

## **PART VII**

### **DEFINITIONS**

**Accessory Dwelling Unit (ADU)** - A dwelling unit which must be totally separate from the primary dwelling unit, with a private entrance, a full bath and a kitchen, as further specified in these Regulations and City of Aspen Land Use Code, Chapter 26.520.070.

**Accredited** – Accreditation is a process by which an education facility’s services and operations are examined by a third-party accrediting agency to determine if applicable standards are met. If the standards are met, the facility receives accredited status. In the United States, educational accreditation is performed by a private nonprofit membership association.

**ADULT** - An individual who is 18 years of age or older or a minor under the age of 18 who has been emancipated to act on his/her own behalf, including the ability to execute a contract or lease.

**Affordable Housing/Employee Housing/Work Force Housing** - Dwelling units restricted to the housing size and type for individuals meeting asset, income, minimum occupancy and other requirements of the Aspen City Council, Board of County Commissioners and/or the APCHA, whichever shall apply, as explained in Deed Restrictions.

**Affordable Housing Zone District** - See Aspen Land Use Code, Chapter 26.710.

**APCHA Senior** – An APCHA senior is a person who is 65 years or older, who may have up to 150% of the net assets otherwise allowed at the top of their applicable income category where they are applying to reside or currently residing.

**Aspen/Pitkin County Housing Authority** – APCHA.

**APCHA Employee Housing Guidelines** – Now known as the Aspen/Pitkin Employee Housing Regulations as of May 6, 2020.

**Assets** – Real or personal property owned by an individual that has commercial or exchange value. Assets include specific property or claims against others, in contrast to obligations due others. See also definition for Gross Assets and Net Assets.

**Basement** - As defined by the applicable City or County Land Use Code.

**Bedroom** – A room in a dwelling unit designed to be used for sleeping purposes that must include closets and access to a bathroom, and that meets applicable City or County International Building Code requirements for light, ventilation, sanitation and egress.

**Buy-down Unit** – A free market unit that the government (City of Aspen, Pitkin County, APCHA) and/or private sector acquire, and deed restricts to affordable housing in accordance with these Regulations.

**Capital Improvements** – Except as otherwise defined in the applicable Deed Restriction, any improvement to real property excluding repair, replacement and maintenance.

**Caretaker Dwelling Unit (CDU)** – A dwelling unit that must be a totally separate unit – private entrance, full bath and kitchen, as required in these Regulations and current Section of the Pitkin County Land Use Code.

**Cash-in-Lieu / Fee-in-Lieu / Impact Fee** – A monetary exaction imposed by the City and/or County as a condition of, or in connection with, approval of a development project for the purpose of defraying all or some of the costs to mitigate for employee housing generated by the project. Further information can be found in the respective City or County Land Use Codes.

**Category** – A classification of employees, qualified residents, buyers, and deed restricted dwelling units by income limits, sales prices or maximum rental rates as determined by the APCA based upon household gross income and net assets.

**Consumer Price Index (CPI)** - The Consumer Price Index that is used for purposes of the Regulations and for purposes of the Deed Restriction is the *Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) in the U.S., Midwest, and West, not seasonally adjusted, All Items (1967=100)*. The U.S. City Average is the one that is used. The information is received on a monthly basis from the U.S. Department of Labor, Bureau of Labor Statistics.

**Co-signer** - A joint signatory, with a qualified buyer, of a promissory note, who may not occupy the unit unless qualified by the APCA.

**Deed Restriction** - A contract entered into by the APCA, City of Aspen, and/or Pitkin County and the developer, owner or purchaser of real property identifying the conditions of occupancy and resale as affordable housing.

**Dependent** – A “dependent” is either a “qualifying child” or a “qualifying relative.”

A member of a household or family other than the head, spouse, or co-head, who is under 18 years of age or is a person with disabilities or a full-time student. For the purposes of these regulations, a foster child, a foster adult, or a live-in aide may never be a dependent regardless of age or disability.

A “qualifying child” is a child (including stepchild, adopted child, or eligible foster child, i.e. minors), or a sibling (or stepsibling) of the taxpayer, or a descendant of either; who has resided in the principal abode of the taxpayer for ***at least 100 days out of a calendar year***; who has not attained age 24; and who has not provided more than half of his or her own financial support for that year.

A “qualifying relative” is an individual who (a) is a sibling (including stepsiblings), the taxpayer's father or mother or an ancestor of either of them, a stepparent, a niece or nephew, an aunt or uncle, or an individual, other than a spouse, who resides in the principal abode of the taxpayer and is a member of the household; (b) has gross income in that calendar year not exceeding the exemption amount; (c) receives more than half of his/her support for the year from the taxpayer; and (d) is not a qualifying child of any other taxpayer for the calendar year. Said “qualifying relative” must be listed as a dependent on a tax return to be classified as a valid dependent.

**Disability** - An inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or (b) in the case of an individual who has attained the age of 55 and is blind, inability by reason of such blindness to engage in substantial gainful

activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time. Proof of disability is required.

**Dormitory** – A structure or portion thereof under single management that provides group sleeping accommodations for occupants in one (1) or more rooms for compensation. Standards for use, occupancy, and design of such facilities shall be approved by APCHA. See part II, sec. 3.

**Earned Income** – APCHA follows the Internal Revenue Service’s definition of earned income, which can be found here: <https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/earned-income>

**Employer (Pitkin County Employer)** - A business whose business address is located within Aspen and/or Pitkin County, whose business employs employees (as defined herein) within Pitkin County, who work in Pitkin County, and whose business taxes are paid in Aspen or Pitkin County. If an employer is not physically based in Pitkin County, an employee must be able to verify that they work in Pitkin County a minimum of 1500 hours per calendar year for individuals, businesses or institutional operations located within Pitkin County.

**Employee Dwelling Unit** – Any deed-restricted dwelling unit that is required to be rented out in accordance with Pitkin County Land Use Code, Section 3-150-120.

**Employee Housing** – See definition of Affordable Housing.

**Fiduciary** – One who owes to another the duties of good faith, trust, confidence and candor, and who must exercise a high standard of care in managing another’s money or property.

**Financial Statement** – A statement detailing all personal assets, liabilities, and net worth (the difference between assets and liabilities) as of a specific date.

**Full-Time Work** – Full time work, as defined for the APCHA program, is someone who is working at least 1500 hours per calendar year within Pitkin County, and earn at least 75% of their income within Pitkin County.

**Gross Assets** – The total of real and personal property of a person which has tangible or intangible value. This includes among other things, patents and causes of action which belong to any person, as well as any stock in a corporation and any interest in the estate of a decedent; also, the property or estate that is available for the payment of debts. Gross assets shall include funds or property held in a trust or any similar entity or interest, where the person has management rights or the ability to utilize the assets for the payment of debts or for other purposes. Gross assets shall also include 60% of a valid pension plan.

**Gross Income** – The total income of a person including maintenance and child support, derived from a business, trust, employment, or income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances.

**Household** – a) All persons who will be occupying a unit regardless of legal or marital status, b) a married couple, whether both will be living in the unit or not. A person may be part of more than one household. In determining if individuals constitute members of a household, APCHA may consider the circumstances of the relationship(s), including without limitation the following:

1. Legal residence and domicile;
2. Ownership and location of real and personal property;
3. Access to and use of the real and personal property of other individuals;
4. Family relationship or cohabitation;
5. The extent to which the relationship(s) is close and intimate or is an arm’s length relationship; and
6. The permanence, duration, and degree of commitment in the relationship(s).

For purposes of a lottery all married couples may only enter into a lottery once and neither person may bid separately in that lottery. If two separate households (single, file separate income tax returns as single, etc.) enter together into one lottery bid, the same combined income and assets will be utilized in any future lotteries for a one-year period of time. Should circumstances change within the one-year time frame, a person may request a change in household status (i.e., category) once during that one-year time frame.

**Household Net Assets** – The combined net assets of all individuals who will be occupying a unit regardless of marital or legal status.

**Household Income** – The combined gross income of all individuals who will be occupying a unit regardless of marital or legal status. Adjustments/additions to gross income for business expenses are permitted for persons who are self-employed.

Immediate Family – A defined group of relations, including a person’s parents, siblings, spouses, children or an individual by blood whose close association is an equivalent of a family relationship.

**In-Complex (In House) Bid** – A priority bid granted to person(s) for a unit in the same complex in which they presently reside and have resided for at least one consecutive year. If a new project is built in phases, the in-complex priority does not go into effect until all affordable housing phases of the project are completed. In order to obtain an in-complex bid, the existing ownership unit MUST come up for sale in the lottery system.

**Kitchen** – For Accessory Dwelling Units, Caretaker Dwelling Units and all other deed-restricted units, a kitchen must include, at a minimum, a two-burner stove with oven, standard sink, and a refrigerator plus freezer. The oven must be able to bake and broil and be at least 5 cubic feet; the sink must measure at least 14”WX16”DX5.25”H; refrigerator must be at least 5.3 cubic feet and include at least a .73 cubic foot freezer.

**Lottery** – A random drawing among competing bidders to select a winner from applicants of the highest priority.

**Maximum Sales Price** – Unless otherwise defined in the applicable Deed Restriction, is the owner’s purchase price multiplied by the appreciation (as permitted by the Deed Restriction) plus the present value of capital improvement costs for which verification of the expenditure has been provided and approved by APCHA.

**Minimum Occupancy** – A requirement that at least one person (with a leasehold or ownership interest) per bedroom must reside in a unit. A minor child or dependent shall be granted equal status as a person for this purpose. In a two-adult household, both adults must be working in Pitkin County in order to qualify for an additional bedroom.

**Net Assets** – Gross assets minus liabilities; 60% of a valid retirement account shall be included as an asset; otherwise, the entire account will be included.

**Net Livable Square Footage** – The size of a dwelling unit calculated as the interior living area measured interior wall to interior wall, including all interior partitions. This also includes, but is not limited to, habitable basements and interior storage areas, closets and laundry areas. Exclusions include, but are not limited to, uninhabitable basements, mechanical areas, exterior storage, stairwells, garages (either attached or detached), patios, decks and porches.

**Own or Ownership** - for the purpose of determining the ownership of real property or other assets, shall include any interest held, in whole or in part, personally, or directly or indirectly, as a shareholder or member of a corporation, as a partner in a partnership, as a joint venture in a joint venture, as a beneficiary of a trust, or through any other legal entity or legal arrangement.

**Ownership Exclusion Zone (OEZ)** – The land area in which is located any developed residential property that has an address within the Roaring Fork Drainage situated in Eagle, Pitkin, Garfield or Gunnison Counties, or within the Colorado River Drainage from and including the unincorporated No Name area to and including Rifle, and including, but not limited to, the incorporated and unincorporated areas of Aspen, Basalt, Carbondale, El Jebel, Glenwood Springs, Marble, Meredith, New Castle, No Name, Redstone, Rifle, Snowmass, Snowmass Village, and Woody Creek.

**On-Site / Off-Site** – With reference to the location of deed restricted property provided for mitigation purposes, either next to or attached to the development (on-site) or at a separate approved location (off-site).

**Prequalification** – A borrower’s tentative mortgage approval from a lender.

**Primary Residence** – The sole and exclusive place of residence of a person. An owner or tenant shall be deemed to have ceased to use a unit as his/her primary residence by accepting employment outside of Pitkin County, or by residing in the unit fewer than nine (9) months out of any twelve (12) consecutive months.

**Purchaser** – A person who is buying or has purchased a deed restricted unit which is subject to these Regulations, including any qualifying potential purchaser or past owner of any such deed restricted unit, but only with respect to any issue arising under these Regulations.

**Qualified Buyer** – See Part I, Section 6.

**Qualified Resident** – A person(s) meeting the income, asset, employment, residency, property ownership and other requirements of these Regulations and the applicable deed restriction, including retired and handicapped persons, or dependent(s) of any of these as such terms are defined herein.

**Qualified Retiree in APCA Housing** – A person who has reached the retirement age as defined below and who has for at least ten (10) consecutive years immediately prior to retirement met the requirements of an “Employee” and who has owned or leased a deed restricted unit for at least four (4) consecutive years immediately prior to retirement. An individual is allowed to retire at age 62 if they can document a 30-year work history with 15 of those years immediately preceding retirement age residing in APCA housing.

**Regulations for the APCA Program** – Formerly known as the APCA Employee Housing Guidelines.

**Requalification** – Requirements which renters/ tenants and owners of affordable housing must meet bi-annually to ensure continued eligibility.

**Resale Agreement** – A contract entered into by the APCA, City of Aspen, and/or Pitkin County and the developer, owner or purchaser of real property identifying the conditions of resale as affordable housing.

**Residential Dwelling Unit** – Any residential property that has an address within the Ownership Exclusion Zone.

**Retiree** – See **Qualified Retiree** above.

**Retirement Age for APCA Housing** – A current tenant or owner can qualify to become an APCA qualified retiree at such time he/she reaches the age to receive full (100%) benefits as determined by the U.S. Social Security Administration (see below), or as otherwise stipulated in the applicable deed restriction. Any change of the full retirement age approved by the U.S. Social Security Administration will not automatically apply to the APCA program. Any change in full retirement age will require review and approval by the APCA Board, City Council and the BOCC. (Also see definition of Qualified Retiree in APCA Housing above.)

<u>Year of Birth</u>	<u>Full Retirement Age</u>
1942 and Earlier	65
1943 – 1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 and later	67

**Roaring Fork River Drainage/Roaring Fork Valley** – See the Ownership Exclusion Zone.

**Seasonal Employee** – A person who works at least 30 hours per week during the Winter Season (generally November through April) and/or Summer Season (generally June through August).

**Self-Employed**: A person who carries on a trade or business for profit as a sole proprietor or an independent contractor; or a member of a partnership that carries on a trade or business. Such persons must demonstrate a profit on an income tax return for at least three out of every five years. The trade or business is required to provide goods and services to individuals, businesses or institutional operations within Pitkin County.

**Senior** – See **APCHA Senior** definition.

**Storage Space** – Space within a dwelling unit intended and commonly utilized as a location for preservation or later use or disposal of items. Such space must be used for storage purposes only and shall not contain plumbing fixtures or mechanical equipment that support the principal residential use.

**Student** – A student enrolled in an accredited school full-time, and/or an intern who is a student or recent graduate undergoing supervised practical training full-time and working in a temporary capacity for a Pitkin County business; and/or a full-time combination of work in Pitkin County and school; such student shall be 18 years of age or older.

**Tenant** – For purposes of these Regulations a person who is leasing or has leased a deed restricted unit which is subject to these Regulations, and any qualifying potential lessee or past lessee of any such deed restricted unit.