

**THE *HOUSING OPPORTUNITIES PROCESS***  
**ADMINISTRATIVE GUIDELINES FOR**  
**“PSCDC WORKFORCE HOUSING PROJECT PHASE 1”**

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## PART ONE – GOVERNING ELEMENTS

### SECTION I – MISSION AND PURPOSE

“The Mission of the Pagosa Springs Community Development Corporation is to enhance the quality of life for the citizens of Pagosa Springs and Archuleta County by creating jobs; encouraging new capital investment; and creating a business-friendly community. In addition, the CDC will work closely with existing businesses in order to maximize their profitability and sustainability.”

- *Mission Statement Adopted by the PSCDC Board of Directors* \_\_\_\_\_.

In February 2023, the Board of Directors of the Pagosa Springs Community Development Corporation (the “PSCDC”) added workforce housing to their Strategic Plan. The PSCDC has worked collaboratively with the Archuleta County Housing Authority, Archuleta County leadership, Habitat for Humanity of Archuleta County, local banks, community stakeholders, and other organizations to develop a comprehensive workforce housing plan with the following goals:

- To ensure our community's workforce is successful in attaining long-term, safe, and energy-efficient housing.
- To provide housing opportunities and homeownership opportunities to our community's workforce.
- To work with our local Town of Pagosa Springs and Archuleta County leadership in creating compatible housing within their jurisdictions.
- To establish capacity for future projects to be replicated in additional phases.
- To establish housing protocols and assist with bringing in external funding to reduce the affordability gap for homeowners.

Affordability is paramount to the success of any community housing projects thus PSCDC will strive to provide multiple economic incentives to help reduce costs. For housing targeted toward the “missing middle” (home buyers who earn between 80% to 120% Area Median Income). PSCDC’s goal is to pass only vertical construction costs to home buyers, utilizing other measures such as gap funding and down payment assistance to help manage costs and affordability.

The purpose of these Housing Opportunities Process Administrative Guidelines (the “Guidelines”) is to govern the admission to, and occupancy of deed-restricted housing units for affordable workforce housing developed by the PSCDC. This document memorializes the parameters of buyer qualifications to *obtain and retain* affordable units and the processes for sale and compliance.

The Guidelines are split into two distinct sections:

- (1) The “Governing Elements” segment characterizes the major elements that a deed restriction would address and are used to define intended target populations, such as: “a 2-bedroom unit priced for households at 100% AMI that work full time in Archuleta

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County,” or “homes priced for households earning between 80 – 120% AMI and work in Archuleta County on a full-time basis.”

Additionally, the inclusion of both the PSCDC’s Mission statement and workforce housing plan goals into the Governing Elements is intentional to memorialize them, helping to honor the long-term sustainability of an affordable housing program.

The elements as memorialized in the deed restriction will supersede these Guidelines, however, in the absence of a deed restriction or when the deed restriction is silent on these elements, the Guidelines will prevail.

- (2) The “Program Procedures” segment defines the processes by which the elements within a subject deed restriction will be implemented by the ACHA through the authority of the PSCDC. If memorialized in the deed restriction, those procedures will supersede these Guidelines; however, in the absence of a deed restriction or when the deed restriction is silent, these Guidelines will prevail.

These Guidelines support the PSCDC’s goals and are not intended to supersede land use codes of Archuleta County, the Town of Pagosa Springs or the International Building Code. The Guidelines are intended to correlate to deed restrictions created for use by the PSCDC for its projects, providing elasticity to respond to a continuum of housing needs throughout Archuleta County. The Guidelines are used to establish governing tolerances for:

- Establishing Income Categories for Development Purposes,
- Establishing Ownership and Occupancy Criteria.

and, to institute, through sensible, transparent, equitable and defensible practices, the following:

- Initial Sales of Workforce Housing Units through the Housing Opportunities Process
- Deed Monitoring and Compliance Process
- Discrimination, Grievance and Exemption Processes.

NOTE: These Guidelines may be amended from time to time upon adoption by the PSCDC Board of Directors.

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## SECTION II – DEFINITIONS

Affordability Factor – the percent of a household’s gross income, expressed in a ratio, used in a mortgage formula calculation to set initial sale prices and calculate resale prices.

Affordable Housing - means housing whose sale prices or rental rates are set such that the amount spent by a Household on rent (utilities included) or mortgage payments (principal, interest, taxes, insurance, mortgage insurance and association dues) does not exceed 30% of the Household’s gross combined income (the “affordability factor”). From time to time, funding sources may set different affordability factors, which these Guidelines will adhere to as applicable.

ACHA – means the Archuleta County Housing Authority. The ACHA is the authorized administrator of these Guidelines for the PSCDC Workforce Housing Project Phase 1.

Area Median Income or AMI – means the median annual income for the County (or such next larger statistical area calculated by HUD that includes the County, if HUD does not calculate the Area Median Income for the County on a distinct basis from other areas), as adjusted for household size, that is calculated and published annually by HUD (or any successor index thereto acceptable to the PSCDC, in its reasonable discretion).

Assets - liquid Assets such as cash in savings, checking or other forms of bank accounts and stocks, bonds or other instruments that can readily be converted to cash. The most recent Assessed Value as provided by the applicable Assessor’s Office will be used to determine the value of real estate holdings, regardless of setoffs by encumbrances, costs of sale or holding, or percentage of ownership interest. Assets in a qualified retirement plan and other non-liquid assets such as personal belongings or intangible assets will not be included in the asset limitations for each income category.

CHFA – Colorado Housing and Finance Authority.

Co-Borrower - a person who is on title for the purpose of obtaining lender approval for a buyer’s purchase money mortgage.

County – means the County of Archuleta.

Deed Restriction – legal and binding agreements that restrict the use of real estate in some way and are listed or referenced in the deed. Covenants in a deed restriction will supersede these Guidelines.

Dependent – means a person, including a spouse of a child of, a stepchild or, a child in the permanent legal custody of or a parent of a Qualified Buyer, in each case whose sole place of residence is in the same Household as such Qualified Buyer and who is financially dependent upon the support of the Qualified Buyer. Dependent shall also include any person included within the definition of “Familial Status” as defined in 42 U.S.C. § 3602(k), as that act shall from time to time be amended.

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Disabled Person – In accordance with the ADA, a person with a disability is someone who has a physical or mental impairment that significantly limits one or more major life activities. This definition also includes people who have a history of such an impairment or are perceived by others as having such an impairment.

Gross Income - is the sum of all wages, salaries, net business profits and other forms of earnings, along with income received from all non-earned sources, cumulative of all persons receiving income in the Household who are 18 years of age and older, before any deductions or offsets to reduce personal taxable income.

Guidelines – means the most recently adopted Housing Opportunities Process Administrative Guidelines currently in effect and as amended from time to time by the PSCDC Board of Directors.

PSCDC – the Pagosa Springs Community Development Corporation, the administrative body for its deed restricted properties, including its Board of Directors, staff, successors and or assigns.

Household – means one or more persons who intend to live together on a property as a single housekeeping unit.

Housing Expense – means the amount paid for rent plus utilities, or for the principal, interest, taxes, insurance and any homeowner association dues. It includes all payments necessary to prevent loss of the right to own or occupy a property through failure to pay in a timely manner.

HUD – means the US Department of Housing and Urban Development.

Maximum Resale Price – means the maximum purchase price that may be paid by any purchaser of a property, other than the initial purchaser who acquires the property from the PSCDC or a developer, that is determined in accordance with the provisions in Section VI of these Guidelines. The Maximum Resale Price is not a guaranteed price, but merely the highest price an owner may obtain for the sale of the property which includes all considerations paid to the owner.

Non-Occupying Co-Borrower – a person who is on title merely for the purpose of obtaining lender approval for a buyer's purchase money mortgage and whose intent is to not occupy the property. A Non-Occupying Co-Borrower is exempt from the prohibition on ownership of other real estate as otherwise required by these Guidelines.

Non-Qualified Transferee – a person or business obtaining title by descent or otherwise, who does not meet the definition of a Qualified Buyer and is not allowed to continue to own affordable Units.

Owner Occupied – at least one Qualified Buyer holding title occupies the property as their sole and primary residence.

Primary Residence – a property where the occupants reside a minimum of nine (9) months every calendar year and is their permanent residence as evidenced by vehicle registration, voter registration,

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billing address for utilities, other personal or property document, etc. as determined at the sole discretion of the PSCDC.

Qualified Employment Region – the geographic boundaries of the County of Archuleta in the State of Colorado.

Qualified Employer – means a business, nonprofit, government agency whose primary business address is located within Archuleta County, who also employs persons who reside within Archuleta County, has fulltime employees who perform work in Archuleta County, and whose business taxes are paid in Archuleta County.

Qualified Household – at least one member of the Household is a Qualified Buyer or Qualified Occupant.

Qualified Buyer – means a natural person who meets the following requirements at the time that he/she takes initial ownership interest or Transfer of interest in a property, as qualified by the ACHA:

1. Has maintained his/her primary residence in Archuleta County, Colorado for one (1) consecutive months immediately preceding taking ownership of a Unit, OR has a verified employment contract with an Qualified Employer in Archuleta County that has been accepted by the ACHA; and
2. At the time of application and purchase, his/her primary source of income (80% or more of all income earned) working a minimum of 1500 hours on an annual basis, as documented with the Colorado Department of Revenue (filing a Colorado State income tax return is required), within Archuleta County and has demonstrated such to the ACHA, or has a verified employment contract showing the applicant will work sufficient hours on a regular basis with an employer in Archuleta County that has been accepted by the ACHA; and
3. Except as provided for in Section 4.1.e of these Guidelines, does not own any interest in other developed residential property(s). A purchaser who owns such property must convey all interest in said property prior to taking initial ownership or accepting transfer of interest of a property as provided for in Section 3.3.b of these Guidelines in its entirety; and
4. A Qualified Household shall not have a net worth that exceeds the limits as provided for in Section 3.3.b of these Guidelines; and
5. Income and asset restrictions are only applicable at the time of purchase and shall be verified by the ACHA; and
6. Shall occupy the property as his/her sole and exclusive primary residence at all times during ownership of the property.

Owner – a person(s) who is a Qualified Buyer who acquires an ownership interest in a Unit in compliance with the terms and provisions of these Guidelines.

Reasonable Accommodations - A reasonable accommodation as defined by the Americans with Disabilities Act. Reasonable accommodations may be requested from the PSCDC or ACHA for the residency requirements.

Transfer - means an act of a party, or of the law, by which the title to a property is wholly or partially

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transferred to another; including but not limited to the sale, assignment voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Unit, including but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, a leasehold interest or any interest evidenced by a land contract by which possession of the property is transferred and owner retains title, except that, this definition does not include any transfer of an interest by the PSCDC.

If reviewed and approved in writing by the ACHA prior to occurrence the following transfer(s) are exceptions to the definition, provided that the new owner, other than an estate, shall use the Unit as his/her Primary residence:

- A transfer resulting from the death of an owner where the transfer is to the spouse or domestic partner who is also a Qualified Buyer.
- A transfer resulting from a decree of dissolution of marriage or legal separation or from a settlement incidental to such a decree by which a transfer is made to a spouse who is also a Qualified Buyer.

Unit – an individual lot and the dwellings, structures, appurtenances, improvements and fixtures located thereon that are restricted by use and occupancy as approved by the ACHA itself. A housing unit may be restricted by use, occupancy, resale limitations, retirement restrictions or other limitations to employees of employers, locally working households, or seniors or Disabled Persons.

**SECTION III – INCOME CATEGORIES, EMPLOYMENT, ASSET, AND RESIDENCY REQUIREMENTS**

This Section identifies categories of income levels for Archuleta County Households for the purpose of establishing initial sales prices and rental rates for new housing.

**3.1 INCOME CATEGORIES**

***3.1.a: Affordable Housing Defined***

In accordance with HUD’s determination, the PSCDC considers housing as affordable when a Household spends at or less than thirty percent (30%) of its gross annual income on its Housing Expense. Such Housing Expense includes rent and utilities for rental housing, or the principal, interest, taxes, insurance, mortgage insurance and association dues for ownership housing.

Category 1	Very Low Income	Below 50% AMI
Category 2	Low Income	50.1 to 80% AMI
Category 3	Moderate Income	80.1 to 100% AMI
Category 4	Middle Income	101 to 120% AMI
Category 5	Upper Income	≥121% AMI

***3.1.b: Using Area Median Income***

The PSCDC will use income categories that correlate to income levels by Household size provided by the US Dept of Housing and Urban Development (HUD) and the U.S. Census Bureau known as Area Median Income (AMI) for Archuleta County on an annual basis. The PSCDC or the ACHA will make available the annual AMIs to the public when published by HUD.

***3.1.c: Determining Household Size***

HUD’s AMI categories are further defined by Household size. For the purpose of calculating initial sales prices, the Household size will be calculated by using one and one-half (1.5) persons per bedroom of the unit to be built. For the purpose of establishing rental rates, the number of bedrooms of the rental unit (times 1.5 persons) will determine Household size.



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## 3.2: INCOME TESTING AND INCOME CALCULATION

Income testing refers to the verification of the annual Household income of a prospective purchaser or tenant who wishes to qualify for an income-restricted unit.

Income testing shall only be done at the time of qualification for initial purchase or initial occupancy of the unit by a Household, and at every subsequent sale or Transfer of occupancy.

Household income should be calculated using a standard method for all prospective Household members  $\geq 18$  years old wishing to purchase or occupy income-restricted housing. These Guidelines require using gross income from each Household member's federal and state tax returns. For Households with more than one tax return filer, the gross income for each filer will be added together to arrive at the Household's income.

### **3.2.a: Documentation**

The ACHA may request any of the following documentation to calculate income using the Gross Income method to determine Household's AMI and income category in 3.1.a above.

#### Persons employed by others:

Most recent 2 years complete personal federal and Colorado State tax returns with all schedules  
Most recent 2 years W-2s from all employers  
Most recent 2 consecutive paystubs from each employer  
Verification of Employment from 3<sup>rd</sup> party

#### Persons with some form of self-employment:

Most recent 2 years complete personal federal and Colorado State tax returns with all schedules  
Most recent business Year-to-Date Profit & Loss Statement  
Most recent 2 months business bank statements  
Most recent 2 years business tax returns:  
    If a Partnership – K-1 and 1065  
    If an S-Corporation – K-1 and 1120S  
    If a Corporation – 1120 (including W-2's and 2 most recent paystubs)

#### Persons with unearned income:

Most recent 'award letter' stating monthly or annual gross Income received (SSI, SSDI, VA benefits, etc.)  
Evidence showing current receipt of unearned income (bank statements, copies of checks deposited)

#### Persons newly employed and/or with no previous tax returns:

Evidence of income to be earned (employment contract, written verification from new employer of income to be earned, etc.)  
Most recent consecutive business and personal bank statements from start of business

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Under certain circumstances the ACHA may require other non-traditional forms of documentation to accurately calculate a Household's Gross Income.

Documentation for income that is variable in nature (meaning subject to change from paycheck to paycheck) must be no more than 120 days old from the date of the document (including, but not limited to: Verification of Employment forms completed by the employer, paystubs, payroll records, profit & loss statements, bank statements, and other documents as determined by the ACHA). Information that changes no more than once per year, such as Social Security benefits, pensions, annuities and other lifetime benefits, may be dated up to one year (365 days) prior to the documentation's effective date.

All income documentation and the information contained therein will remain confidential.

### ***3.2.b: Calculating Gross Income***

All income reported to the Internal Revenue Service (IRS), whether taxable or not, may be included in the Household Gross Income calculation as long as it can be determined that it has a strong likelihood of continuing in the future. Income from the following sources will be calculated using the following methods:

"Salaried Income" – this is income earned by working for a separate entity whether the employee is considered 'exempt' or not. Income reported on the previous 2 years' W-2s in Box 3 "Social Security Wages" will be averaged over the time period covered by the W-2. This will allow for the inclusion of variable wages earned such as overtime, bonus\*, hazard pay, tips, etc. that are taxed by the employer.  
\* Bonus income may be excluded from income calculation based upon review.

"Self-employed Income" – this is income/(loss) earned from a business that the Household member has some ownership interest in. Partnerships, S-Corporations, LLCs and Sole Proprietorships are included here. Income/(loss) reported as taxable income on the business tax return or reported on a Schedule K-1 as income/(loss) to the Household member will be averaged for the most recent 2 years.

"Unearned Income" – this is income generated through no effort of the Household member and includes pension, annuity, dividends, retirement, alimony or separate maintenance payments, unemployment compensation and Social Security benefits. Variable sources of income will be averaged over the most recent 2 years. Non-variable sources will use the amount as stated on the appropriate documentation. Any income derived from these sources that will not continue past the purchase of a Community Housing unit will not be included in the adjusted total income calculation.

"Rental Income" – net income/(loss) earned from investment properties will be averaged over the past 2 years using income/(loss) as reported on Schedule E. If the relevant deed restriction does not allow for ownership of other improved real estate, this income will not be included in the Gross Income, and disposal of the associated property(s) must be verified.

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“Capital Gains/(Losses)” – income generated from capital gains/(losses) as reported on Schedule D will be included only if it is apparent that it is a regular activity of the Household member and is from the sale of short-term and/or long-term assets.

“Non-Occupying Owners” – income from persons taking an ownership interest in an income-restricted unit with a purchaser for the sole purpose of enhancing the credit-worthiness of the purchaser will not be included in the Household’s Gross Income. Such non-occupying owners must be an immediate family member or a family member once-removed (aunts, uncles, grandparents, in-laws), otherwise their income will be included in the Household’s Gross Income.

### **3.3: ASSET TESTING AND LIMITATIONS**

Asset testing refers to the verification of economic resources that contribute to a Household’s net worth.

The total of all liquid assets of all Household members  $\geq 18$  years old, available to the Household after acquisition costs have been deducted, shall be used to determine eligibility.

Asset testing and valuation shall only be completed at the time of a Household’s application to initially purchase or occupy a Unit.

#### ***3.3.a: Documentation and Valuation***

The term *Asset* refers to liquid assets such as cash in savings, checking or other forms of bank accounts and stocks, bonds or other instruments that can readily be converted to cash. The most recent Total Actual Value as provided by the applicable Assessor’s Office will be used to determine the value of real estate holdings regardless of setoffs by encumbrances, costs of sale or holding, or percent of ownership interest. Assets in a qualified retirement plan and other non-liquid assets such as personal belongings or intangible assets will not be included in the asset limitation.

Assets which have been assigned, conveyed, transferred, or otherwise disposed of within the last two years, without fair consideration received

Documentation to verify the value of an asset will be determined by the type of asset; the ACHA reserves the right to request documents deemed necessary and appropriate to calculate a Household’s net worth.

#### ***3.3.b Household Liquid Asset Limitations***

The maximum value of a Household’s total Assets shall not exceed \$175,000 as calculated by the ACHA in its sole determination.

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## **3.3.b: Prohibitions on Ownership of Other Real Estate**

Qualified Buyers are not permitted to own other developed residential property or dwelling unit. Developed residential property includes stick-built homes and mobile and manufactured housing on a permanent foundation or with utilities.

**3.3.b.i: Initial Compliance** – Prior to taking ownership or occupancy of a PSCDC Unit, a Qualified Buyer must list for sale, at competitive market prices, any other developed residential property, and still meet the asset limitations as set forth herein. Upon the sale, a copy of the recorded warranty deed must be provided to the ACHA. If the property is not sold by the time of closing on the PSCDC Unit, it must remain listed until sold. If the other property has not sold within 180 days after the purchase of the PSCDC Unit, the Qualified Buyer must list and sell the PSCDC Unit in full compliance with the deed restriction or these Guidelines, whichever prevails.

Any developed residential property(ies) which have been assigned, conveyed, transferred, or otherwise disposed of within the previous two years, without receipt of fair consideration and in order to meet the limitations on assets, shall be valued at the discretion of the ACHA. If deemed necessary, a qualified appraiser may be utilized at the expense of the applicant.

**3.3.b.ii: Continuing Compliance** – should an Owner obtain any ownership interest in developed residential property during their ownership of a PSCDC Unit, Owner shall immediately list for sale said property at fair market value. If the property is not sold within 180 days, the Owner must take action by either requesting, in accordance with these Guidelines, an Exemption to the 90-day listing limit, or, immediately list the PSCDC Unit for sale at no more than the Maximum Resale Price as determined by the ACHA.

## **3.4: EMPLOYMENT AND RESIDENCY REQUIREMENTS**

Prior to taking ownership or occupancy of a PSCDC Unit, the ACHA will verify, through several methods, if the applicant Household meets the minimum employment standards stated herein.

To be eligible to apply to purchase or occupy PSCDC Units, a Qualified Buyer must provide evidence satisfactory to the ACHA in its sole discretion of employment that meets these minimum requirements.

### **3.4.a: Minimum Employment Requirements**

At the time of purchase of a Unit and at all times during ownership or occupancy, a Qualified Buyer's primary source of income (the work where 80% or more of all income earned) is earned working a minimum of 1500 hours on an annual basis within Archuleta County and has demonstrated such to the ACHA, or has a verified employment contract showing the applicant will work a minimum of 1500 hours on an annual basis with an employer in Archuleta County that has been accepted by the ACHA.

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At least one Qualified Buyer at all times during their ownership of a Unit, must be working in Archuleta County for an employer whose business address is located within Archuleta County, whose business employees employees within Archuleta County, whose state business licenses denotes an Archuleta County address, and/or the business taxes are paid in Archuleta County.

If an employer does not have a physical address in Archuleta County, an employee must be able to verify that they physically perform their daily work within Archuleta County a minimum of 1500 hours on an annual basis, for individuals, businesses or institutional operations located in Archuleta County.

### **3.4.b: Other Employment Considerations**

To provide flexibility from the local employment requirement to address unique situation such as: 1) residents that work from home, 2) persons retiring in their home, 3) Disabled Persons, and 4) persons who have involuntarily lost their employment in Archuleta County, additional consideration as follows should be given when determining eligibility.

“Residents that Work from Home” – the ACHA may determine that residents who work from home satisfy the local employment criteria if evidence is submitted demonstrating that the work provides a product or service, or other significant direct benefit to the residents of the County and/or an existing local business. If the work, product, service or other benefit does not directly serve the residents of the County and could be performed anywhere, approval to purchase and/or occupy a PSCDC Unit may be denied.

“Persons Retiring in their Home” – Qualified Buyers as defined herein may retire in their PSCDC Unit after completion of a minimum of four (4) years of meeting the Minimum Employment Requirements as defined in Section 3.4.a herein.

All other requirements for qualification to continue to own or occupy a PSCDC Unit contained in a deed restriction must be met during retirement.

“Persons with Disabilities” – A Qualified Buyer who, after meeting the minimum employment requirements set forth herein for at least four (4) continuous years, becomes disabled and such disability prevents them from continuing to meet the minimum employment or retirement requirements set forth herein, shall be permitted to remain in their home for a period of occupancy authorized by the governing jurisdiction.

“Involuntary Loss of Local Employment” – Qualified Buyers who no longer meet the minimum employment requirements through no action of their own may be approved to continue to own and/or occupy their unit so long as they are approved in writing by the ACHA based upon criteria including, but not limited to: 1) percent of current total income earned in Archuleta County, 2) place of voter registration, 3) place of automobile registration and driver’s license address, 4) length of residency within Archuleta County, 5) Dependent(s) attendance at local educational institutions, and 6) other qualifications established by the ACHA from time to time. Compliance with each of these criteria is not

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necessary; the ACHA shall consider the criteria cumulatively as they relate to the purpose and intent of the unit's deed restriction.

### ***3.4.c: Minimum Residency Requirements***

Any minimum residency requirement specified in the deed restriction shall be followed; if none is specified, proof of a minimum of one (1) months' residency or, an employment contract or letter of employment may be used to evidence intent to occupy a PSCDC Unit as an applicant's primary residence.

### ***3.4.d: Reasonable Accommodations***

A reasonable accommodation as defined by the Americans with Disabilities Act may be requested from the ACHA for the Qualified Buyer requirements.

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## **SECTION IV – OWNERSHIP, USE, AND OCCUPANCY**

The core goals of the PSCDC's housing plan are to provide dwelling accommodations to its local workforce where rental rates and purchase prices are within the means of families of moderate to upper income ranges, and, to develop a replicable model for future development through partnerships with housing stakeholders in Archuleta County. These housing goals support the PSCDC's over-arching organizational goals of enhancing economic development while tending to the needs of a healthy, prosperous business community. Workforce housing is a necessary and vital strategic component of achieving both of these goals.

Stakeholders in Archuleta County acknowledge that the high cost of obtaining housing (new or existing), a limited supply of decent housing, the high demand and its limited local capacity to deliver the amount of housing needed have significantly impacted the community's ability to reach economic stability. To mitigate these impacts through housing creation, the cost of construction or acquisition of affordable housing units must be publicly or privately subsidized in some manner. The most effective means to protect these subsidies is through the use of deed restrictions that profile the acceptable types of ownership, allowable uses of the unit, and, who may occupy a unit under what types of tenure.

### **4.1: OWNERSHIP, USE, OCCUPANCY**

#### ***4.1.a: Qualification Prior to Ownership or Occupancy***

Prior to executing an offer for ownership of a deed-restricted property, a purchaser shall be approved by the ACHA as a Qualified Buyer.

Documents that shall be provided to the ACHA by the applicant must include:

1. Prequalification letter from a bona fide lender stating the loan amount the applicant qualifies for.
2. Certificate of Eligibility from the ACHA.
3. A legible, valid photo identification.
4. Employment Verification Form provided to ACHA by the applicants' employers.
5. Evidence of legal residency.
6. Court documents reflecting income sources or financial obligations that may impact an applicant's ability to qualify, as determined by the ACHA.
7. Certification of completion dated less than 12 months old for a first-time homebuyer education course.

#### ***4.1.b: Occupancy Requirements***

At all times during ownership of a deed-restricted property, the use and occupancy of the property shall be limited exclusively to a Qualified Owner, their partner, and their Dependents as their sole and exclusive primary residence.

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To minimize under-utilization of bedrooms in PSCDC Units, except for studio and one-bedroom units (due to inapplicability), minimum household size is one person less than the bedroom count of the subject unit. For example, a two-person household may not purchase and occupy a four-bedroom unit, but a two-person household could purchase a studio, one-, two- or three-bedroom unit.

No more than four non-related persons may occupy a deed-restricted unit at any one time.

### ***4.1.c: Leave of Absence Exemption***

There are times when a Qualified Owner must leave their residence for an extended period (ninety (90) consecutive days or more on an annual basis) for personal or family reasons. In this instance the Qualified Owner may apply for an exemption from the ACHA from the use and occupancy requirements of these Guidelines. It is the responsibility of the Qualified Owner to provide evidence satisfactory to the ACHA of a bona fide reason for the exemption and a commitment to returning to the property. A leave of absence exemption may be granted at the sole discretion of the ACHA and will be granted for a cumulative twelve (12) months leave of absence maximum.

During an approved leave of absence longer than six (6) months, the Qualified Owner must find a household that meets the requirements of Qualified Buyer to lease the Unit during their absence. The ACHA must approve the tenant prior to occupancy. The maximum allowed monthly rental for this occupant shall not exceed the sum of: 1) the Qualified Owner's mortgage payment (to include monthly taxes and insurance), and 2) any HOA dues paid monthly, plus 3) One Hundred Fifty Dollars (\$150.00). The lease and the rent calculation must be approved by the ACHA prior to occupancy.

### ***4.1.d: Business Use of a Property***

The use and occupancy of PSCDC's deed-restricted properties will be limited exclusively to housing for natural persons who have been qualified by the ACHA as meeting employment, income, asset and occupancy restrictions. Unless permitted by local zoning or ordinances where a property is located, and with written permission from the ACHA, a Qualified Owner shall not engage in any commercial business activity on or in the Unit. Home businesses require written permission of the HOA and the ACHA prior to occupancy.

### ***4.1.e: Non-Occupant Co-Borrowers***

Co-borrowers (persons providing security or assuming partial responsibility for a purchase money loan) may be approved for joint ownership of the Unit but shall not occupy the Unit unless qualified by the PSCDC. All co-borrowers must execute the subject unit deed restriction acknowledgement and the deed restriction security instrument prior to purchase of a Unit. If title to a Unit transfers solely to a non-qualified co-borrower, the Unit must be placed for sale according to the terms of the deed restriction and these Guidelines.



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## **4.1.f: Initial Finance and Refinance Restriction**

**4.1.f.i:** At the time of purchase of a deed-restricted Unit the original principal amount of any indebtedness secured by a mortgage shall not exceed an amount equal to one hundred percent (100%) of the purchase price paid for the unit.

**4.1.f.ii:** An owner may refinance a mortgage that encumbers their Unit, provided, however, that the original principal amount of any refinanced indebtedness secured by any and all mortgages against the Unit shall not exceed an amount equal to ninety-seven percent (97%) of the then current Maximum Resale Price.

These Guidelines recommend that each deed restriction created incorporate the elements of this Section 4.1.f in its entirety.

## **4.1.g: Reasonable Accommodations**

A reasonable accommodation as defined by the Americans with Disabilities Act may be requested from the PSCDC for the Qualified Buyer requirements.

## **4.2: MAINTAINING ELIGIBILITY FOR OWNERSHIP**

There is no requirement to meet income or asset criteria for persons who have already purchased and own a PSCDC housing Unit, however, occupancy and employment criteria along with non-ownership of other improved real estate must continue to be met throughout the tenancy of the Household. ACHA will require all Owners to complete and sign a deed-monitoring affidavit on an annual basis. Responses to the affidavit may require that additional documentation be provided to verify compliance.

It will be considered a violation of these Guidelines for an Owner to fail to comply with all deed-monitoring requirements.

### **4.2.a: Ownership After Death of Head of Household**

Should an Owner who is also a Qualified Buyer that is the head of the Household become deceased, the remaining Household members shall be permitted to occupy the Unit for no more than 12 months after the death, providing an opportunity for remaining Household members to settle estate or other matters pertaining to the ownership of the Unit. If a remaining Household member becomes a Qualified Buyer during this term they will be allowed to accept Transfer of title, subject to the ACHA's approval.

## **PART TWO – PROGRAM PROCEDURES**

### **Section V – PURCHASING NEW PSCDC UNITS**

From time to time the PSCDC may operate a lottery-style process, known as a Housing Opportunities Process (the “HOP”) for the sale of newly developed deed-restricted homes. The following procedures will be implemented by the ACHA and are designed to provide a sensible, actionable process that is transparent, provides equity to persons accessing the process and, when delivered consistently in a uniform manner, should be defensible in its implementation.

#### **5.1: QUALIFICATIONS FOR ENTERING A HOUSING OPPORTUNITIES PROCESS**

To qualify to enter the HOP the ACHA must determine that at least one person in a Household wanting to take title to a deed-restricted property meets the requirements for a Qualified Buyer and any other requirements of the applicable deed restriction.

A reasonable accommodation as defined by the Americans with Disabilities Act may be requested from the ACHA for the Qualified Buyer requirements.

The ACHA will issue a certificate of eligibility upon approval of the Household to purchase a Unit. A title company or transaction attorney may not close a purchase transaction on a deed-restricted home without having a copy of the certificate in their possession.

#### **5.2: APPLICANT SELECTION CRITERIA**

##### ***5.2.a: Preferential Occupant Tiers***

There are no preferential occupant tiers for the PSCDC Units. All Qualified Buyers will have their HOP ticket placed in the entry container with all other Qualified Buyer tickets at the same time, and all undrawn tickets are present in the container for each unit drawing.

##### ***5.2.b: HOP Entries by Tenure, Household Composition***

Each Qualified Buyer will receive one entry ticket for the HOP. Only one Qualified Buyer in a Household may enter the HOP.

Two or more persons who have resided in the same Household, or generally hold themselves out to the community as being of the same Household, will not be allowed to enter a HOP separately for the purpose of increasing the likelihood of being selected.

Any Qualified Buyer or Qualified Owner currently under review by the ACHA for possible non-compliance issues may not enter any HOP until the ACHA is satisfied that the non-compliance issue is resolved.

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## **5.2.c: Reasonable Accommodations**

A reasonable accommodation as defined by Americans with Disabilities Act may be requested from the ACHA for the residency requirements.

## **5.3: HOUSING OPPORTUNITIES PROCEDURES**

All HOPs shall be held in a publicly noticed in advance, held at an identified location readily accessible to all abilities, and all participants in the event and any other interested persons are allowed to attend. Qualified Buyers who are unable to attend a HOP in person may designate a proxy (in writing to the ACHA prior to the HOP initiating) to act on their behalf.

Unrepresented participants will not be considered in the drawing and their entries will be removed.

The HOP proceedings will be sight-and-sound recorded.

### **5.3.a: Housing Opportunities Process**

1. At the start of the HOP, the PSCDC Board President or designee and one staff member, along with an un-affiliated third-party, shall be present to witness the entire process and that each applicant has placed their entry into the lottery container.
2. The entry container shall be solid and non-transparent, and entries will be sufficiently mixed.
3. The un-affiliated third-party person will then draw an entry out of the container, and the name shall be read and recorded on the ACHA HOP log.
4. The selected participant will, within 5 minutes, identify and claim a unit with an AMI and bedroom count that matches their eligibility.
5. This process will continue until entries have been drawn for each unit available and recorded in the same manner.
6. Alternates will be drawn from the remaining participants placed on the alternate list in the order selected.
7. The first-drawn applicant will have no more than three (3) business days to execute a contract or reservation form with the ACHA. Should they fail to do so, the first alternate will be notified and will have no more than three (3) business days to execute a contract or reservation form, and should they fail to do so, then the next alternate will be notified and will have no more than three (3) business days to do so. This process will continue until there is a contract or reservation executed on each property offered.

### **5.3.b: Earnest Monies and Title**

The ACHA will, in cooperation with a developer where applicable, set the minimum earnest money deposit required for HOP participation. The amount of \$1,000 is recommended but may be subject to project financing requirements. At no time will an affordable housing HOP require more than 1% of the purchase price as the minimum earnest money deposit.

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Earnest money deposits shall be refundable from the time of contract execution to a specified hard date identified prior to execution of contracts. The developer may require additional earnest money at that time, but in no event will it be more than 1% of the purchase price.

PSCDC will select the title company absent a developer's selection.

### **5.4: INELIGIBLE APPLICANTS**

Applicants determined to be ineligible to enter a HOP may submit a notice to the ACHA protesting the determination and initiate the Grievance Process identified in Section X of these Guidelines within one week of being notified of ineligibility.

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**SECTION IX - DEED MONITORING/COMPLIANCE MATTERS**

**9.1: COMPLIANCE MATTERS**

The affordable workforce housing programs currently in place in the community, as well as those yet to be developed, have come at great cost to many stakeholders in terms of volunteer time, investment of legal, financial and material resources, the contributions of intellectual property and gaining the support of the public will. It is incumbent upon providers of housing programs to protect the investments made and honor the intent of each deed restriction through compliance monitoring.

From time to time, it may come to the attention of the ACHA that a Qualified Buyer or an Owner may be out of compliance with the terms of the applicable deed restriction. It is the responsibility of the ACHA to investigate all alleged non-compliant matters and determine if a violation is in existence. ACHA members and staff will inform the Board President of potential non-compliance matters upon discovery and report regularly on the investigative process and outcomes.

**9.2: DEED MONITORING**

The ACHA will annually monitor compliance by owners of deed-restricted properties through a self-completed affidavit in accordance with these Guidelines as amended from time to time. It is considered a violation of these Guidelines for an Owner to refuse to return a completed deed-monitoring affidavit to the ACHA.

**SECTION X - DISCRIMINATION, GRIEVANCE PROCESS, EXEMPTION REQUESTS**

The requirements established in this section are designed to ensure that there is a fair and equitable process for addressing: owner/tenant or prospective owner/tenant (collectively known as “Complainants’) concerns and to ensure fair treatment of Complainants if an action or inaction by the PSCDC, being its Board of Directors or staff, or the ACHA, being its Board of Directors or staff, is perceived to adversely affect the Complainant of a housing project.

**10.1: *Discrimination***

Protected classes in housing include race, color, religion, creed, national origin/ancestry, disability/handicap, sexual orientation (including transgender status), marital status and familial status (children under the age of 18 in the Household).

Any Complainant seeking to purchase housing owned by the PSCDC and/or administered by the ACHA who believes he or she is being discriminated against because of a protected class may file a complaint in person with, or by mail to the U.S. Department of Agriculture’s Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW., Washington DC 20250-9410 or to the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development (HUD), Washington, DC 20410, and to the Colorado Department of Regulatory Agencies Civil Rights Division, 1560 Broadway, Suite 110, Denver, CO 80202, and to the LLCRHA Board of Directors at PO Box 1683, Leadville, CO 80461.

**10.2: *Alternative Dispute Resolution***

Any Complainant seeking to purchase housing owned by the PSCDC and/or administered by the ACHA, or an existing Complainant of housing administered by the ACHA, who believes he or she is otherwise aggrieved may request an alternative dispute resolution process through the ACHA Board of either a Grievance and Appeals Hearing, or by engaging in a Voluntary Mediation Process. Such requests must be made in a timely manner by delivering the request to the Director of the ACHA within fifteen (15) calendar days of the alleged grievance. The request shall clearly identify the nature and date of the grievance and if they want a Grievance and Appeals Hearing or engage in a Voluntary Mediation Process, both as described herein.

Grievance and Appeals Hearing

The Board President shall appoint three Board members as the Grievance and Appeals Committee. The Committee shall schedule a hearing with the Complainant within ten (10) calendar days of the request for an alternative dispute resolution.

The Complainant and the ACHA may both present to the Committee any exculpatory or inculpatory records, documents and regulations pertinent to the request for the hearing. Both parties shall be given the opportunity to examine all such documents at minimum 48 hours prior to the hearing. Both parties may have legal representation at the hearing.

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The Committee shall determine the length of the hearing after review of the documents provided and shall inform the parties of the procedure during the hearing (which party presents first and for how long, comments from any public present, etc.).

There are three possible outcomes from the Committee at the time of the hearing:

- The Committee can rule to uphold the ACHA actions/determinations
- The Committee can overrule or modify the ACHA actions/determinations
- The Committee can defer their ruling until a future date, not to exceed five (5) business days from the date of the hearing. A final ruling of the Committee will be delivered in writing to the Complainant and the ACHA.

This Grievance and Appeals Hearing process may be amended from time to time by the PSCDC Board of Directors.

## Voluntary Mediation Process

The ACHA will use a Voluntary Mediation Process where the Complainant agrees that any and all claims, controversies, breaches or disputes arising from or related to an action or inaction of the ACHA is subject to a requirement to mediate prior to filing any lawsuit or filing for arbitration. The mediation shall take place in the County of Archuleta, State of Colorado utilizing a mediator provided by The Office of Dispute Resolution of the State of Colorado's Judicial Branch ("ODR"). The mediation proceedings will be conducted in compliance with the Colorado Dispute Resolution Act C.R.S. 13-22-301 et seq in effect at the time a demand for mediation is made. The parties to the mediation agree that there is no requirement to actually reach a settlement to the dispute in mediation but agree that if a settlement is reached during mediation, it shall be reduced to writing and shall be binding upon the parties, their heirs, executors, administrators, successors and assigns.

## **8.3: Exemption Request**

A request for an exemption to the strict application of these Guidelines or any terms or conditions of an applicable deed restriction may be made to the ACHA requested if an unusual hardship can be shown, and the variance from the strict application of the Guidelines is consistent with the deed restriction intent. To request an exemption, a letter must be submitted to the ACHA Director stating the request, with documentation regarding the unusual hardship.

The ACHA may grant a request for an exemption to these Guidelines, with or without conditions. If the request is for an exemption to the terms and conditions of the deed restriction, the ACHA Board President will forward the request and supporting documentation to the beneficiary of the deed restriction for a final decision.