

**County of Sacramento
Affordable Housing Program Guidelines
For Implementation of Chapter 22.35 of the County Code
Adopted by the County Board of Supervisors on
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**Sacramento Housing and Redevelopment Agency (SHRA),
Development Finance Department
801 12th Street, (916) 440-1393**

**County of Sacramento,
Department of Community Development,
Division of Planning and Environmental Review
827 7th Street, Room 225, (916) 874-6141**

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INTRODUCTION

On February 25, 2014, the Sacramento County Board of Supervisors (Board) repealed Chapter 22.35 of the County Code known as the County's Affordable Housing Ordinance (Repealed Ordinance) and adopted a revised Ordinance (Ordinance). The revised Ordinance creates a standard affordable housing fee accessible to all and also provides a variety of other options an applicant/developer may choose to satisfy a development project's affordable housing obligations. These options will be discussed within the body of these Guidelines.

The County of Sacramento Affordable Housing Program Guidelines (Guidelines) are intended to aid applicants, landowners, developers, homebuyers, and others in understanding and complying with the Ordinance. The Guidelines should be used in conjunction with the Ordinance. The Guidelines are organized in chronological order according to the Sections of the revised Ordinance.

Section 22.35.010 Purpose – see ordinance

Section 22.35.020 Definitions – see ordinance

Section 22.35.030 Standard Affordable Housing Component - This section describes the variety of options available to applicant/developers to fulfill their affordable housing requirement.

A. Development Project shall:

1. Pay an Affordability Fee

An applicant/developer may pay the affordability fee on all newly constructed market rate units at the time building permits for their projects are paid. The County will adjust the fee annually prior to March 1st and publish the new fee schedule.

Projects with an approved Affordable Housing Plan (AHP) pursuant to the Repealed Ordinance (but no executed Affordable Housing Agreement) are eligible to pay the Affordability Fee outlined in the Ordinance.

Alternatively, the applicant/developer may purchase unit credits per Section 22.35.030 (B)

2. Comply with Existing Affordable Housing Plan

If a development project has a Sacramento Housing and Redevelopment Agency (SHRA) approved Affordable Housing Plan (AHP) pursuant to the Repealed Ordinance, the project may comply with its AHP as long as the project is in substantial compliance with the approvals it originally received from the Approval Body.

Developments with approved AHPs specifying payment of fees are subject to the Affordability and In-Lieu fees SHRA published December 18, 2012. Consistent with the AHP, fees shall be reduced for projects 20 units and less. Projects 5 units in size or less will pay 25 percent of the fees and the fees will increase by 5% for each additional unit thereafter until 100 percent of the fee is paid.

Developments with approved AHP specifying construction will be subject to all the requirements and conditions included with the approved AHP.

Developments with approved AHP specifying land dedication will be subject to all the requirements and conditions included with the approved AHP. Additionally, developments will be subject to the Affordability fees SHRA published December 18, 2012.

Developments purchasing unit credits from SHRA will be subject to the requirements as outlined in the AHP, the Affordable Unit Credit Purchase and Sale Agreement, and SHRA's Unit Credit Program.

3. Enter into a Development Agreement

When utilizing a fee credit for land dedication, construction of affordable dwelling units, or other form of a mechanism which leads to the production of affordable housing in an amount at least equivalent to the Affordability Fee, the applicant/developer must include an Affordable Housing Strategy (AHS) as part of the Development Agreement or other form of agreement. The AHS will be reviewed and recommended for approval or denial by SHRA staff. The AHS will then be required to be approved by the Board of Supervisors when a project's first legislative entitlement is received (i.e. general community plan designation or amendment, master plan, subdivision or parcel map, or zoning/rezoning).

The AHS must demonstrate how each development project will produce affordable housing at least equivalent to the Affordability Fee and which units in the development project will be associated with which affordable housing option. The AHS must specify the size (square footage), affordability, design, ADA compliance, concurrency (per section 3(a)(3) and 3(b)(4) below), location of affordable units, and/or location of land to be dedicated.

A site specific Affordable Regulatory Agreement or a land covenant shall be recorded and monitored by SHRA on all affordable units constructed as a result of the ordinance. All multifamily units will be rent-restricted for 55 years and all for sale units will be sale-restricted for 30 years. All units produced as a result of the Ordinance Maximum will have the following affordability.

- Multifamily:
 - At minimum 20% of affordable units must be occupied by very low income households earning 50% or less Area Median Income (AMI) and will be charged an Affordable Rent consisting of 1/12 of 30 percent of 50 percent of the Area Median Income.

- 80% of affordable units must be occupied by low income households earning 60% or less of Area Median Income (AMI). Rents charged will consist of a maximum of 1/12 of (30) percent of 60 percent of the median income applicable to Sacramento County.
- Single Family: Owner occupant households must earn 80% or less of AMI. Homes will be sold at an Affordable Housing Price.
- Median Income and AMI levels will be determined annually by the United States Department of Housing and Urban Development and will be adjusted by household size appropriate to the unit. Affordable Rents will be based on the assumption that 1.5 persons occupy each bedroom. Affordable Sales Prices will be based on the assumption that 1 person occupies each bedroom.

If at the time of the approval of the first legislative entitlement the actual square footage of each home is unknown, a size of 2,150 square feet/unit will be used to calculate the Affordable Fee amount.

a. Land Dedication

This section describes how equivalency to the affordable fee, Section 22.35.050(A) of the Ordinance, will be calculated when entering into a land dedication development agreement. This section also specifies other requirements associated with dedicating land.

Valuation of Land to Be Dedicated: The amount of land dedicated shall be based on the number of affordable units required when utilizing the construction option. See Valuation of Multifamily Constructed Units Section 22.35.030 (A)(3)(b)1 of these guidelines.

For example:
 1,000 units at 2,150 square feet/unit = an affordability fee of \$5,547,000
 (1000 x 2150 x \$2.58¹ = \$5,547,000).

Assuming Average Public Subsidy/Unit (see Section 22.35.030 (3)(b)(1) below) = \$70,300² per unit; the applicant/developer must construct 79 affordable housing units to equal the affordability fees (\$5,547,000/\$70,300 = 79 units).

Total amount of land to be dedicated will be calculated by dividing the number of affordable units to be constructed by 20³. Therefore, the applicant/developer must dedicate 3.9 acres to satisfy the affordable housing requirement (79 units/ 20 units/acre = 3.9 acres).

¹ Fee as of March 1, 2015 is \$2.58/square foot. Fee will be adjusted annually.

² Average Public Subsidy/Unit as of March 1, 2015 is \$70,300. The average public subsidy per unit will be updated annually.

³ The number 20 is based on the units/acre

If land value < \$5,547,000 then developer will pay the difference between the affordability fee and the land value via fee, purchasing units credits, constructing affordable units or some other agreed upon equivalent option. If the land value is > \$5,547,000 no further payment will be required.

The credit for the land donation will be calculated by an appraiser's opinion of value provided to SHRA by the applicant/developer. The opinion of value will be based on the current value of donated site assuming the land has been fully improved and the infrastructure necessary to accommodate any affordable housing component has been constructed. The appraiser should utilize current costs and fees to arrive at their opinion of value.

An applicant/developer may dedicate more land than owed only with approval of SHRA. Unless excess land is requested, no additional credit will be given for land that is dedicated beyond what is required.

3. Land Characteristics: Land dedications must: a) be a minimum of four net buildable acres, b) have a minimum density of 20 units per acre, c) be feasible to develop considering environmental constraints, and d) accommodate the affordable housing obligation. Prior to SHRA or SHRA approved developer taking ownership, off-site infrastructure must be fully constructed, including street, curb/gutter, sidewalk, sewer, water, gas, electric, and other infrastructure and stubbed to the lot. Dedicated land must also be fully entitled. Projects proposing to dedicate less than four acres at a density of 25 units/acre or more may be considered to utilize the "Other Fulfillment Mechanisms" option.

Furthermore, the site must be located within a ¼ mile within of at least three of the following amenities:

- (i) An existing or planned public elementary, middle, or high school;
- (ii) An existing or planned public park or recreational facility;
- (iii) An existing or planned transit stop;
- (iv) An existing or planned grocery store;
- (v) An existing or planned public library.

It is assumed that most land dedication will occur on the site of the master development. An applicant/developer may request dedication of an off-site location that allows multifamily uses. If such a request is made, the site must meet or exceed the standards described above as well as any other relevant planning criteria related to appropriate adjacent uses, as determined by the County Planning Director and SHRA.

2. Production on Dedicated Sites: On each site dedicated pursuant to this Ordinance, SHRA shall ensure the number of affordable units constructed is at least equal to the acreage of land dedicated multiplied by 20. For example if five acres are dedicated, $5 * 20 = 100$ units will be constructed.

3. Concurrency: When the affordable obligation is met through land dedication, all land use entitlements, except development plan review for the affordable development proposed on the dedicated site, must be obtained prior to recordation of the first final map for the development project. The first final map for the development project shall be conditioned upon:

- The recordation of an Affordable Regulatory Agreement on the dedicated site;
- Transfer of title to the dedicated site to SHRA or its designee; and
- Delivery of infrastructure necessary to accommodate the affordable housing component at the dedicated site.

b. Construction of Affordable Housing

This section describes how equivalency to the affordable fee Section 22.35.050(A) of the Ordinance, will be calculated when entering into a development agreement (or other form of agreement) that leads to the construction of affordable units. This section also specifies other requirements associated with constructing units.

1. Valuation of Multifamily Constructed Units: The value of an affordable multifamily unit will be equated by the average public subsidy provided (Average Public Subsidy/Units) to Mortgage Revenue Bond (Bond) for new construction projects in Sacramento County during the preceding five years as reported annually by the California Debt Limit Allocation Committee (CDLAC). The total number of units required to be built will be calculated by dividing the project's affordability fee pursuant to Section 22.35.050 (A) of the Ordinance by the Average Public Subsidy/Unit).

For example:

1,000 units at 2150 square feet/unit = an affordability fee of \$5,547,000
(1000 x 2150 x \$2.58 = \$5,547,000).

Assuming Average Public Subsidy/Unit = \$70,300 per unit, the applicant/developer must construct 79 affordable housing units to equal the affordability fees (\$5,547,000/\$70,300 = 79 units).

If the developer opted to construct less than 79 units, the difference between the calculated fee and the value of the construed units would need to be paid via fee, purchase of unit credits, dedication of land, or some other equivalent option.

2. Valuation of For Sale Constructed Units: The value of an affordable for-sale unit will be equal to the net present value of the difference in appreciation in value between a newly constructed market rate home⁴ and an affordable home

⁴ The value of a newly constructed market rate home as evidenced by new home median sales price of \$401,000 according to The California Capital Region Home Sales Chart for Homes Sold in February 2015 published by DQ News.com. This data will be updated annually.

over a 10 year period⁵ assuming a 4%⁶ increase in market rate prices, a 2.5%⁷ increase in affordable prices (Appreciation Differential).

For example:
Average median price of a new home in Sacramento County = \$401,000

Value of market rate home after 10 years assuming a 4% annual appreciation = \$595,865.

Value of affordable home after 10 years assuming a 2.5% annual appreciation = \$513,314

Difference between the market rate home and affordable home = \$82,551 (\$595,865 - \$513,314 = \$82,551)

Net present value of the difference (\$82,551) = \$56,000 per unit.

The total number of units required to be built will be calculated by dividing the project's affordability fee pursuant to Section 22.35.050 (A) of the Ordinance by the Appreciation Differential/Unit.

For example:
1,000 units at 2,150 square feet/unit = affordability fee of \$5,547,000 (1000 x 2150 x \$2.58 = \$5,547,000).

Assuming SHRA's published Appreciation Differential/Unit = \$56,000 per unit, the applicant/developer must construct 99 affordable housing units to equal the affordability fees (\$5,547,000/\$56,000 = 99 units).

If the developer opted to construct less than 99 units, the difference between the calculated fee and the value of the construed units would need to be paid via fee, purchase of unit credits, dedication of land, or some other equivalent option.

SHRA will adjust and publish the Appreciation Differential/Unit figure annually to reflect market changes.

3. Affordable Regulatory Agreement Monitoring Fees: The purpose of the Regulatory Agreement Monitoring Fees is to cover SHRA's ongoing administrative expenses related to monitoring of the affordable units (annual

⁵ According to the American Community Survey conducted by the Census Bureau, 50% of all residents remain in their homes for at least 10 years.

⁶ According the Sacramento Association of Realtors, 4% is the average annual appreciation of single family detached homes for the period spanning 1986-2013. This data will be updated annually.

⁷ SHRA's approved underwriting criteria for affordable housing projects assume 2.5% appreciation over time

inspections, income eligibility review, sale, resale, subordinations, etc.) for the duration of the regulatory agreement. Fees will be paid at the time the Affordable Regulatory Agreement is recorded.

If the applicant/developer is producing multifamily affordable housing units not assisted by the SHRA through a mortgage revenue bond issuance and/or a gap financing loan, the applicant/developer must pay a fee equal to the number of Affordable Units multiplied by the Average Public Subsidy/Unit and SHRA's approved annual monitoring fee discounted over the 55 year regulatory period.

Multi-Family Affordable Units x Average Public Subsidy/Unit x .15 percent.⁸

For example:
79 units x \$70,300 x .0015 = \$8,331 x 55 years = \$458,180

Net present value of \$458,180 x 3.77% (Discount rate) = \$192,104

If an applicant/developer is producing single family affordable units, the applicant/developer must pay a fee equal to the number of Affordable Units multiplied by the Appreciation Differential/Unit and .5% discounted over the 30 year regulatory period.

For Sale Affordable Units x Appreciation Differential/Unit x .5 percent.

For example:
99 units x \$56,000 x .005 = \$27,720 x 30 years = \$831,600

Net present value of \$831,600 x 3.77% (Discount rate) = \$493,010

If SHRA is issuing a bond or providing a loan to the project these fees will be waived.

4. Concurrency: The construction phasing plan shall provide for the development of the affordable units concurrently with the market rate units. The AHS may deviate from this requirement only due to the phasing of infrastructure improvements or other development conditions impacting phasing, but in no event shall building permits be issued for more than 75 percent of the market rate units prior to the issuance of building permits for one hundred (100) percent of the affordable units. The final map for the development project shall be conditioned upon the recordation of an Affordable Housing Regulatory Agreement to be released when construction of the obligated affordable housing begins. Where a

⁸Annual Administrative Fee as approved in SHRA's Multifamily and Mortgage Revenue Bond Policies, Section 2.14.

development is a Master Plan with multiple final maps, the conditioned final map will be consistent with the AHS.

The Affordable Housing Regulatory Agreement is a legally binding agreement or covenant between the developer and SHRA that is recorded against the entire development project to ensure that the affordable obligation is satisfied. The Agreement establishes, among other things, the number of affordable units, unit sizes, location, affordability, tenure, terms and conditions of affordability, phasing and production schedule, and the developer of the affordable units. The Affordable Housing Regulatory Agreement will be based on the AHS outlined in the development agreement or other agreement approved by the County and when released will be replaced by a site specific Regulatory agreement of 55 years for multifamily projects and 30 years for for-sale projects.

B. Purchase Unit Credits⁹

If an applicant/developer purchases Unit Credits from SHRA, one credit will equate to payment of fees for one market rate unit. Unit credits will be priced at \$5,000/unit. The price of a credit will be increased by 3% annually from the date of adoption of these Guidelines. If the number of the market rate units in a development exceeds the amount of SHRA credits available, the developer must pay the applicable Affordability Fees for the remaining units or construct or dedicate land pursuant to Section 22.35.030 of these Guidelines.

C. Projects With Approved Tentative Map With Density Bonus

Projects containing density bonuses approved under the Repealed Ordinance may build according to that subdivision map. Such projects will be subject to all provisions of the current Ordinance and all density bonus units will be included in determining the affordability fee payable to the County.

D. Other Fulfillment Mechanisms

An applicant/developer may combine any option in this section and can couple any option with the payment of Affordability Fees. Additionally, an applicant/developer may propose an alternative fulfillment strategy to be reviewed and recommended for approval or denial by SHRA staff. The strategy will then be required to be approved by the Board of Supervisors. Alternative fulfillment options may include but are not limited to the substantial renovation of a single family home(s) or multifamily units and the Affordable Unit Credit Purchase Program as detailed in Appendix-2. If pursuing an alternative, the applicant/developer must demonstrate such a strategy will lead to the production of newly regulated affordable housing in at least an amount equivalent to the Affordability Fee established. The County, in conjunction with the SHRA, has the ability to make interpretations of options that are in substantial compliance with the Ordinance and the Guidelines. In no circumstance should the affordability fee owed by the applicant/developer be offset by non-affordable housing provided by the

⁹ SHRA produced 101 Unit Credits prior to the repeal of the previous version of this Ordinance. The number Unit Credits SHRA currently holds has been calculated by dividing the number of Unit Credits produced by 9 percent (as per Section 22.35.030 (D)) resulting in 1,122 Unit Credits.

applicant/developer. For example, a library, community building, or off-site infrastructure could not be used in lieu of paying affordability fees, nor can the affordability fee be reduced by the provision of such amenities.

Section 22.35.040 Exempt Development Projects – Residential units that are reconstructed after a demolition permit is issued are not considered to be “newly constructed” and are exempt from the ordinance. Please refer to Section 22.35.040 of the Ordinance for additional exempted projects.

Section 22.35.050 Affordability Fees

- A. **Affordability Fee** – The affordability fee is adjusted annually and currently is equal to \$2.58 per habitable square foot of each market rate unit.
- B. **Timing of Payment of Affordability Fee**– Fees shall be paid concurrently with the payment of building permit fees.
- C. **Annual Adjustment of Affordability Fee** – Fee shall be adjusted annually based on the Building Cost Index 20-City Average published by Engineer News-Record/McGraw Hill.

D. Extremely Low Income Buydown

At least 10 percent of the Affordability Fees collected will be utilized to produce extremely low income units. In general, SHRA will utilize Affordability Fees to buy down affordability in very low income units constructed as a result of the ordinance or constructed on sites dedicated as a result of the Ordinance. When determining compliance with the 10 percent expenditure requirement, the cost to buydown a very low income unit to an extremely low income will be consistent with the following schedule:

- 1 bedroom: \$45,000
- 2 bedroom: \$50,000
- 3 bedroom: \$55,000
- 4 bedroom: \$60,000

SHRA will report on ELI expenditure requirements in the Biennial Report. SHRA will have the authority to adjust the schedule to reflect market changes.

E. Large Development Projects

At least 50 percent of the funds available for projects will be used in development projects of at least 750 units (Large Development Project). SHRA will have the ability to collect funds until the accumulated amount is enough to fund an affordable housing development in a large project which complies with the SHRA’s Multifamily Lending and Mortgage Revenue Bond Program.

SHRA will report to the Board on the specifics of the Large Development Project expenditure requirement in the Biennial Report.

Section 22.35.060 Establishment and Administration of Fund for Affordability Fees

A. Use

Funds shall be expended solely to purchase land for affordable housing, produce affordable units, substantially rehabilitate affordable units, or buy down ELI units.

Substantial rehabilitation will be defined consistent with the California Tax Credit Allocation Committee regulations.

B. Administration Fees

Up to 10 percent of Affordability Fees may be used by SHRA and up to three percent by the County to cover Administrative expenses.

C. Funding Priorities

The prioritization of funds and will be established by SHRA in consultation with the Department of Community Development. The prioritization will be memorialized in SHRA’s Multifamily Lending and Mortgage Revenue Bond Policies (Policies), which are approved by the Board of Supervisors. The priorities listed in the Policies will be discussed in the Biennial Report prepared by SHRA.

D. Biennially Report- SHRA, in consultation with the County Director of Community Development, shall report biennially on the performance of the affordable housing program.

Section 22.35.070 Quality

The design of the affordable housing units shall be compatible with the design of the total project in terms of appearance, materials, and finished quality. The affordable units will provide a mix of bedrooms to accommodate different family sizes.

To avoid over concentration, the affordable housing units should be dispersed to the maximum extent feasible, taking financing requirements into account. In addition, to the extent feasible, affordable units shall be disbursed in proportion to the overall mix of units in the Development Project. Affordable units should not be a separate product apart from the overall development project, but should be included within the overall project.

Section 22.35.080 Accessibility – A minimum of 5 percent of the total units, but not less than 1 unit in a multifamily project constructed using affordability fees shall be made accessible for persons with disabilities.

Section 22.35.090 Occupancy and Affordability Requirements – Any person who rents or owns an affordable unit shall occupy the unit as their principal residence. Rental units shall remain affordable for 55 years and for-sale units shall be affordable for 30 years.

Section 22.35.100 Guidelines – The Executive Director of SHRA, in consultation with the County Director of Community Development, shall prepare guidelines to ensure compliance with the Ordinance.

Section 22.35.110 Severability – see ordinance

APPENDIX 1: Guidelines for For-Sale Units

Calculation of Sales Prices

SHRA will assist the applicant/developer in determining the maximum sales price allowable for the particular income category for which the home is intended. Maximum sales prices shall be based on a family paying no more than 35% of its total gross monthly income on all housing expenses as outlined below.

The sales price shall be calculated based on an occupancy standard of one person per bedroom. Income limits used shall be those published by the U.S. Department of Housing and Urban Development (HUD) for the Sacramento Metropolitan Statistical Area, and will be updated annually and published by SHRA.

For purposes of determining a sales price, housing expenses include, but are not limited to, the following:

- Principal and interest (PI)
- Mortgage insurance
- Hazard insurance
- Flood insurance (where applicable)
- Property taxes
- Mello Roos or other assessments (where applicable)
- Homeowners Association (where applicable)

Calculations for principal and interest, taxes, down payment, and insurance will be based on current market conditions, rates on similar mortgage products, and will be provided by SHRA at time of the pricing of the homes.

SHRA will provide the builder maximum allowable sales prices in writing. The prices shall be effective for six months after which they will be re-calculated if the unit is not sold. Sales prices will be based on current market conditions and income limits. SHRA's Portfolio Management Department will update estimated maximum sales prices and assumptions on an annual basis.

Selection of Buyer

Buyers are not required to be first-time homebuyers.

Income Qualification

Selected buyer(s) will have two weeks to provide to SHRA full documentation of the reported income of all household members eighteen years and older. These documents include, but are not limited to:

- Schedule of Household Members and Income;
- Two most recent years federal tax returns for all income earners who will be living in the home;
- Two most recent years W-2s for all income earners who will be living in the home;

- The four most recent, consecutive pay stubs for all income earners who will be living in the home; and
- Verification of other non-wage income, including child support, social security, disability, retirement/pension payments, annuity payments, unemployment, public assistance, alimony or regular gifts for all household members.

Minimum Household Size

<i>The minimum size of the family purchasing the Affordable home shall be limited by the bedroom size of the house. House Size</i>	Minimum Family Size
2 Bedroom	1 person
3 Bedroom	1 person
4 Bedroom	2 persons
5 Bedroom	3 persons
6 Bedroom	4 persons

Family size refers to all persons, related or not, living in the home, including all children under the age of 18.

First Mortgage Requirements

It is the buyer’s responsibility to secure financing from an institutional lender. The first mortgage must be an arm-lengths transaction, and must be a fully amortized loan with no balloon payments. No loans with non occupant co-mortgagers or co-signers will be allowed. SHRA will require a copy of the loan approval from the lender as proof of availability of financing.

Regulatory Agreement

At time of closing of escrow, the buyer will be required to sign a Regulatory Agreement that will be recorded against the property. This Agreement will detail the income and occupancy standards, as well as the re-sale and recapture provisions.

The affordable homes shall be occupied by the owners, and shall not be rented at any time. Provisions for occupancy of the homes shall be included in the Regulatory Agreement.

Procedures for Resale of Affordable Homes

1. Re-sale provisions: When the original homeowner decides to sell the affordable home prior to the end of the regulatory period, the homebuyer must notify SHRA of this intent. The homeowner is not to initiate discussions with a real estate agent or broker until SHRA has been notified. SHRA will have 30 days after receipt of this notification to set the new affordable sales price. The homeowner will then have 120 days from the date SHRA determines the affordable sales price to sell the home at the new affordable price to an income eligible buyer as established by SHRA. The homeowner will receive the difference between the new affordable sales price (“adjusted resale price”) and original

affordable sales price. If sold in the 120 days, the new homeowner will be subject to a new 30 year regulatory agreement.

If the homeowner is unable to sell the home at an affordable price in 120 days, the homeowner may sell the home on the open market. The seller will receive the difference between the new affordable sales price (“adjusted resale price”) and original affordable sales price. Any excess proceeds remaining from the sale of the home will be remitted to SHRA as recaptured funds.

2. Subsequent Re-sales

These same provisions shall apply to subsequent income eligible owners for sales to additional income qualified buyers. In each instance that a re-sale occurs to an income eligible homebuyer, a new Regulatory Agreement shall be recorded against the subject property.

Recapture Provisions

Funds recaptured by SHRA upon a sale to a non income eligible buyer will be used to fund additional affordable housing units per the Ordinance. If an affordable home is sold to a non income eligible buyer before the end of the regulatory period in accordance with the above provisions, the Regulatory Agreement shall be released from the property.

Transfer of Title

Any transfer of title of an affordable unit before the end of the regulatory period not in compliance with this section shall prompt the recapture provisions, unless that party receiving title is income eligible and qualifies themselves with SHRA. Addition of a party to the deed will trigger recapture unless the additional party is related to the owner through marriage or registered domestic partnership.

Refinancing

In order to assure that the integrity of the affordability provisions is maintained, the Agency must assure that the Regulatory Agreement securing the affordability of the property has priority over all liens, other than purchase money liens securing the purchase of restricted units. Any loans or advances on loans secured by the affordable unit, other than the purchase money loans, shall be deemed subordinate in all respects to the Individual Regulatory Agreement, including, without limitation, Agency’s recapture rights as provided above. Owner’s ability to refinance and to obtain funds from refinancing of the Restricted Unit is limited.

APPENDIX 2: Guidelines For Affordable Housing Unit Credit Purchase Program

Pursuant to Section 22.35.030 of the County Code (“Ordinance”) and Section 22.35.030 (3)(D)(1) of the Affordable Housing Program Guidelines Affordable Housing Unit Credits (Unit Credits) for the construction of affordable units in excess of a development’s affordable housing obligation can be earned and utilized to assist other developers in meeting their affordable obligations. The Guidelines allow Unit Credits to be purchased and sold in the private market or for Sacramento Housing and Redevelopment Agency (SHRA) to be a broker of Unit Credits. The components of the Unit Credit Purchase Program are as follows:

Producers of Unit Credits

The production of Unit Credits can be initiated by a developer/applicant or by SHRA. If unit credits are to be constructed and held by an applicant/developer, credits shall accrue only for affordable units in developments produced without the use of local public funding. However, developments which include tax credit or mortgage revenue bond financing without local public funding or that participates in the buy-down program may be eligible to generate credits. If unit credits are held by the SHRA, SHRA may utilize public funding to purchase Units but must dispose of the unit credits at their market value.

Creation and Valuation of Unit Credits

Unit credits will be created and valued once a certificate of occupancy has been issued for the excess unit. The value of a unit credit will be equal to the average public subsidy provided (Average Public Subsidy/Unit) to funded Mortgage Revenue Bond (Bond) projects in Sacramento County during the preceding five years reported annually by the California Debt Limit Allocation Committee (CDLAC) and published by SHRA in the year the credit was earned.

Extremely Low Income Buydown and Unit Credits

The Extremely Low Income (“ELI”) buydown can be used in conjunction with the purchase of Units Credits. Use of an ELI buydown does not constitute the use of public funding.

Unit Conveyance

Neither Developer/Applicant nor SHRA can convey Unit Credits prior to the issuance of Certificates of Occupancy.

Concurrency

A Developer/Applicant who has an executed Affordable Unit Credit Purchase and Sale Agreement may pull up to 50% of his building permit in advance of conveyance of Unit Credits.

Unit Credit Purchase and Sales Agreement

The Executive Director of SHRA has the authority to draft Unit Credit Purchase and Sale Agreements. If SHRA opts to purchase Unit Credits, the Executive Director is also authorized to enter into and execute Unit Credit Purchase and Sale Agreements.

Reporting

Staff will report the status of the Affordable Unit Credits Program in the Biennial Report.