insurance and homeowners association dues that do not exceed 30% of gross monthly Household income;
4. Twenty-five percent (25%) of the thirty percent (30%) of gross monthly Household income, which is actually six percent (7.5%) of the gross monthly income, has been allocated for the payment of taxes, insurance including private mortgage insurance and home owners association dues;

5. Sales prices have been established assuming the mid-point of each household size category, where applicable. For example, a one-bedroom unit price is based on 1.5 persons or the income that is midway between a one and a two person Household;
6. For Permanently Affordable Housing Units the maximum sales price is based on a Household earning not more than the numerical eighty percent (80%) area median income. For Charter Affordable Housing Units the sales prices are calculated for households earning not more than the eighty percent (80%) of the HUD area median income.

In order to ensure that each Community Housing Unit has a maximum sales price that is affordable to a Household that is of a size that will find the unit to be reasonably livable, a guideline has been established to set forth the maximum number of people in a Household that will be assumed to live in a given type of unit, based upon the number of bedrooms in that unit. Using an assumed number of people per bedroom allows for adjustments in sales price and qualifying Household income levels for the purchase of units of different sizes and bedroom configurations. Maximum sales prices for various unit types have been established based upon the assumed maximum number of persons per bedroom in each unit type. The number of persons is then correlated to the appropriate Area Median Income category required to establish a sales price for Permanently Affordable Housing Units and Charter Affordable Housing Units.

The following table shows the person per bedroom assumptions used to establish maximum sales prices. The assumptions do not act as a limitation on the number of people that may form a Household for the purpose of purchasing a given Community Housing Unit; rather, it is simply a basis from which to define the size of a Household for which a given unit type is deemed to be livable and, thereby, to establish a maximum sales price for that unit type. It is acknowledged that smaller or larger Households may seek to purchase smaller or larger units. For example, a three-person Household may seek to purchase a two-bedroom unit or a four-person Household may purchase a three-bedroom unit, although the sales price does not fluctuate with the number of persons in the Household. What is important is that the Household income of the *buyer*, adjusted by household size, does not exceed the maximum allowable income established for the purchase of a given Community Housing Unit.

By way of example, under the following table, one-bedroom units are to be priced assuming an income that is halfway between the one-person household size and two-person household size. For three-bedroom units, the price is based upon the income that is halfway between a two-person and three-person household.

**Persons Per Bedroom Assumptions For Purpose of Setting Maximum Sales Prices**

<b>Number of Persons</b>	<b>Bedroom Configuration</b>
1 Person	Studio
1.5 Persons	One Bedroom
2 Persons	Two Bedroom
2.5 Persons	Three Bedrooms
3 Persons	Four Bedrooms