



*Strengthening Community Through Workforce Housing*

## APCHA REGULATIONS TABLE OF CONTENTS

| PART  | Page |
|---|------|
| <b>I APCHA Housing Board Policies</b>   |      |
| Section 1. Mission Statement  | 3    |
| Section 2. Affordable Housing Governance and Deed-Restriction Policies                            | 3    |
| Section 3. APCHA Regulations  | 3    |
| Section 4. Affordable Housing Unit Types and Categories   | 3    |
| Section 5. Affordable Housing Rental and Ownership  | 6    |
| Section 6. APCHA Eligibility – Rental Units and Ownership Units                                   | 6    |
| <b>II APCHA Affordable Housing Development Overview</b>   |      |
| Section 1. APCHA Housing Development Policy   | 8    |
| Section 2. Maximum Sales Price and Maximum Rental Rates   | 8    |
| Section 3. Occupancy Policies for Newly Deed-Restricted Units                                     | 9    |
| Section 4. APCHA Approval and Execution of Deed Restrictions                                      | 12   |
| <b>III APCHA Eligibility and Qualification</b>  |      |
| Section 1. Eligibility  | 14   |
| Section 2. Qualification Rules  | 14   |
| <b>IV APCHA Rental Policies and Procedures</b>  |      |
| Section 1. Rental Priorities (APCHA Managed Properties)   | 22   |
| Section 2. Rental Procedures  | 22   |
| <b>V APCHA Purchase and Sale Policies and Procedures</b>  |      |
| Section 1. Application and Qualification to Purchase Affordable Housing                           | 26   |
| Section 2. Bid Submissions  | 26   |
| Section 3. Lottery Process  | 32   |
| Section 4. Sales Contract   | 33   |
| Section 5. Sale of an Ownership Unit / Listing a Unit for Sale                                    | 34   |
| Section 6. Resident-Occupied (RO) Unit Sale Policies and Procedures                               | 36   |
| Section 7. Foreclosures   | 37   |
| <b>VI Maintaining Eligibility, Special Review, Compliance &amp; Grievance Policies/Procedures</b> |      |
| Section 1. Maintaining Eligibility  | 38   |
| Section 2. Landlord Responsibilities  | 40   |
| Section 3. Owner Responsibilities   | 40   |
| Section 4. Ineligibility List   | 46   |
| Section 5. Special Review Policy & Procedure  | 47   |
| Section 6. Enforcement Policies & Procedures  | 48   |
| <b>VII DEFINITIONS</b>  | 54   |

| <b>TABLES</b> |   | <b>Page</b> |
|---------------|---|-------------|
| I             | APCHA Household Income Target Levels per Category             | 4           |
| II            | Maximum Gross Income and Net Assets per Household             | 5           |
| III           | Maximum Monthly Rental Rates for Deed-Restricted Rental Units | 8           |
| IV            | Maximum Sale Prices for Newly Deed-Restricted Ownership Units | 8           |
| V             | Fee-In-Lieu (City)  | 8           |
| VI            | Maximum Annual APCHA Adjustment                               | 25          |
| VII           | APCHA Bid Priority per Employment and Residency History       | 30          |
| VIII          | Number of APCHA Lottery Chances for Priority Bids             | 32          |

#### **APPENDICES**

|   |                    |    |
|---|--------------------|----|
| A | APCHA Fee Schedule | 60 |
| B | Schedule of Fines  | 61 |

**THE ASPEN PITKIN COUNTY EMPLOYEE HOUSING GUIDELINES HAVE BEEN RENAMED TO APCHA REGULATIONS. ALL DOCUMENTS THAT REFER TO APCHA GUIDELINES NOW REFER TO APCHA REGULATIONS.**

**2021 REGULATIONS**

**PART I**

**APCHA HOUSING BOARD POLICIES**

**Section 1. Mission Statement**

The goal of APCHA is to provide affordable housing opportunities through rental and sale to persons who are or have been actively employed or self-employed within Aspen and Pitkin County, and that provide or have provided goods and services to individuals, businesses or institutional operations, within Aspen and Pitkin County (prior to retirement and/or any disability), and other qualified persons as defined in these Regulations, and as they are amended from time to time.

**Section 2. Affordable Housing Governance and Deed Restriction Policies**

Affordable housing is deed-restricted housing for qualified employees as stated in these Regulations. Rental and ownership are restricted by terms ensuring Housing Board policies are met.

APCHA rental and ownership housing is developed by the county and city authority and managed according to APCHA Regulations. APCHA rental properties are leased and managed both by APCHA and by the private sector in the form of a property management company or the owner. The majority of APCHA's ownership units are sold through APCHA and managed by a not-for-profit Homeowners' Association (HOA) specific to the property. The HOA is responsible for maintaining common elements of the property with the power to assess owners as necessary. APCHA tenants and owners qualify with APCHA and occupy units under the terms of the respective lease or HOA and in compliance with deed restrictions.

**Section 3. APCHA Regulations**

In keeping with state regulations, the Housing Board publishes Regulations establishing the operation of the housing program, along with creating policies and procedures for APCHA operations. Regulations are reviewed and amended periodically. Amended Regulations are published annually. Amendments can be made between publication dates due to city ordinances or county resolutions or for administrative purposes. APCHA keeps on file all editions of the Regulations and are located at [www.apcha.org](http://www.apcha.org).

**Section 4. Affordable Housing Unit Types and Categories**

APCHA rental and ownership units, including Resident-Occupied (RO) units, which are located throughout the City of Aspen and Pitkin County in public and private all-affordable housing properties and/or as designated affordable housing units in private sector property developments.

Qualification for APCA housing is determined according to applicant household size and maximum gross income and net assets per category. Asset caps test an applicant’s (buyer or renter) need to purchase or rent a deed restricted unit. They are intended to limit competition for scarce affordable housing units.

APCHA housing categories are established according to household income levels. See Table I APCA Target Household Income Levels per Category.

Categories are further defined according to household size:

- The number of TOTAL PERSONS in a household determines household size.

See Table II for Maximum Gross Income and Net Assets per Household and category.

**TABLE I ADOPTED JUNE 21, 2017,  
APCHA RESOLUTION NO. 2 (SERIES OF 2017)  
WENT INTO EFFECT MAY 14, 2018**

TABLE I

| <b>APCHA HOUSEHOLD INCOME TARGET LEVELS PER CATEGORY</b> |   |                                    |
|--|---|------------------------------------|
| <b><i>APCHA Housing</i></b>                              | <b><i>Target Household Income Level</i></b> | <b><i>AMI Percentage Range</i></b> |
| Category 1   | Low-Income                                  | Below 50% AMI                      |
| Category 2   | Lower Moderate Income                       | 50.1 - 85% AMI                     |
| Category 3   | Upper Moderate Income                       | 85.1 - 130% AMI                    |
| Category 4   | Middle Income                               | 130.1 - 205% AMI                   |
| Category 5 and RO  | Upper Middle Income                         | 205.1 - 240% AMI                   |

For the purpose of qualification, categories 6 and 7, as described in earlier versions of the APCA Regulations have been eliminated. The change will not affect the maximum sales price for Category 6 and 7 units. Maximum sales prices are never guaranteed. The units will continue to appreciate as permitted under their respective deed restrictions (in most cases, 3% or the consumer price index, whichever is less, per year).

TABLE II

The AMI for 2020 was released on April 13, 2020; 2020 Category Income Limits are effective as of May 1, 2020. Net Assets were increased on January 1, 2021.

| <b>2020 Category Income Limits and Asset Caps (as of May 1, 2020)</b>                           |                                 |  |                                  |                                  |                                   |                 |
|---|---------------------------------|--|----------------------------------|----------------------------------|-----------------------------------|-----------------|
| <b>Household Size</b>   | <b>Category 1<br/>(50% AMI)</b> | <b>Category 2<br/>(85% AMI)</b>                | <b>Category 3<br/>(130% AMI)</b> | <b>Category 4<br/>(205% AMI)</b> | <b>Category 5*<br/>(240% AMI)</b> | <b>RO</b>       |
| 1-person  | \$38,700                        | \$65,750                                       | \$100,600                        | \$158,600                        | \$185,650                         | No income limit |
| 2-person  | \$44,200                        | \$75,150                                       | \$114,950                        | \$181,250                        | \$212,200                         | No income limit |
| 3-person  | \$49,750                        | \$84,550                                       | \$129,300                        | \$203,900                        | \$238,700                         | No income limit |
| 4-person  | \$55,250                        | \$93,950                                       | \$143,650                        | \$226,550                        | \$265,200                         | No income limit |
| 5-person  | \$59,700                        | \$101,450                                      | \$155,150                        | \$244,650                        | \$286,450                         | No income limit |
| 6-person  | \$64,100                        | \$109,000                                      | \$166,650                        | \$262,800                        | \$307,650                         | No income limit |
| Net Assets not to Exceed  | \$143,000                       | \$327,000                                      | \$433,000                        | \$612,000                        | \$955,000                         | \$2,374,000     |
| <b>*Categories 6 &amp; 7 have been rolled into Category 5; Assets increased January 1, 2021</b> |                                 |  |                                  |                                  |                                   |                 |
|   |                                 |  |                                  |                                  |                                   |                 |
|   |                                 |  |                                  |                                  |                                   |                 |
|   |                                 |  |                                  |                                  |                                   |                 |
|   |                                 |  |                                  |                                  |                                   |                 |
|   |                                 |  |                                  |                                  |                                   |                 |
|   |                                 |  |                                  |                                  |                                   |                 |
| <b>2020 Max. Incomes for ACI</b>  |                                 | <b>2020 Max. Incomes for Truscott Phase II</b> |                                  |                                  |                                   |                 |
| <b>Household Size</b>   | <b>Based on (50% AMI)</b>       |  | <b>Household Size</b>            | <b>Based on (60% AMI/HERA)</b>   |                                   |                 |
| 1-person  | \$ 38,700                       |  | 1-person                         | \$ 49,380                        |                                   |                 |
| 2-person  | \$ 44,200                       |  | 2-person                         | \$ 56,400                        |                                   |                 |
| 3-person  | \$ 49,750                       |  | 3-person                         | \$ 63,480                        |                                   |                 |
| 4-person  | \$ 55,250                       |  | 4-person                         | \$ 70,500                        |                                   |                 |
| 5-person  | \$ 59,700                       |  | 5-person                         | \$ 76,140                        |                                   |                 |
| 6-person  | \$ 64,100                       |  | 6-person                         | \$ 81,780                        |                                   |                 |
| Net Assets not to Exceed  | \$ 433,000                      |  | Net Assets not to Exceed         | \$ 327,000                       |                                   |                 |

## Section 5. Affordable Housing Rental and Ownership

### A. Rental Units

Rental units are administered by APCHA and available in Categories 1 through 5 and RO, as studio units, one-, two- and three-bedroom units and as on-site employee dormitories and units. As provided in the applicable deed restriction, rental units are managed and leased by both APCHA and the private sector. Qualification for all rentals in APCHA's inventory must be approved by APCHA. See Part III for APCHA eligibility and qualification and Part IV for rental policies and procedures.

### B. Ownership Units

Ownership units administered by APCHA are available in Categories 1 through 5, and in the RO category, as provided in the applicable deed restriction. The majority of the ownership units are marketed by and through APCHA. Qualification for all sales units in the APCHA inventory must be approved by APCHA. Bid results are prioritized and decided by lottery where applicable. See Part V for purchase and sale policies and procedures.

### C. Resident-Occupied Ownership (RO) Units

The RO category offers qualified higher income households the opportunity to own affordable housing FOR the benefit of the community. RO ownership policies and procedures are subject to land use approvals and/or the deed restrictions specific to each property. RO units predating the publication of these APCHA Regulations are subject to deed restrictions recorded with property title at the time of purchase. Other RO units are subject to deed restrictions specific to the property as recorded and to the Regulations.

For RO ownership qualification, Maximum Household Gross Income Levels are unlimited, and the Maximum Household Net Assets Level is higher than other APCHA categories, or unlimited as stated in the applicable deed restriction.

## Section 6. APCHA Eligibility – Rental Units and Ownership Units

To be eligible to rent or purchase a unit in APCHA's inventory, unless an applicable deed restriction otherwise requires, eligible applicants/households must:

- Work full-time, 1,500 hours per calendar year in Pitkin County and/or for a Pitkin County employer and earn at least 75% of household total income in Pitkin County;
- Occupy APCHA unit as a primary residence **and** occupy the unit at least nine months per calendar year;
- Own no other developed residential property within the Ownership Exclusion Zone (OEZ) in accordance with Part III, Section V, this prohibition includes ownership by a spouse or member of a household;
- Meet the applicable income and asset limits; and
- Satisfy all other applicable requirements of these regulations.

#### **A. APCHA Application and Qualification**

To be eligible for APCHA housing, all persons must submit written application and documentation required to verify employment/work history, household size, income and assets, and other necessary information. History of employment/work, special needs and other factors may affect bid priority. See Regulations Part III for qualification policies and procedures.

#### **B. Maximum Household Income and Assets**

Per Resolution No. 02 (Series 2017), beginning May 14, 2018, APCHA adjusts maximum gross income levels per category annually by the change in Pitkin County Area Median Income (AMI) using Tables I and II. The maximum net assets allowed per category will increase annually based on the lesser of the percentage change in Consumer Price Index (Urban Wage Earners) from November of one year to November of the following year, or 3%, whichever is less. See Table II for Maximum Gross Income and Net Assets per household for APCHA categories.

#### **C. Non-discrimination Policy**

APCHA does not discriminate on the basis of race, color, religion (creed), gender, age, national origin (ancestry), disability, marital status, sexual orientation, military status, genetic information, or any other characteristic protected under applicable federal, state or local law in any of its activities or operations. We are committed to providing an inclusive and welcoming environment.

**PART II**  
**APCHA AFFORDABLE HOUSING DEVELOPMENT OVERVIEW**

**Section 1. APCHA Housing Development Policy**

The City of Aspen, Pitkin County and APCHA are actively involved in affordable housing development and redevelopment throughout Pitkin County to provide housing opportunities for full-time employees. All deed restrictions for newly constructed units must be approved by APCHA prior to issuance of a Certificate of Occupancy (CO). See APCHA Affordable Housing Development policy for further information and requirements.

**Section 2. Maximum Sales Price and Maximum Rental Rates**

**TABLE III**  
**MAXIMUM MONTHLY RENTAL RATES FOR DEED-RESTRICTED RENTAL UNITS**

| <i>Unit Size</i> | <i>Category 1</i> | <i>Category 2</i> | <i>Category 3</i> | <i>Category 4</i> | <i>Category 5</i> | <i>RO</i> |
|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-----------|
| Studio           | \$531             | \$ 947            | \$1,415           | \$1,878           | \$2,341           | \$2,575   |
| 1 Bedroom        | 658               | 1,112             | 1,576             | 2,060             | 2,544             | 2,754     |
| 2 Bedroom        | 780               | 1,278             | 1,742             | 2,227             | 2,720             | 2,920     |
| 3 Bedroom        | 904               | 1,429             | 1,913             | 2,393             | 2,889             | 3,089     |
| 4 Bedroom        | 1,000             | 1,525             | 1,990             | 2,400             | 2,920             | 3,120     |
| SF Detached      | 1,029             | 1,611             | 2,077             | 2,471             | 2,970             | 3,170     |

Table III sets forth the maximum monthly rental rates for deed-restricted affordable housing units. The rental rates apply and shall be in effect for at least a 6-month period from the commencement date of the initial lease. Thereafter, the maximum monthly rental rate may be increased only to the extent that the Regulations in effect permit. If there is a conflict between the Regulations and the deed-restriction on the rental property, the most restrictive document will prevail. Section 3.D.1.a, below, for additional criteria.

**TABLE IV**  
**MAXIMUM SALE PRICES FOR NEWLY DEED-RESTRICTED OWNERSHIP UNITS**

| <i>Unit Size</i> | <i>Category 1</i> | <i>Category 2</i> | <i>Category 3</i> | <i>Category 4</i> | <i>Category 5</i> | <i>RO</i> |
|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-----------|
| Studio           | \$44,000          | \$100,000         | \$168,000         | \$283,000         | \$494,000         | N/A       |
| 1 Bedroom        | 56,000            | 121,000           | 183,000           | 303,000           | 527,000           | N/A       |
| 2 Bedroom        | 67,000            | 148,000           | 217,000           | 336,000           | 566,000           | N/A       |
| 3 Bedroom        | 78,000            | 182,000           | 253,000           | 372,000           | 595,000           | N/A       |
| 4 Bedroom        | 89,000            | 198,000           | 269,000           | 387,000           | 612,000           | N/A       |
| SFH Detached     | 93,000            | 214,000           | 285,000           | 401,000           | 628,000           | N/A       |
| SFH Lot          | N/A               | N/A               | N/A               | N/A               | 164,000           | \$197,000 |

**TABLE V**  
**2018 PAYMENT IN LIEU/IMPACT FEE SCHEDULE**

Schedule can be found in City Ordinance No. 5 (Series 2018) / Effective Date 03/25/2018 (7% increase)



### Section 3. Occupancy Policies for Newly Deed-restricted Units

Deed-restricted affordable housing units must comply with the occupancy standards of city or county land use regulations and codes, these Regulations and applicable deed restrictions. All new affordable housing development must include a capital reserve study as part of the initial HOA documents, as well as a separate capital reserve fund. All HOA documents must provide that a capital reserve fund be established and maintained. In addition, for projects which include both free-market and deed-restricted ownership residential units, the HOA documents must ensure the long-term affordability of the deed-restricted units by including provisions acceptable to APCHA for the control of general and special assessments, such as separation of common elements, establishing separate free market and affordable sub-associations, and determining allocated interests based on assessed valuation, square footage, or other measures.

#### A. Pre-occupancy Inspection

Upon the completion of construction of new units or conversion of existing units and prior to issuance of a CO for rental units or ownership units, such units shall be inspected and approved by a certified building inspector, architect and/or engineer for compliance with applicable codes, regulations and APCHA Regulations. A written inspection report of inspection approval shall be submitted to APCHA.

#### B. Livability Standards

Newly constructed deed-restricted affordable housing ownership units must be in marketable condition at the time of the sale. See Part V for ownership unit sale policies and procedures. Converted units must be in marketable condition and approved by APCHA prior to rental or sale. The developer shall bear the costs and expenses of any required upgrades to meet the standards listed below, as well as any structural/engineering reports required by APCHA to assess the suitability for occupancy, as follows:

- All interior walls must be freshly painted;
- Interior appliances must be less than five years old and in good condition and repair;
- Carpets must be less than five years old, in good condition and repair, or replaced if in lesser condition;
- Windows, heating, plumbing and electrical systems, fixtures and equipment must be in good condition and working order and brought up to the current code utilized by the Community Development Department;
- All exterior walls must be freshly painted within the previous year;
- Landscaping and yard must be in satisfactory condition;
- Roof must be in good repair with remaining useful life of at least ten (10) years; and
- HOA documents; i.e., Articles of Incorporation, By-Laws, and Condominium Declarations, must be approved by APCHA.

Developer/permit applicants shall bear the cost of any repairs, replacements and upgrades required to meet APCHA standards.

#### C. Occupant Qualification and Priority in Newly Deed-restricted Units

Unless tenant or purchaser qualification and priority is otherwise established by the applicable land use approval, newly-deed restricted units shall be marketed and leased or sold through APCHA according to these Regulations.

See Part III for APCHA Eligibility and Qualification.  
See IV for Rental Policies and Procedures.  
See Part V for Purchase and Sale Policies and Procedures.

1. Priority of Displaced Residents

Notwithstanding the priorities set forth in Part V, Section 2.C, APCHA owners and tenants who are displaced by new construction or conversion of existing APCHA units shall have priority for purchasing (owners) or renting (tenants) a similar APCHA unit of the same size, type and category. Displaced resident priority is determined on a case-by-case basis.

2. Priority of Qualified On-site Employees in Employer-owned Dormitories or Rental Units

In consideration of the need of employers, including but not limited to lodging enterprises, agricultural operations and other businesses, to house employees on site, employers owning on-site affordable housing rental units may, with the prior approval of APCHA, designate their APCHA-qualified employees as tenants.

In such cases, employees must meet all APCHA qualifications except income and asset maximums, which are waived.

If no person directly employed by the applicable owner/operator is APCHA-qualified, the on-site dormitory space or other units shall be made available to other qualified tenants who may be designated by APCHA.

3. Priority of Qualified Tenants and Owners Selected by Developer

Private sector developer/owners of affordable housing units shall be permitted to choose from among APCHA-qualified tenants and/or owners to occupy one-third of their affordable housing units in compliance with APCHA occupancy standards for the initial sale or lease only. All households chosen by the developer must meet the top priority criteria; i.e., four-year minimum work requirement, minimum occupancy requirement, category, not owning other property within the O EZ (see Definitions), including no ownership of other deed-restricted property unless their deed restricted unit comes available for sale through the lottery. The developer must make their choice within 30 days of the issuance of the Certificate of Occupancy (CO). The remaining units, including any units for which the developer/owner does not choose occupants, shall be marketed, leased, and sold through APCHA. For those units where the buyers are chosen by the developer, a 1% sales fee based on the purchase price is due to APCHA at the time of closing. For all other sales through APCHA, the 2% sales fee will be due at closing.

**D. Rental and Sale of Newly Deed-restricted Units**

1. Rental

a. Maximum Rental Rates for Deed-restricted Units

Beginning rental rates for newly deed-restricted rental units shall remain in effect during the entire lease period. After that time, rental rates may be increased in accordance with the current Maximum Annual Rental Rate Adjustment, a percentage adjustment revised annually. See Table VI.

Table III sets forth the maximum monthly rental rates for deed-restricted affordable housing units. The rental rates apply and shall be in effect for at least a 6-month period from the commencement date of the initial lease. Thereafter, the maximum monthly rental rate may be increased only to the extent that the Regulations then in effect permit. If there is a conflict between the Regulations and the deed-restriction on the rental property, the most restrictive document will prevail. The following additional criteria shall be followed:

- Maximum rental rates WILL apply whether the units are provided furnished or unfurnished.
- Tenants may not be charged for the following, either as rent or in addition to rent:
  - Cost of electricity, gas, water and sanitation in common areas
  - Condominium dues/assessments
  - Management costs
  - Property taxes
  - Landscaping costs
  - Snow plowing/shoveling
  - Condominium Insurance
- Additional costs that can be charged to the tenant, but must be verified by APCHA, are:
  - Electricity, gas and/or water if not separately metered – metered costs must be based on the tenant’s share of such utilities attributable to the tenant’s net livable area. Tenants shall be responsible for individually metered utilities.
  - Trash, but proportionally based on the tenant’s net livable area.
  - Other operational costs only when reviewed by APCHA and approved to be charged, must be based on the tenant’s share attributable to the tenant’s net livable area.
- Prior to occupancy of a deed-restricted rental unit, APCHA must qualify the tenant. All documentation required under these Regulations must be provided. The tenant must provide the owner/landlord with proof of documentation and qualification by APCHA prior to occupancy. Prior to occupancy, the owner shall be required to provide a copy of the lease agreement to the APCHA for approval. Leases shall meet allowable rental rates and shall be for a minimum term of six consecutive months. The unit must meet occupancy standards, one person per bedroom at all times. Owner shall provide an executed copy of the lease to APCHA prior to occupancy.
- Persons employed by an owner/operator shall be given first priority to rent on-site affordable housing units associated with a lodge, agricultural operation, or commercial development, when ownership has been retained by the owner/operator of the development. Employees must meet APCHA’s Regulations for occupancy, income and assets criteria in order to qualify to occupy the unit(s). In the event there are no persons directly employed by the owner who qualify, the unit shall then be offered to other qualified persons according to the Regulations. (Affordable Housing [AH] Zone development is exempt from this section.)
- All deed-restricted affordable housing rental units must comply with these Regulations, and the regulations and codes of all governmental bodies and agencies having jurisdiction. The owner of affordable housing rental units, at its cost and expense, must keep and maintain the interior and exterior of the total structure (including all residential units therein) and the adjacent open areas in a safe and clean condition and in a state of

good order and repair, reasonable wear and tear and negligent or intentional damage by tenants excepted.

- A rental unit vacant for more than forty-five (45) days must be made available for tenants selected through APCHA.

b. Lease Approval by APCHA

The review period for APCHA is five business days. All leases must provide for a minimum lease term of six months and shall be renewed for consecutive six-month periods. Month-to-month leases are not permitted. Prior to occupancy, landlords shall provide a copy of an executed lease agreement to APCHA.

2. Sale

a. Maximum Sale Prices for Newly Deed-restricted Units

Maximum Sale Prices for Newly Deed-restricted Affordable Housing Units, Single Family Units and Single-Family Lots shall be as specified in Table IV of these Regulations and shall be identified in applicable deed restrictions and maximum resale prices.

RO unit sale prices are determined in accordance with the applicable deed restrictions on a case-by-case basis. The developer generally sets the initial sale price of a newly deed-restricted RO unit. If another affordable housing ownership unit is developed in association with a RO unit, the average sale price of both units shall be no higher than the Category 3 maximum sale price for a newly deed-restricted unit.

b. Sales Through APCHA

Newly deed-restricted affordable housing ownership units, single-family homes and vacant lots shall be offered for sale through APCHA.

After initial sale, all APCHA ownership units shall be marketed and sold through APCHA bid and lottery process and/or according to deed restrictions specific to the property and Regulations. See Part V.

#### **Section 4. APCHA Approval and Execution of Deed Restrictions**

APCHA shall work with developers of affordable housing to draft and approve Deed Restrictions to ensure compliance with development approvals, the Regulations, city and county land use regulations and codes and governing Colorado and federal legislation.

APCHA shall approve the deed restrictions for housing units before such deed restrictions are ready for recordation and prior to issuance of a CO. No occupancy is permitted without the executed deed restriction and issuance of a CO.

## **A. Growth Management Plan Applications**

### **1. Mixed-use Developments – Free Market and Affordable Housing**

In mixed-use developments, where a deed-restricted unit is located in a private sector condominium or subdivision that consists primarily of free market units, Homeowners' Association (HOA) assessments are typically based on the square footage. In an effort to ensure that affordable housing remains affordable, deed-restrictions for affordable units in mixed-use developments must state that HOA assessments on the affordable housing units shall be pro-rated according to the value of an affordable housing unit relative to the value of the free-market units in the development. Additionally, HOA special assessments shall be pro-rated in the same manner as the monthly HOA assessments. The governing documents shall specify that any change in HOA assessment policy is subject to APCA approval.

### **2. Caretaker and Accessory Dwelling Units (CDUs and ADUs)**

If a caretaker or accessory dwelling unit is constructed or converted for mitigation purposes, the developer shall submit required deed restrictions to APCA for approval and execute and record such deed restrictions prior to the final building inspection and/or issuance of a CO.

## **B. Amendments to Deed Restrictions**

Deed restrictions recorded prior to the issuance of the applicable CO shall be amended to include any changes necessary as a result of new legal requirements imposed by city or county regulations or codes. Deed restrictions may also be amended by agreement between a private sector property developer and Council or BOCC and then approved by APCA.

Upon final approval by APCA, amended Deed Restrictions shall be executed and recorded prior to issuance of a CO where applicable. Copies of executed and recorded Deed Restrictions shall be provided to APCA by the developer.

## PART III

### APCHA ELIGIBILITY AND QUALIFICATION

#### Section 1. Eligibility

To be eligible to rent or purchase a unit in APCHA's inventory, unless an applicable deed restriction otherwise requires, eligible applicants/households must:

- Work full-time, 1,500 hours per calendar year in Pitkin County and/or for a Pitkin County employer and earn at least 75% of household total income in Pitkin County;
- Occupy APCHA unit as a primary residence **and** occupy the unit at least nine months per calendar year;
- Own no other developed residential property within the Ownership Exclusion Zone (OEZ) in accordance with Part III, Section V, this prohibition includes ownership by a spouse or member of a household;
- Meet the applicable income and asset limits; and
- Satisfy all other applicable requirements of these regulations.

Applicants for workforce housing in the APCHA inventory must submit applications and documents required to verify compliance with the above referenced requirements, including without limitation, employment and work history, income and assets, household size, and such other information deemed necessary by APCHA in order to qualify as a tenant or qualified buyer. Approval must be granted by APCHA prior to signing a lease, taking title to a unit, occupying a unit, adding a name to the title of an ownership unit or a lease, or submitting a bid on an ownership unit.

**Applicants for workforce housing in the APCHA inventory will only be allowed to have one qualification packet on file at any given time and it must include their entire household (see Part III, Section 2.B. 3&4). Any change in household will not be approved until point of requalification.**

#### Fraud Warning

*Signatures on documents submitted to APCHA constitute verification that all information provided is true and accurate. If any such information is determined to be false or non-verifiable, such person may be disqualified by APCHA and referred to law enforcement for investigation and/or prosecution.*

*A disqualified APCHA owner must list his/her ownership unit for sale as specified in the deed restriction within thirty (30) days of disqualification. A disqualified tenant's lease shall be terminated within 30 days of disqualification.*

*Disqualified persons may be denied future participation in the affordable housing program. Mortgage fraud may be referred to FBI for investigation.*

#### Section 2. Qualification Rules

In addition to the information referred to above, applicants shall submit original picture IDs, affidavits and signed legal documents, providing copies (not originals) of all required documents for APCHA files. Applicants shall be charged for copies made in APCHA offices.

APCHA charges fees for applications, bid submissions, handling transactions, various filings and other services provided. Fees are payable to City of Aspen upon submission of documents or as specified in Regulations. See Appendix B for APCHA fees.

All APCHA application materials and documents shall remain confidential except as required by the Colorado Open Records Act, C.R.S. 24-72-201, *et seq.*

## **A. Application and Qualification**

### **1. Application for Rental Units**

A rental applicant must be submitted with all required information and fees after a rental unit is offered to him/her and prior to signing a lease or occupying a unit. See Part IV for rental policies and procedures.

Rental applicants may sign up for an advertised unit at the APCHA office, or for rental of a unit under private property management by contacting the manager or owner of an advertised rental unit directly. Look on [www.apcha.org](http://www.apcha.org) for a list of APCHA rental units and complexes.

### **2. Application for Ownership Units**

Persons desiring to acquire a deed-restricted ownership unit in the APCHA inventory, including category and RO units, must first submit a Qualification Application and all other required documentation to APCHA for approval and for APCHA to determine qualification. A bid may be submitted with the application or after approval of the application. Each Qualification Application, after approved by APCHA, shall be valid for up to one year and will need to be updated with new information. Updated tax information is requested after January 31<sup>st</sup> and April 15<sup>th</sup>.

All persons who may occupy a unit, regardless of marital or legal status, are included for the purpose of determining the members of the household and the category. Married persons are considered as members of a single household whether they both will occupy the unit or not. Married couples may submit only one joint bid for a unit and may not submit separate bids.

## **B. Verification Documents**

In order to determine that an applicant or household meets all of the applicable criteria, APCHA must obtain specific documentation as follows:

### **1. Personal Identification Documents**

Applicants must present original personal identification documents and provide copies for APCHA records for approval, including the following:

- Photo ID: Valid Colorado driver license (restricted licenses, those stating “not valid for federal identification, voting or public benefit purpose” are not accepted), passport or state-issued photo ID card; and
- Proof of legal residency: Passport, Social Security Card, Permanent Resident Card.

## 2. Documents Verifying Employment/Work

APCHA qualification requires that applicants work full-time in Pitkin County as defined herein. RO applicants must demonstrate that at least seventy-five percent (75%) of household income is earned in Pitkin County.

- Applicants shall verify household income earned in Pitkin County by submitting copies of complete federal and state tax returns, and W-2 or 1099 forms.
- Rental applicants shall submit documents for the year preceding application; ownership applicants shall submit documents for two years preceding, or more as required to establish priority.

### a. Employed applicants

Applicants working for an employer shall submit at least the following:

- Copies of W-2s and/or 1099 forms for all employees in the household;
- Copies of most recent paycheck stubs to verify current employment and income; and
- APCHA Employment Verification form signed by employer(s).

### b. Self-employed, employer, business owner applicants

A self-employed, employer, or business owner applicant must work in Pitkin County a minimum of 1,500 hours per calendar year and earn at least 75% of their income within Pitkin County, from selling their goods and services to individuals, businesses, or institutional operations within Pitkin County. They must demonstrate a profit on an income tax return for at least three out of the last five years.

Employment/work verification takes into consideration the seasonal, non-traditional nature of some employment and free-lance work in the city and county. An applicant who is self-employed in Pitkin County or who works full-time within the county for a business or institution whose principal place of business is not located in Pitkin County, must provide proof of full-time employment as follows:

#### Required Documentation:

- Copies of the most recently filed tax return, including federal and state returns and all schedules and business tax returns;
- Copies of most recent W-2s (if applicable) and or 1099s for all employment;
- Copies of paycheck stubs received (if applicable);
- Current profit and loss statement where applicable; and
- Verification of working or doing business in Pitkin County.

APCHA may require further documentation for proof of employment in Aspen or Pitkin County. This documentation may include, but is not limited to, business and personal banking records and utility bills, as well as:

- Proof of the location of a business in Aspen or Pitkin County and a copy of lease for office space located in Aspen or Pitkin County, where applicable.
- Proof of operating expenses, such as: insurance, tax payments, rent, utilities, etc.
- Proof of hours worked, such as, a copy of current detailed work log or appointment book for the last year showing hours worked daily on each job or appointment, with clients' names and local addresses. Hours spent in administrative work such as



marketing or accounting in support of business, will count toward the work-hour requirement if demonstrated to and approved by APCA.

- Copies of client invoices showing hours on a job and/or payment for invoiced work.
- Client list providing names, local telephone numbers and addresses, description of type of work performed, and approximate hours spent working for a client in the year.
- Copies of personal and business banking records.
- City of Aspen home occupancy license – is required for offices located in residential dwellings. The license is to ensure that the home occupation is clearly incidental and secondary to the residential character of the home.
- City of Aspen business license – required for any entity doing business within the city limits either directly or indirectly; this includes businesses making retail sales and businesses that provide services only.
- Aspen/Pitkin County home occupancy – a letter confirming that you comply with the Aspen/Pitkin County home occupancy requirements.
- Business plan
- Other documentation as deemed necessary.

c. Retired or Disabled former Pitkin County Employees

An individual who was a full-time employee/worker in Pitkin County for a minimum of four years immediately prior to disability, or retirement age as defined in Part VIII of these Regulations, shall be allowed to rent and/or own such housing.

3. Verification of Qualified Household Size

The total number of persons in a household, including qualified *adults* and *dependents* (See Definitions), are counted in determining the unit size for which an APCA applicant may qualify. The occupancy requirement for any unit is at least one person per bedroom. For dependents, proof of custody is required. A dependent subject to a custody order must live in the household a minimum of 100 days per year as demonstrated by court documents or a notarized custody affidavit in order to qualify as a member of the household. Two adults that share custody of children are allowed in total the number of bedrooms of individuals plus one. For example, if there are two children, the household would be allowed to have at most five bedrooms combined.

If at the time of application, a household is expecting the birth of a child, such child will be counted as a member of the household upon APCA's receipt of a letter from a doctor stating the due date and receipt of a custody order agreement if applicable.

In establishing household size, all individuals who will be occupying a unit regardless of legal or marital status shall be parties to or named in the application and must submit all verification documents.

4. Verification of Household Gross Income and Net Assets

The gross income and net assets of all members of a household shall be included in determining qualifications and category for which the household qualifies. Rental and ownership applicants shall provide the required income and asset information for APCA review and approval as specified below.

See Table II for Maximum Gross Income and Net Assets per Household for rental and ownership unit sizes and categories.

a. Income Verification

Applicants shall submit copies of their most recently filed tax returns, including federal and state returns and all schedules and business tax returns. If applicants do not have copies of their W2's or tax returns, they must request and obtain earnings and tax information from the Social Security Administration (SSA) or the IRS.

- All applicants shall submit required tax documents for the past two years.
- All applicants must submit an APCHA Employment Verification form signed by the applicant's employer(s), if requested by APCHA.

b. Income Calculation

APCHA must calculate personal and household income in order to qualify applicants, determine category, and to determine compliance. There is no exact formula for determining annual income because every person or household's sources of income and documentation of such income may be different. Therefore, APCHA can only identify the sources of income and the documentation of such income that are considered in determining if applicable income limitations are satisfied. It is the responsibility of all persons and households to accurately and satisfactorily document income.

The information below relates to how APCHA determines income for APCHA's requirements, not Low-Income Housing Tax Credit requirements.\*

1. Sources of income and documentation of such income shall include:

- Wages (largest amount from W2s/1099s)
- Business/Self Employed. Start with the net profit/loss and add back in: depreciation, depletion, amortization, nonrecurring losses, loss carry-overs, capital equipment, travel, meals, entertainment and personal expenses (such as phone bill), office-in-home expenses, interest on business debt, charitable contributions and self-employment tax. Valid: Insurance, paying wages to someone else, licensing fees, advertising, office supplies, classes, tools for a contractor)
- Regular payments or distributions received from annuities, insurance policies, retirement funds, pensions, disability benefits, and death benefits
- Social Security Income (gross amount)
- Dividend/Interest
- Rental Income (gross amount less utilities, maintenance/repairs, advertising, interest portion on mortgage payments, taxes and insurance).
- Unemployment
- Capital Gain (unless a one-time event, for example the sale of a house).
- Child Support/Alimony
- Gift Received on an ongoing basis
- Trust Disbursement
- Other
- Two years of tax returns, federal, state and business.

- Two years W2s and/or 1099s
- YTD profit and loss statement
- Other documentation as requested for self-employed persons.

2. Time period for which income must be documented

APCHA determines annual income by adding the sources of income for the entire household for the year immediately preceding the year in which the application is made.

Notwithstanding the foregoing, a two-year average is used if household income from the past 2 calendar years immediately preceding the year in which the application shows a difference greater than 20%. If less than 20% difference, household income from the year immediately preceding the application is used.

The current years' income is not used in determining income except for special circumstances such as when a household did not earn any income the previous year(s) or recently started receiving alimony and/or child support, as an example. APCHA does consider YTD income to verify if an individual is working and/or meeting the minimum hour requirement.

\*Households living in LIHTC units must qualify with APCHA's requirements in addition to the LIHTC requirements. The LIHTC requirements are detailed in CHFA's Low Income Housing Tax Credit Program Compliance Manual. Annual income is the gross income a family anticipates it will receive in the 12-month period following the effective date of the certification of income. The effective date at move-in is the date the household takes possession of the unit. CHFA requires that, in subsequent years, the effective date is the first day of the move-in anniversary month. For qualifying residents, CHFA's policy is to use the highest income (i.e., most conservative) scenario to determine household income. The maximum potential household income must be considered first to ensure the household qualifies for the unit. When maximum potential household income would put an applicant over the income limit, and there is credible documentation to confirm that the maximum estimate is unrealistic, a realistic amount that is less than the maximum potential may be used to qualify a household.

c. Assets Verification

All assets and liabilities, including but not limited to real and personal property, shall be considered in calculating the net assets of an applicant household. Applicants shall submit current personal and/or business financial statement(s) for all household members, including:

- Statements, records, receipts, appraisals and any documents evidencing the value of all real and personal property and contract rights owned by the applicant and members of the applicant household;
- Current appraisals or tax valuations of real property and related loan obligations;
- Documents verifying applicant and applicant household debts and obligations pertinent to qualification including copies of all loan agreements and other financial statements verifying financial obligations;
- Copy of court-approved temporary orders and final financial orders, including maintenance, child support, and property settlements, and child custody orders with exhibits and supplements;
- Other documentation as deemed necessary

Assets that have been assigned, conveyed, transferred, or otherwise disposed of within the previous ten (10) years for consideration below fair market value shall, for APCHA qualification purposes, be valued at fair market value. Fair market value shall be established by a certified appraiser approved by APCHA at the expense of applicant.

d. Income and Assets Exceptions

- Income Variations Policy – Where there is a difference of twenty percent (20%) or more between the most recent two years of income, they shall be averaged to establish the APCHA housing category for which the household is qualified.
- Retiree Asset Policy – Qualifying maximum net assets shall be adjusted to one hundred fifty percent (150%) of the amount regularly applicable in the respective category. Regardless of applicants' age, assets that are held in retirement accounts that are subject to an early withdrawal penalty will be adjusted to sixty (60) percent of present value.

e. Trusts

- APCHA provides housing for trust beneficiaries on a very limited basis. Applicant's share of the trust assets (total assets/beneficiaries) shall be included when considering the maximum net assets of an applicant, as seen in Table II. APCHA understands that trust assets may not be currently owned by the applicant but counts them towards qualification purposes as they are resources the applicant may draw upon either currently or in the future. Exceptions to this policy for special circumstances (e.g. needs based trusts) may be granted at the discretion of the APCHA Board.
- Applicants who are the beneficiary of a trust must submit:
  - A full and current executed copy of the trust, including all amendments;
  - Original copy of signed attorney opinion letter from either the attorney who drafted the trust or another attorney qualified to give a legal opinion, confirming the total assets of the trust, date/amount the trust fully distributes to the applicant, whether applicant is allowed to request distributions from the trust and if so, under what conditions (i.e. housing), and total number of living beneficiaries of the trust;
  - Signed 4506-T by trustee or authorized signer, as acceptable to APCHA and the IRS, on behalf of the trust;
  - 2 most recent tax returns of the trust;
  - statements and appraisals/description for all assets of the trust.
- In no event may a trust be identified as the owner of an APCHA ownership property.

5. Restriction on Ownership of Other Real Property

In order to qualify and to remain qualified as a tenant or owner, a person may not own any interest in improved real property or a mobile home (land and/or home) within the Ownership Exclusion Zone. This includes any such interest held personally, by a person's spouse, as a shareholder or member of a corporation, or as a partner, a joint venture or a beneficiary of a trust.

a. Ownership of Developed Property in Ownership Exclusion Zone (OEZ)

In order to qualify and to remain qualified as a tenant or owner, a person, a person's spouse, or a member of a person's household cannot own any interest in improved real property or a mobile home (land and/or home) within the OEZ. This includes any such interest held personally, as a shareholder or member of a corporation, or as a partner, or joint venture, or a beneficiary of a trust. Where a tenant or owner acquires such property

by inheritance, such person shall be permitted 180 days from the date of acquisition to transfer the property, after which time the tenant or owner shall be in violation of this subsection 5. If the other developed property is one that is within the APCA deed-restricted program, the property must be listed upon closing or prior to closing of any home. Any non-sale of the other property within 90 days requires the owner to list the most recent purchased property. This includes the ownership of week(s) in timeshares located in the OEZ.

Rental applicants may not own any OEZ property unless the property is under an active sales contract or the applicant is party to a dissolution of marriage proceeding.

Ownership applicants shall:

- List any OEZ property for sale at a competitive, free market price immediately upon closing on the affording housing unit;
- Sell such property within 180 days upon closing on the affordable housing unit;
- Such property shall not be allowed to be placed into a trust, regardless of who the beneficiary is, or other legal entity or business arrangement; and
- Submit copies of closing documents verifying sale to APCA.

If OEZ property is not sold or disposed of at fair market value within 180 days of closing, owner shall be disqualified, and his/her ownership unit shall be marketed and sold according to the deed restriction.

b. Ownership of Vacant Undeveloped Property in OEZ

Any unimproved real property owned by applicant (tenant or owner) in the OEZ must be reported as an asset at appraised value. APCA tenants and owners shall be permitted to retain ownership of such property only as long as it remains unimproved.

c. Business Ownership of Deed Restricted Housing

An employer, as defined in Part VIII, who also owns a deed restricted unit is permitted to:

- Maintain ownership of a free-market unit but must record a deed restriction on the property upon agreement with APCA for such unit as a rental unit to be available to the business owners' qualified employees, or any qualified employee.

For purchase of a free market unit and conversion to deed restricted housing the following requirements shall apply:

- Owner must inform APCA that he/she has located a free market unit for purchase for conversion and demonstrate employee needs to APCA;
- Owner and APCA agree to APCA category and rental price for the unit; and
- Owner agrees to an APCA-approved deed restriction for the unit of which must be recorded in the County where the unit is located.

6. Current APCA Tenant or Owner in Good Standing

A current APCA tenant or owner applying to rent or purchase a different APCA unit must be in good standing under applicable lease terms and/or HOA policies, payment of HOA dues, deed restrictions and these Regulations, in addition to meeting all other requirements.

Prior to applying for a new rental unit or submitting a new bid for an ownership unit, applicants shall submit to APCA all documents verifying good standing as requested by APCA.

## PART IV

### APCHA RENTAL POLICIES AND PROCEDURES

#### Section 1. Rental Priorities (APCHA Managed Properties)

All tenants for deed restricted rental units must qualify through APCHA prior to moving in and/or executing a lease. Submission of application documents demonstrating qualification is required after a rental unit is offered to a prospective tenant and prior to signing a lease or occupying the unit.

For properties under APCHA management that are advertised for rent, priority is established according to the duration of employment/work history, unless one of the following applies:

##### A. Emergency Workers

- To be qualified as an Emergency Worker, the applicant's employer must verify Emergency Worker Status by completing the Emergency Worker Verification Form. Once signed off, the form should be provided to the Compliance Manager for final approval.
- A qualified Emergency Worker will be placed at the top of the priority list for APCHA managed properties. Verification of Emergency Worker status is required for a one-year renewal of the lease. This requirement expires after two years of residency and service. Emergency worker priority does not extend to APCHA rental units under private property management.

##### B. Mobility-disabled Applicants

A qualified mobility-disabled employee (See Definitions) shall have first priority in renting or purchasing a mobility-disability, Type A, APCHA unit if all other criteria are met (i.e., category, minimum occupancy).

##### C. Senior Applicants (applies only to Aspen Country Inn)

Qualified seniors shall have rental priority for senior-designated units at the Aspen Country Inn. A qualified senior is someone who reaches the age of 65 or older as stated in Part VIII, Definitions, who is working in Pitkin County at the time of application or who has worked in Pitkin County full time (at least 1500 hours per year) for 4 years immediately prior to retirement or later. Second priority is granted to qualified applicants age 55 to 64, working full time in Pitkin County at the time of application. Seniors must meet all other qualification requirements.

##### D. Residents Displaced by Affordable Housing Property Development

Tenants of deed restricted housing may be displaced by the construction of new affordable housing units or the conversion of existing free market dwelling units to deed restricted affordable housing units. Tenants residing in free-market rental units that are converted to deed restricted affordable housing shall be permitted to continue occupancy if APCHA qualifications are met or, if qualified, they shall have priority in renting a unit of the same size at another location as determined by APCHA.

## Section 2. Rental Procedures

Available rental units may be advertised by the private sector property owners. Properties managed by APCHA are listed at [www.apcha.org](http://www.apcha.org).

### A. Rental Units under APCHA Management

Rental applicants must sign up to be considered for an APCHA advertised unit in the APCHA office during the time frame indicated on the advertisement.

### B. Rental Units under Private Sector Property Management

All tenants for deed restricted rental units must qualify through APCHA prior to moving in and/or executing a lease. Private owners and property management companies manage most of the deed restricted rental units in the city and county. Available rentals under private control are advertised separately from APCHA listings and each such owner or property manager may follow a different rental procedure. However, affordable housing rental applicants must qualify through APCHA prior to executing a lease, and all leases are subject to APCHA approval.

Applicants for rental of an affordable housing unit under private property management shall first inquire with the property manager or owner regarding availability of a unit and after being offered such unit, shall apply and qualify through the APCHA office.

### C. ADU and CDU Rental by Preference of Owner

All tenants for deed restricted rental units must qualify through APCHA prior to moving in and/or executing a lease. Tenants of Accessory Dwelling Units (ADU, located in the city) or Caretaker Dwelling Units (CDU, located in the county) are subject to APCHA rental qualification requirements. The owner of any such unit shall be permitted to choose his/her APCHA-qualified tenant.

### D. Seasonal Rentals

All tenants for deed restricted rental units must qualify through APCHA prior to moving in and PRIOR TO executing a lease. Persons working in the city or county at least thirty (30) hours per week during the winter months (November-April) shall be eligible for rental of APCHA seasonal rental units at designated properties. A seasonal employee/worker, student, intern or faculty member must submit an APCHA Seasonal Rental Application and additional documents as required, unless the unit is occupied by students and/or faculty of the Music Associates of Aspen (MAA). These properties include, but may not be limited to, Marolt Ranch, Burlingame Ranch Seasonal Housing, designated dormitory-type units located at Aspen Highlands Village.

### E. Requalification and Retiring in APCHA Rental Housing

Tenants residing in deed-restricted units shall be reviewed and verified at least every two years to ensure that they continue to meet the requirements of the Regulations, including but not limited to:

- Minimum Occupancy;
- Income and Asset Requirements;
- Residency and employment; and
- Non-ownership of developed residential property in the Ownership Exclusion Zone

Tenants residing in deed-restricted housing who retire upon reaching retirement age must continue to live in the unit at least 9 months out of the year and not own any other residential property in the OEZ.

APCHA does not guarantee the availability of a workforce housing unit to the applicant. APCHA may deny access to deed restricted housing to any applicant whom APCHA finds would pose a risk to the use and enjoyment of deed restricted housing to other qualified persons, or whose record as an occupant of deed restricted housing otherwise justifies a conclusion by APCHA that it would be in the best interests of APCHA to reject the application. In making any determination under this provision APCHA shall consider among other things, the applicant's criminal record, past non-compliance under any prior leases, and past business relationships with APCHA.



TABLE VI

MAXIMUM ANNUAL APCA ADJUSTMENT

| <i>Year</i> | <i>Rate Adjustment</i> | <i>Year</i> | <i>Rate Adjustment</i> |
|-------------|------------------------|-------------|------------------------|
| 1978-1982   | 0.0%                   | 2009        | 0.7%                   |
| 1983        | 6.6%                   | 2010        | 2.3%                   |
| 1984        | 5.0%                   | 2011        | 1.3%                   |
| 1985        | 3.3%                   | 2012        | 3.0%                   |
| 1986-1988   | 0.0%                   | 2013        | 1.7%                   |
| 1989        | 4.7%                   | 2014        | 1.1%                   |
| 1990        | 3.0%                   | 2015        | 1.1%                   |
| 1991        | 0.0%                   | 2016        | 0.1%                   |
| 1992        | 2.0%                   | 2017        | 1.5%                   |
| 1993        | 1.2%                   | 2018        | 2.3%                   |
| 1994        | 1.0%                   | 2019        | 2.2%                   |
| 1995        | 1.1%                   | 2020        | 1.9%                   |
| 1996        | 0.99%                  | 2021        | 1.3%                   |
| 1997        | 1.31%                  |             |                        |
| 1998        | 0.73%                  |             |                        |
| 1999        | 0.54%                  |             |                        |
| 2000        | 1.08%                  |             |                        |
| 2001        | 1.40%                  |             |                        |
| 2002        | 1.63%                  |             |                        |
| 2003        | 2.15%                  |             |                        |
| 2004        | 1.6%                   |             |                        |
| 2005        | 3.0%                   |             |                        |
| 2006        | 3.0%                   |             |                        |
| 2007        | 1.7%                   |             |                        |
| 2008        | 3.0%                   |             |                        |

The increase is based on the lesser of the percentage change in the Consumer Price Index (Urban Wage Earners) from November of one year to November of the following year, or 3%, whichever is less. The index increased at the rate of 1.93% from November 2018 to November 2019; therefore, the annual increase in 2020 is 1.9%. Please contact the APCA for the actual maximum rental rates available and/or the maximum rental rates for a specific deed-restricted property.

## PART V

### APCHA PURCHASE AND SALE POLICIES AND PROCEDURES

#### Section 1. Application and Qualification to Purchase Affordable Housing

Applicants for ownership of deed restricted units must apply by submitting an APCHA Qualification Packet with copies of those documents demonstrating qualification, and all applicable fees. Applicants are advised to apply and qualify in advance of submitting a bid for an ownership unit with a lender. However, bids may be submitted with the application documents. All first-time applicants must also include a Certificate of Completion of the Home Buyer On-Line Education Program and review. Options can be found on APCHA's website, <https://www.apcha.org/223/Homebuyer-Education>.

Bids are prioritized by APCHA according to the qualification criteria stated in Part III for eligibility and qualification.

#### Section 2. Bid Submission

Qualified ownership applicants shall submit bids to APCHA on a Bid Submission form during the bid period with the applicable fee.

##### A. Bid Period

The initial bid period is usually two weeks (an exception would be in-complex bids, bids from new applicants and bids from households with expired packets; see Section C.1 below). If no bids are received for a unit during the initial bid period, advertisement of the listed unit shall continue until the unit is sold or the listing is withdrawn.

##### B. Bid Submission

Only qualified APCHA applicants may submit bids on ownership units. Bids at a price higher than the listed sale price, which is ordinarily the maximum sales price permitted by the Deed Restriction, shall not be accepted. If otherwise qualified, ownership applicants may be permitted to bid for a unit in a higher category. However, bidding in a lower category is not permitted.

**APPLICANTS FOR WORKFORCE HOUSING IN THE APCHA INVENTORY WILL ONLY BE ALLOWED TO HAVE ONE QUALIFICATION PACKET ON FILE AT ANY GIVEN TIME AND IT MUST INCLUDE THEIR ENTIRE HOUSEHOLD (SEE PART III, SECTION 2.B. 3&4). ANY CHANGE IN HOUSEHOLD WILL NOT BE APPROVED UNTIL POINT OF REQUALIFICATION.**

A member of a currently qualified APCHA household, whether on the deed or not, may not bid on another unit separately from his/her household unless legal verification of separation or divorce is submitted (if married) or a sworn statement of separation that is notarized is submitted (if unmarried)

to APCHA in advance of bidding. Documentation of separated assets and income must be provided in advance of bidding. At the end of the bid period, bids at the listed sale price that meet all top priority criteria are considered first and are placed into a lottery.

### C. Bid Priority

#### Transfers Outside the Bid Process

Certain transfers as described in these Regulations are not required to go through the bid process and lottery. Such transfers shall be made in accordance with the applicable Deed Restriction and APCHA approval at the maximum sale price determined in accordance with the Deed Restriction. Transfers outside the bid process are not allowed if under a compliance investigation or out of compliance with the deed restriction or APCHA regulations.

Requirements for transfers to Co-owners, Household Members or Family members are stated below:

- Persons with a present ownership interest Joint or Tenants-In-Common, in the affordable housing unit.
- Person(s) chosen by the remaining owner(s) to purchase the interest of another owner, as long as the household is qualified as defined herein. The owner remaining must continue ownership of the home for at least four (4) years. **Any other ownership interest must be approved by special review if not under a court order due to dissolution procedures and sold to a qualified employee.**
- A qualified spouse and/or child(ren) of current owners, including joint custody of the children, and/or qualified parent(s). A qualified spouse and/or child does not have to meet the category for the unit nor the minimum occupancy requirement. A transfer between siblings is permitted; however, the person who is gaining ownership by a transfer between a family member (as defined in these Regulations) must qualify fully under that specific category, including minimum occupancy. Any transfer must be to an actively employed Pitkin County employee as defined herein. For example, if the unit is a Category 3, 2-bedroom unit, the sibling must qualify as a fully qualified two-person, Category 3 household with a work history of at least the last four years. *Transfer within immediate family to a qualified buyer requires a \$100 transfer fee and must be approved by the APCHA prior to the transfer. The qualified buyer is also required to enter into a new deed restriction during the transfer process.*

#### 1. In-complex Priority

An in-complex bid is one made by a current owner who has owned and resided for at least one year in a unit in the same affordable housing complex or development as the listed unit. In-complex applicants must meet all APCHA requirements for the new unit, including minimum occupancy, and the in-complex applicant's current home must be listed immediately upon closing and sold within 180 days after closing. [An in-complex bid by an owner who has owned a unit for less than one year whose household meets all the requirements of a top priority bid, shall be classified as a second priority in-complex bid.] In-complex bids submitted during the

first week of the initial bid period shall have first priority over all other bids except transfers to a co-owner, and shall not be subject to lottery, unless more than one in-complex bid has been submitted. In-complex bids placed after the first week of the initial bid period shall be processed and prioritized like all other first priority bids.

In multi-phase affordable housing projects under construction, an APCA owner who owns a newly constructed deed-restricted unit shall have in-complex priority in bidding on units within the same construction phase of the project, but not have in-complex priority in later phases of the project until all phases are complete. The in-complex priority does not exist for newly constructed affordable housing units (resales only). ONCE THE MULTI-PHASE PROJECT IS COMPLETED, THE STANDARD IN-COMPLEX BID PROCESS APPLIES.

Multiple priority bids from applicants with one year or more of ownership shall be decided by lottery. In all cases of in-complex priority, the successful applicant's presently-owned property must become available through the lottery system within 30 days after closing of the purchase of the newly acquired unit.

Two or more bids submitted at the listed sale price shall be prioritized according to employment history and/or other criteria as described below. A lottery shall be held for applicants meeting all APCA top priority criteria. All new projects require a lottery to be held for all top priority applicants as stated in Table VII (unless the applicant was chosen according to Part V, Section 2.C.3).

2. Mobility Disabled Units and Applicant Priority

Under City and County land use regulations and building codes and ADA regulations, a certain percentage of APCA ownership units are constructed or designed to be modified to meet the needs of persons with mobility disability (Type A units). Applicants with mobility disability and meeting all other applicable APCA requirements shall have priority over in-complex bids for units specified for mobility disability preference only. Mobility-disability bids are accepted only at the listed sale price. Two or more top priority qualified bids of mobility disability applicants shall be decided by lottery.

3. Displaced Residents

Owners of free market and deed restricted units displaced by the construction of new affordable housing or conversion of existing affordable housing shall have bid priority for the purchase of a unit of comparable size and category as owned when displaced, provided such displaced owners qualify and are in good standing with APCA at time of displacement. Displaced residents shall be required to meet all APCA qualifications except income and asset requirements.

#### 4. Emergency Workers<sup>1</sup>

- To be qualified as an Emergency Worker, the applicant's employer must verify Emergency Worker Status by completing the Emergency Worker Verification form. Once signed off, the form should be provided to the Compliance Manager for final approval. The individual who has been an Emergency Worker for at least one year may be given credit for four years of employment in Pitkin County, with a maximum of 5 chances in a lottery. All other criteria must be met; i.e., minimum occupancy, category, non-ownership of residential property within the OEZ. All such persons are required to maintain such employment until the completion of four years of service after acquiring the unit. If any such person leaves the emergency status position before that time, he or she is required to list the unit for sale in accordance with the deed restriction.
- The Emergency Worker priority shall have five (5) chances per lottery until such time as the Emergency Worker has worked within Pitkin County over eight (8) years. A certified emergency worker with such priority who leaves his/her position before completing four years of continuous service and certification shall lose priority and be required to list his/her ownership unit for sale.

#### 5. Local High School Graduates

Applicants who have graduated from a local high school located within the OEZ will be given credit for four years of employment in Pitkin County upon proof of the following:

- Diploma from the local high school; and
- At least one parent employed full-time in Pitkin County at time of graduation and at least four years prior to said graduation; and
- Present full-time employment in Pitkin County immediately following an absence of less than 5 years.

#### 6. Employment/Work History Priority

Price bids at the listed sale price are prioritized according to qualified applicant employment/work history. Applicants with a minimum of four consecutive years of employment/work history receive highest priority. See Table VII for chances.

Priority bids are decided by lottery. If competing priority bids are not submitted, if priority bidders do not accept the unit, or if the priority bidders are unable to meet the requirements of the sales contract, non-priority bids, if any, shall be accepted and decided by lottery. See Table VII for bid priority per unit size and employment/work history. Two or more bids submitted at the listed sale price shall be prioritized according to employment history and/or other criteria as described below. A lottery shall be held for applicants meeting all APCA top priority criteria. **All new projects require a lottery to be held for all top priority applicants as stated in Table VII (unless the applicant was chosen according to Part V, Section 2.C.3).**

---

<sup>1</sup> Emergency Worker procedure changed by Resolution No. 04 (Series of 2019)

## TABLE VII

### APCHA BID PRIORITY PER EMPLOYMENT HISTORY & OCCUPANCY *Per Category and Household Size of Ownership Applicant*

The following are the priorities among competing bids for each type of unit in the APCA inventory:

#### **Studio Units**

1. A single person household with four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
2. A household greater than one person with four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
3. A household of any size with one to four years of consecutive years of employment in Pitkin County immediately prior to application for purchase.
4. A household of any size with less than one year of consecutive years of employment in Pitkin County immediately prior to application for purchase.

#### **One-bedroom Units**

1. A household of one or more qualified employees with four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
2. A household of one or more qualified employees with one to four consecutive years of employment in Pitkin County immediately prior to application for purchase.
3. A household of one or more qualified employees with less than one consecutive year of employment in Pitkin County immediately prior to application.

#### **Two-bedroom Units**

1. A household of at least two qualified employees, or one qualified employee and one dependent, where at least one qualified employee has four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
2. A household of at least two qualified employees or one qualified employee and one dependent, where at least one qualified employee has worked one to four consecutive years of employment in Pitkin County immediately prior to application for purchase.
3. A household of at least two qualified employees or one qualified employee and one dependent where at least one qualified employee has worked less than one consecutive year of employment in Pitkin County immediately prior to application.
4. A household of one person with four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
5. A household of one person with one to four years of consecutive years of employment in Pitkin County immediately prior to application for purchase.
6. A household of one person with less than one year of consecutive years of employment in Pitkin County immediately prior to application for purchase.

### **Three-bedroom Units**

1. A household of at least two qualified employees and one dependent, or one qualified employee with two dependents, in which at least one qualified employee has four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
2. A household of at least two qualified employees and one dependent, or one qualified employee and two dependents, in which at least one qualified employee has worked one to four consecutive years of employment in Pitkin County immediately prior to application for purchase.
3. A household of at least two qualified employees and one dependent, or one qualified employee and two dependents, in which at least one qualified employee(s) has worked less than one consecutive year of employment in Pitkin County immediately prior to application.
4. A household of at least two qualified employees, or one qualified employee and one dependent, in which at least one qualified employee(s) has four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
5. A household of at least two qualified employees, or one qualified employee and one dependent, in which at least one qualified employee(s) has worked one to four consecutive years of employment in Pitkin County immediately prior to application for purchase.
6. A household of at least two qualified employees, or one qualified employee and one dependent, in which at least one qualified employee(s) has worked less than one consecutive year of employment in Pitkin County immediately prior to application.
7. A household of one person with four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
8. A household of one person with one to four years of consecutive years of employment in Pitkin County immediately prior to application for purchase.
9. A household of one person with less than four years of consecutive years of employment in Pitkin County immediately prior to application for purchase.

### **Four-bedroom Units**

1. A household of at least two qualified employees and two dependents, or one qualified employee with three dependents, in which at least one qualified employee(s), has four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
2. A household of at least two qualified employees and two dependents, or one qualified employee and three dependents, in which at least one qualified employee(s) has worked one to four consecutive years of employment in Pitkin County immediately prior to application for purchase.
3. A household of at least two qualified employees and two dependents, or one qualified employee and three dependents, in which at least one qualified employee(s) has worked less than one consecutive year of employment in Pitkin County immediately prior to application.
4. A household of at least two qualified employees and one dependent, or one qualified employee with two dependents, in which at least one qualified employee(s) has four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
5. A household of at least two qualified employees and one dependent, or one qualified employee and two dependents, in which at least one qualified employee(s) has worked one to four consecutive years of employment in Pitkin County immediately prior to application for purchase.
6. A household of at least two qualified employees and one dependent, or one qualified employee and two dependents, in which said employee(s) has worked less than one consecutive year of employment in Pitkin County immediately prior to application.
7. A household of at least two qualified employees, or one qualified employee and one dependent, in which at least one qualified employee(s) has four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.

8. A household of at least two qualified employees, or one qualified employee and one dependent, in which at least one qualified employee(s) has worked one to four consecutive years of employment in Pitkin County immediately prior to application for purchase.
9. A household of at least two qualified employees, or one qualified employee and one dependent, in which at least one qualified employee(s) has worked less than one consecutive year of employment in Pitkin County immediately prior to application.
10. A household of one person with four or more consecutive years of employment in Pitkin County immediately prior to application for purchase.
11. A household of one person with one to four years of consecutive years of employment in Pitkin County immediately prior to application for purchase.
12. A household of one person with less than one year of consecutive years of employment in Pitkin County immediately prior to application for purchase.

### Section 3. Lottery Process

Lottery dates are specified in sale advertisements. Lotteries are usually scheduled to occur at noon on the Monday following the end of a bid period (unless Monday falls on a holiday).

#### A. Lottery Chances

Priority bids are assigned a number of lottery chances according to length of consecutive employment/work history. Should there be no first priority applicant, non-priority bids shall then be assigned chances according to length of employment. Each chance represents a single entry of the name in the lottery. In the event of equally qualified applicants, Table VIII, states the number of lottery chances assigned according to consecutive employment within Pitkin County/Aspen.

**TABLE VIII  
NUMBER OF APCA LOTTERY CHANCES FOR PRIORITY BIDS**

| <i>Years employed/worked in Pitkin County</i> | <i>Number of lottery chances</i> |
|---|----------------------------------|
| more than 4 years, less than 8                | 5                                |
| more than 8 years, less than 12               | 6                                |
| more than 12 years, less than 16              | 7                                |
| more than 16 years, less than 20              | 8                                |
| more than 20 years                            | 9                                |

#### 1. Lottery Entry Verification

All priority bids shall be entered into the lottery with the applicable number of lottery chances. To ensure that no qualified priority bid is excluded, names of applicants with priority bids in the lottery shall be printed and verified by APCA prior to running the lottery. APCA will post the names of lottery entries online by 5:00 PM on Friday.



## 2. Lottery Winners

A lottery continues until the bids of persons included in the lottery are drawn once. The first-place lottery winner's application, qualification and bid materials shall then be reviewed by APCHA for completion and verification before the winner is notified. Then an appointment is made for the winning bidder to meet with APCHA regarding the sales contract. APCHA shall have the authority to disqualify a winner if such person's qualifications cannot be verified or if they are incomplete or inaccurate.

Upon such verification of the successful bid, a lottery is classified as "official" and the names of the lottery winners and order of other bidders shall be posted at the APCHA office and on the website, [www.apcha.org](http://www.apcha.org).

If purchase by the first-place lottery winner does not occur for any reason, the second-place lottery winner shall be offered the opportunity to purchase the unit, and the process shall continue through the lottery list until the unit is sold.

## Section 4. Sales Contract

### A. Legal Counsel

APCHA does not provide legal advice to purchasers or sellers. Purchasers and sellers of deed restricted units are advised to consult legal counsel regarding contracts, financial agreements, deed restrictions, title documents, condominium declarations and covenants, HOA policies including Capital Reserves policies, and any other legal matters pertaining to a sale. Buyers and sellers retaining professional services related to purchase or sale shall do so at their own expense.

### B. Three-day Contract Negotiation Period

A qualified buyer with a winning bid must sign an APCHA approved sales contract stating all terms of the proposed purchase within three (3) business days after the holding of the lottery. APCHA shall present the contract to the seller for approval and execution.

If negotiations fail before a contract is signed, or if a contract fails before closing, the unit shall be offered to the second-place lottery bidder at which time a new negotiation period shall commence.

### C. Deed Restriction Agreement

At closing, the Buyer signs a memorandum of acceptance or deed restriction agreement, whichever is applicable. Said document will be recorded with the Pitkin County Clerk and Recorder along with the deed and other pertinent closing documents. All buyers are also required to sign an *Affidavit of Compliance and Requirements for Continuing Eligibility* prior to closing.

#### **D. Co-signers**

All parties to a sales transaction shall sign the closing documents as required. A person who is not APCHA-qualified but who will co-sign a financial agreement related to the purchase of an affordable housing unit must sign a Non-qualified Co-owner Affidavit stating he/she shall not occupy the unit and shall release the unit for resale by APCHA should the resident owner no longer be in compliance.

### **Section 5. Sale of an Ownership Unit / Listing a Unit for Sale**

Unless otherwise stated in a unit's deed restriction, APCHA units shall be listed for sale through APCHA.

All aspects of the sale shall be managed by APCHA in accordance with these Regulations. APCHA acts as a Transaction Broker representing both buyer and seller and shall represent both parties fairly. The parties may seek legal counsel at their own expense.

#### **A. Listing Agreement**

Sellers must sign a Listing Agreement with APCHA establishing sale procedures and terms, including fees.

#### **B. Sales Fee**

A sales fee is equal to two percent (2%) of the sale's price of the property, unless otherwise specified in the deed restriction payable to APCHA. Seven hundred and fifty dollars (\$750) of the sales fee will be collected by APCHA at time of the listing. The remaining sales fee will be collected at time of closing from seller's proceeds.

In the event that the seller: a) fails to comply with the listing contract, b) rejects all offers at maximum price in cash or cash-equivalent terms, or c) withdraws the listing after advertising has commenced, that portion of the sales fee paid at listing will not be refunded. In the event that the seller withdraws for failure of any bids to be received at maximum price or with acceptable terms, the advertising and administrative costs incurred by APCHA shall be deducted from the fee. The balance will be credited to the seller's sales fee when the property is sold.

#### **C. Listing Period**

Units listed for sale shall be advertised in successive bid periods until the unit is sold or the listing withdrawn. Units shall be listed for sale for a minimum of six (6) months before any adjustments to maximum sales price (unless Seller should choose to lower the sales price before the end of the six (6) month period). If the unit is being sold through a compliance issue, the sales price will not be adjusted (increased) until the property is sold.

#### **D. Minimum Standards for Maximum Sale Price**

APCHA owners and buyers shall be provided a checklist of Minimum Standards for a sale at Maximum Sale Price, including, but not limited to:

- Clean, odor-free interior;
- Carpets professionally steam-cleaned within two (2) days of closing;
- Surface scratches, marks, holes in doors, floors, walls, woodwork, cabinets, counter tops, other than normal wear and tear, repaired;
- Walls in good repair and paint-ready;
- Windows and window locks in good repair; broken panes replaced;
- Window screens in place and in good repair;
- Doors and door locks in good repair; working keys for all locks at closing;
- Light fixtures, outlets, switches secure and in working order;
- Plumbing in good repair with no leaks;
- Tile grout in good repair and clean;
- Roof in good repair with no leaks (if home is a single-family); and
- Safety hazards resolved

##### **1. Seller's Property Disclosure Form**

Seller's Property Disclosure form and Seller's Listing Checklist shall be completed and submitted prior to listing a unit for sale. Sellers shall describe conditions meeting minimum standards and all conditions, items, fixtures, installations, etc., in the unit requiring repair and/or cleaning.

##### **2. Mitigation of Repairs**

APCHA shall conduct a cursory inspection pointing out items that may show up in an inspection report; however, APCHA's inspection does not take the place of the inspection done by an expert.

If a unit does not meet minimum standards, APCHA may, at its discretion, require that the cost of necessary repairs be deducted from the closing sale price, or that seller place into escrow the funds necessary to ensure satisfactory repairs. Any escrow balance remaining after necessary repairs are satisfactorily made shall be returned to seller.

#### **E. Maximum Sale Price**

Unless otherwise stated in the deed restriction applicable to the unit, the Maximum Sale Price for an APCHA ownership unit meeting minimum standards shall be calculated as follows:

- Seller’s purchase price;
- Plus three percent (3%) simple appreciation for each year owned, or a multiple of the Consumer Price Index (CPI) between date of purchase and date of listing, whichever is lower;
- Plus cost, at present value, of approved, permitted capital improvements, not to exceed ten percent (10%) of purchase price, less depreciation;
- Plus cost at present value of approved exempt capital improvements required to meet health and safety standards.

## Section 6. Resident-Occupied (RO) Unit Sale Policies and Procedures

RO units are subject to deed restrictions applicable to the unit as approved by APCHA and recorded in the real property records, and to the Regulations in effect at the time such deed restriction was recorded. Some RO units are subject to deed restrictions preceding publication of these Regulations as stated therein.

Unless otherwise specified in applicable deed restrictions, prospective owners must meet and maintain APCHA qualifications, including employment/work, residency and occupancy requirements. Maximum household income requirements are waived for RO ownership, and a maximum household net asset limit applies only to qualification to purchase a RO unit.

The sale and qualification of a RO unit may be subject to additional requirements as specified in the applicable Deed Restriction. For example, Williams Ranch includes ten (10) “RO Category 5” units, for which APCHA qualification is limited to different gross income and net assets per household.

If a vacant lot is purchased for RO unit development for a qualified buyer, a Certificate of Occupancy must be obtained within three years of the purchase of the lot or owner shall be deemed out of compliance and will be required to list the property for sale immediately.

### A. Sale Managed according to Deed Restrictions and Regulations

Even when a RO unit is not required to be listed with APCHA, APCHA will qualify prospective purchasers (under APCHA qualifications). Any other resales of RO units shall be listed with APCHA and will be marketed through the same process as the category units, unless specified otherwise in the applicable deed restriction. The Seller is required to pay the Sales Fee which is equal to two percent (2%) of the sale’s price of the property, unless otherwise specified in the Deed Restriction. Seven hundred and fifty dollars (\$750) of the sales fee will be collected by APCHA at the time of listing with the balance collected from the proceeds at closing.

### B. RO Maximum Sale Price

Unless otherwise specified in applicable deed restrictions, any sale of a RO unit after the initial sale shall be subject to a maximum sale price calculated as follows (**value of “sweat equity” shall NOT be included**):

- Initial purchase price of the RO unit or lot;
- Plus three percent (3%) simple appreciation for each year owned by Seller, or a multiple of the Consumer Price Index (CPI) between date of purchase and date of listing, whichever is less (some RO units appreciation at 4% or 3% per year – see specific deed restriction);
- Plus actual cost at present value of construction of the RO unit on the lot, plus 3% or a multiple of the CPI of that amount, whichever is less, from the date of issuance of a Certificate of Occupancy (CO);
- Plus actual cost and present value, if any, of construction to expand the RO unit to the maximum net livable square footage of 2,200 square feet, plus 3% or a multiple of the CPI, whichever is less, from the date of issuance of a CO of the expansion;
- Plus actual cost at present value, of approved, permitted capital improvements, not to exceed ten percent (10%) of initial sale price of the completed unit, less depreciation;
- Plus actual cost at present value of approved exempt capital improvements required to meet health and safety standards.

If deed restrictions specific to the unit permit, a mobile home converted to a RO unit by an APCHA-qualified owner shall not be subject to an appreciation cap (except for units within the Woody Creek Park Subdivision).

## Section 7. Foreclosures

If set forth in the applicable Deed Restrictions, a Unit sold at a foreclosure sale or acquired by any person or entity in lieu of foreclosure, APCHA has the option to acquire such Property. If any such person or entity is not a fully Qualified Buyer (top priority) and acquires an interest in such Property or Unit in a foreclosure sale or in lieu of foreclosure, such person must list the property for sale as stated in the deed restriction. The terms of the deed restriction remain in full force and effect with respect to the property until modified, amended or terminated.

Only fully Qualified Buyers (top priority) may acquire an interest in a Property at a foreclosure sale or in lieu of foreclosure. If any person or entity having a lien on a Property is not a fully Qualified Buyer (top priority) and acquires an interest in such Property or Unit in a foreclosure sale or in lieu of foreclosure, the owner shall list the home for sale as stated in the deed restriction. The APCHA still has the right-of-first refusal within 30 days upon the Qualified Buyer obtaining the confirmation deed.

In the event that APCHA or the Board, as the designee of the APCHA, exercise the option described above, the APCHA and/or its designee, may sell the Property to Qualified Buyers as that term is defined herein, or rent the Property to qualified tenants who meet the income, occupancy and all other qualifications, established by these Regulations until a sale to a qualified buyer is affected.

**It is APCHA's policy to purchase the property at the foreclosure sale on the Courthouse steps; however, APCHA may still exercise the option of purchasing the property within 30 days of the Certificate of Purchase to the buyer on the Courthouse steps.**

## PART VI

### MAINTAINING ELIGIBILITY, SPECIAL REVIEW, COMPLIANCE AND GRIEVANCE POLICIES

#### Section 1. Maintaining Eligibility

APCHA tenants and owners must maintain the requirements for tenancy and ownership in good standing as described below unless otherwise required in the deed restriction.

##### **A. Rental - Requalification every Two Years/Tenant Responsibilities**

Every tenant, whether the unit is under APCHA or private sector property management, is required to re-qualify with APCHA at least every two years and verify continuous full-time employment/work in the county; primary residency of at least nine months per year; no ownership of developed residential property in the OEZ; and not exceeding the income and asset limits for that specific category unit. Requalification requires submission of APCHA forms, verification documents and other information as requested, along with a Requalification Fee.

A re-qualifying tenant receiving unemployment benefits must still meet the full-time work requirement of 1500 hours per calendar year.

An APCHA tenant under review for non-compliance shall not be eligible for requalification and shall not be permitted to renew his/her lease until compliance issues are resolved.

- At least thirty (30) days prior to the end of the qualification period, the landlord of an affordable housing rental unit, whether APCHA or a private sector property manager, shall notify tenants in writing of the requirement to re-qualify. An APCHA Rental Qualification Form shall accompany the notice.
- APCHA must approve ALL leases for affordable housing rental units before the lease is signed and prior to occupancy.
- Tenants and Owners must submit copies of the executed leases to APCHA.
- When re-qualifying, maximum gross income shall be adjusted to an additional twenty percent (20%) of the maximum amount regularly applicable in the respective category. This adjusted maximum gross income will only be used when the composition of the entire unit is the same; it does not apply if there are changes to tenants.
- If income or asset limits are exceeded, the tenant will be given one year to come back into compliance or to vacate the leased premises. The rent will be adjusted based on the tenant's new income and asset category.

## Ownership – Affidavits and Audits

After acquisition of a deed restricted unit, qualified owners are not required to maintain household gross income and net asset limitations, or to meet minimum occupancy requirements, but shall be required to maintain all other APCHA qualification requirements. APCHA will require all owners to complete and sign a requalification affidavit on a biennial basis.

APCHA has the right to request additional documentation through an audit or follow up on a complaint at any time to confirm compliance with the APCHA qualification requirements.

**Failure to complete the requested forms and/or submit the requested documentation will result in a Notice of Violation and appreciation will be terminated until the homeowner is brought back into compliance. Such owners are prohibited from recouping the appreciation lost during the period of non-compliance.**

### B. Death of Qualified Employee

#### 1. Rental Units

Approved household members in occupancy at the time of a qualified tenant's death shall be permitted to continue to occupy the respective unit for the balance of the lease term.

#### 2. Ownership

- A. A qualified spouse and/or child in occupancy at the time of a qualified owner's death does not have to meet the category for the unit nor the minimum occupancy requirement. A relative besides a qualified spouse and/or child in occupancy at the time of a qualified owner's death shall be permitted to continue to occupy the respective unit only if the surviving relative is or becomes APCHA-qualified within six months.
- B. If a dependent minor (under age 18) is the sole surviving member of a household and opts to stay in the unit and is (1) enrolled full-time in an accredited lower or high school program and/or thereafter such person enrolls in an accredited higher education program; and (2) verification of education enrollment is submitted to APCHA in a timely manner, they will be allowed to remain in the unit. A higher education program is not allowed to exceed four years. Upon completion or termination of such enrollment, in order to retain ownership and occupancy, the approved occupant/household must meet all the requirements of the deed restriction and the regulations that apply to qualified buyers or the unit must be offered for sale as provided therein.

**A legal guardian of the dependent minor has the right to remain in the unit if they are a qualified employee.**

**If occupants of an APCHA ownership unit become ineligible or disqualified, such unit shall be marketed and sold according to the deed restriction.**

## Section 2. Landlord Responsibilities

- A. All tenants must be approved by APCHA prior to occupancy and prior to executing a lease. Property managers/landlords may not lease a unit until they receive approval from APCHA.
- B. Property managers/landlords must provide a copy of the lease to APCHA showing including the rental amount which is less than or equal to the maximum rent allowed per the deed restriction and regulations.
- C. Deed restricted rental units must always be leased and occupied. The maximum period allowed between tenancies is forty-five (45) days. This also applies to a vacancy by a roommate.
- D. Property managers/landlords shall notify tenants of the requirement to requalify at least thirty (30) days prior to the end of the two-year qualification period.
- E. Property managers/landlords shall, at their own cost and expense, maintain the interior and exterior of the entire structure and property, including all residential units and adjacent open areas, in safe and clean condition, in good order and repair, except for reasonable wear and tear.

## Section 3. Owner Responsibilities

APCHA shall from time to time schedule educational programs for affordable housing purchasers and owners to review HOA responsibilities and responsibilities under these Regulations and applicable deed restrictions.

### A. Property Management

- 1. HOAs
  - a. Dues and Assessments  
It shall be a violation of the Regulations for an Owner to fail to pay HOA assessments.
  - b. Capital Reserves  
Every HOA is required to adopt a capital reserve policy for long-term capital repairs. All newly formed HOAs must also maintain a separate capital reserve fund to support the policy.
- 2. Affordable Housing Rendered Unaffordable

APCHA may from time to time in its discretion determine that a deed-restricted ownership unit located in a condominium or subdivision that also includes free market units has been rendered unaffordable as a result of general or special HOA assessments.

APCHA, City of Aspen, or Pitkin County may determine to purchase an employee housing unit rendered unaffordable. In that event, APCHA may at its discretion release applicable deed restrictions and sell such property at fair market value. APCHA shall be reimbursed the sale price plus the APCHA transaction fee from sale proceeds. The balance of the proceeds shall be deposited in the city and/or county Housing Development Funds to support the housing program. Any HOA assessments paid by the city, county or APCHA shall also be reimbursed from sale proceeds.



## B. Maintaining Ownership Qualification

1. Owners must remain in good standing with their HOA and maintain APCA eligibility and qualifications (See Part III, Section 1).
2. Where one or more co-owners of a two- or three-bedroom unit vacates the unit within four years from the date of purchase, the unit must be sold in accordance with the applicable deed restriction. Unless a court order requires such.
3. All qualified owners, including multiple owners, must maintain compliance with all applicable requirements. Failure of any co-owner to do so shall constitute a violation.
4. APCA owners must re-qualify with APCA at least every two years by completing a Requalification Affidavit attesting to the requirements in the deed restriction and these Regulations and by submitting other information as required by APCA. Owners selected under the Random Audit process are required to provide documentation to APCA of continued compliance with their deed restriction and these Regulations. See Part III for requalification policies and procedures.
5. If any Owner, Owner's spouse, or a member of Owner's household acquires any other residential property within the OEZ, one of the properties **MUST** be sold within 180 days. If the Owner has not sold one of the properties within 180 days, the newly acquired property must be listed for sale. This may require the Owner to move back into the older ownership property. If both units are deed-restricted, Owner must list their existing property for sale immediately upon closing or before closing. **At no time shall an owner own more than two deed-restricted properties; and, will not be allowed to enter into a lottery and/or contract for a third unit.**
6. Any other violation of the Regulations and/or deed restriction, where the sale of a unit is required as a result of a violation, and if the property has not sold within 180 days of the listing agreement, the Owner will be bound by the following:
  - On day 181, Owner must accept any valid contracts (as determined by the Colorado Real Estate Commission) of at least ninety-five percent (95%) of the **maximum sales price**.
  - If the unit has still not sold after another 30 days at or above 95% of the maximum sales price, the Owner must accept any valid contracts at or above ninety percent (90%) of the maximum sales price.
  - For each additional month the unit has not sold, the minimum bid price that must be accepted will decrease by an additional five percent (5%) of the maximum sales price.
  - For RO units that do not have an appreciation cap, the same shall apply based on the appraised market value of said unit.

## C. Property Maintenance

Owners of APCA units must maintain their units in good repair, including but not limited to the roof, boiler, water heater, appliances, and fixtures, per HOA requirements, deed restrictions and these Regulations. To achieve the Maximum Sale Price, owners must maintain their units according to the minimum standards as described below.

## D. Capital Improvements Policy and Procedure

When permitted by applicable deed restrictions, owners may make capital improvements to deed-restricted units and add the cost of such improvements to the maximum sales price.

### 1. Added Value to Maximum Sale Price

- The cost, or present value, of specified capital improvements as permitted under these Regulations and deed restrictions and as approved by APCA staff, less depreciation, may be added to the maximum sales of a unit. Deed restrictions specific to a unit may impose a capital improvements cap in determining the maximum sale price of a unit.
- Generally, no more than ten percent (10%) of the purchase price may be added to the maximum sale price for capital improvements. However, capital improvements associated with health and safety requirements may be exempt from the cap. The value of capital improvements requiring a building permit shall be added only if the city or county Building Department has issued a Letter of Completion, a copy of which shall be submitted to APCA with verification of capital improvement costs and payments.
- In determining maximum sales price, the capital improvements shall be depreciated according to the published schedule in an approved reference, such as the *Marshall & Swift Residential Cost Handbook*. Owners are advised to consult APCA regarding valuation in advance of making any capital improvements.
- An ownership unit remodeled to include an additional bedroom shall continue to be categorized according to the original number of bedrooms and occupancy standards; e.g., a one-bedroom unit remodeled into a two bedroom will be listed as a one-bedroom unit, allowing a single person household to meet occupancy standards.

### 2. Permitted Capital Improvements

Only the cost of the capital improvements permitted under these Regulations or applicable deed restriction and as approved in writing by APCA staff may be added to the maximum sale price. Permitted Capital Improvements may include:

- Fixtures constructed, installed or attached as permanent, functional, non-decorative improvements to real property;
- Improvements for the benefit of seniors and/or disabled persons;
- Completion of unfinished living space;
- Addition or completion of permanent, fixed storage space;
- Certain landscaping;
- Addition or extension of outdoor decks, porches, and balconies; and
- Improvements associated with health and safety, including radon detection, energy efficiency, water conservation and green building products.

The cost of capital improvements which are not permitted and shall not be added to the maximum sale price. Permitted Capital Improvements *shall not include*:

- Maintenance required by normal wear and tear;
- Repair, replacement and/or maintenance of existing appliances, plumbing, and mechanical fixtures and installations;
- Jacuzzis, saunas, steam showers and similar amenities; and
- Improvement or addition of decorative treatments, including painting, electrical and light fixtures, carpet, window coverings and similar items.

### 3. Application for Permitted Capital Improvements

APCHA owners must apply to APCHA for approval to make Permitted Capital Improvements the costs of which they intend to add to the Maximum Resale Price.

## E. Roommate Rental Policy

APCHA owners are permitted to rent bedrooms to roommates under the following terms and conditions:

- Deed restrictions and/or covenants applicable to the respective ownership unit must expressly permit rental of unoccupied bedrooms;
- Owner(s) must continue to maintain all APCHA qualification requirements;
- Roommates must qualify for rental through APCHA as a qualified tenant; income and asset limits do not apply – see Regulations Part III for eligibility and qualification. All tenants for deed restricted rental units must qualify through APCHA prior to moving in and/or executing a lease;
- Lease terms must be at least one month;
- Roommate rental rates must be prorated according to the maximum rental rate applicable to the unit category and size. One roommate in a two-bedroom unit shall pay no more than one half the rate; in a three-bedroom unit, no more than one-third the rate;
- Roommates are subject to all rules, regulations, and covenants applicable to the property;
- Owners are not permitted to lease their units for short-term rentals (a short-term rental is defined as any rental period less than 3 months)
- Owners are not permitted to rent their units as income producing properties (charging more than maximum rental amount as set forth by these Regulations);
- Owners may not rent a parking space or a carport or a garage parking space; and
- Owners must be in good standing with their Homeowner Association and in compliance with their deed restriction and the Regulations in order to obtain approval.

## F. Owner Leave of Absence Policy and Procedure

Owners of deed restricted housing units who wish to leave their unit for a limited period of time, resulting in non-compliance with the nine-month residency requirement and employment requirement, may request a Leave of Absence (LOA). The owner must be up to date with their HOA dues to request a LOA. Upon APCHA approval of a LOA Request and all other applicable requirements, owner's residency and employment requirements for maintaining ownership qualification shall be temporarily waived.

### 1. Leave Request

Owners shall submit a LOA Request form. The form shall be completed and submitted to APCHA after the form has been reviewed, approved and signed off by the HOA at least thirty (30) days prior to the start of the leave. Should APCHA or the HOA deny the leave request, the owner(s) may request Special Review with both APCHA and an HOA representative present. See Section 4 below for Special Review procedures.

**LOA's are not guaranteed to be approved.**

### 2. Approved Leave Period

An APCHA owner may request a Leave of Absence for up to one year. An owner may request a LOA for a second year, but it is not guaranteed. **Under no circumstances will owners receive any appreciation on the sales price of the unit during the second year.** At no such time shall a LOA be approved for longer than two years. Owners seeking to extend an approved LOA shall submit an additional LOA Request form to APCHA at least thirty (30) days prior to extension of the leave. If the LOA is requested **AFTER** the owner has VACATED THE UNIT, the appreciation of the sales price of the unit terminates retroactively to the date the owner vacated the premises. Appreciation will not be recouped once the homeowner is back in compliance and back in the unit. **A household on a LOA cannot bid on any other property until such time they are back in compliance working in Pitkin County and living in their deed-restricted unit.**

### 3. Rental during Approved Leave Period

If the deed restriction applicable to a unit permits an APCHA owner to take an approved LOA, the owner may rent his/her unit subject to APCHA approval to qualified households as stated in the Regulations Section 3, subsection F above.

Tenants must meet all APCHA qualifications otherwise applicable to tenants except for income and asset limits. All tenants must qualify through APCHA prior to moving in and/or executing a lease.

A. Rental Rate

If the deed restriction does not establish a rental rate, the permitted maximum monthly rental rate shall not exceed the total of owner's normal monthly expenses including mortgage payments, HOA dues, utilities in owner's name, insurance and property taxes not included in mortgage payment, plus fifty dollars (\$50) per month; or the maximum rental amount stated in Table III of these Regulations for the category and bedroom size of the unit, whichever is greater. Owners may not charge any additional amount for furniture, use of a garage, use of a storage unit, or any other cost associated with the unit or any other cost.

B. Lease Requirements

Tenants must acknowledge in writing receipt of an agreement to applicable HOA covenants, APCHA deed restrictions, rules and regulations of the association, lease terms and these Regulations. A copy of the executed lease shall be submitted to APCHA and the respective HOA. Approval of a tenancy pursuant to this section does not establish any right or priority for the purchase of the unit if the owner elects or is required to sell during or at the end of the LOA and termination of the tenancy.

**Lease terms may not exceed the duration of the approved leave of absence**

**Owners must notify APCHA and provide APCHA proof of employment upon return. APCHA will conduct a site visit upon expiration of the LOA.**

G. Retiring in APCHA Ownership Housing

Provided that such owner meets the requirements of a "qualified retiree in APCHA housing" as specified in Part VIII, Definitions, of these regulations, an owner may retire and retain ownership of the unit exempt from the APPLICABLE requirements of employment. Retirees must:

- Receive approval by APCHA by demonstrating to APCHA that they meet the qualified retiree criteria as defined in these regulations;
- Occupy the unit as their primary residence by living in the unit at least nine months per year, unless the owner has received an approved LOA to rent the unit as stated in paragraph F above;
- Continue to not own other developed residential property in the ownership exclusion zone.

APCHA qualified retirees must complete and sign a Requalification Affidavit at least every two years. The owner may request a LOA to rent the unit for up to six months each year. See paragraph H below for the specific requirements pertaining to this leave of absence.

H. Rental Policy for Approved Retirees who Own Deed-Restricted Housing

A qualified retiree in APCHA Housing, who has met the definition of "qualified retiree in APCHA housing" as specified in Part VII, may be absent from the unit for up to three months per year without a requirement to lease the unit. The owner may, request a LOA for up to six months per

calendar year; during which time, the unit must be rented to an APCHA qualified employee, please see Section 3, paragraph E.

If any of the above conditions are not met as detailed above, the lease shall terminate, and the appreciation will stop until the homeowner is brought back into compliance. Such owners are prohibited from recouping the appreciation lost during the period of non-compliance.

#### Section 4. Ineligibility List

The Ineligibility List is used by APCHA to determine whether to allow an applicant or potential applicant to rent or purchase a unit, or to be qualified as a roommate. It is the responsibility of the APCHA staff to review this list prior to qualifying any person for APCHA Housing. An individual on the Ineligibility List may not rent a unit when APCHA is the beneficiary of a deed restriction or otherwise responsible for management, nor may such persons rent from an owner of a deed restricted unit. Additionally, an individual on the Ineligibility List is not qualified to purchase a deed restricted unit.

##### A. Criteria

The following criteria will be considered by APCHA in determining to add an individual to the Ineligibility List (including but not limited to):

1. Fraud or Misrepresentation in transacting any business with APCHA;
2. Submitting untrue, misleading or inaccurate information to APCHA;
3. Violation of a Lease, Deed Restriction, or APCHA Regulation, including but not limited to:
  - a. Non-approved pet in a unit;
  - b. Multiple incidents of disruptive behavior or noise complaints from neighbors;
  - c. Unapproved tenants or roommates;
  - d. Illegal fires;
  - e. Multiple parking violations;
  - f. Inexcusable damage to a Unit;
  - g. Vandalism of APCHA's or any other person's property;
  - h. Threatening behavior towards APCHA staff or neighbors;
  - i. Theft of APCHA property; or
  - j. Repeated late payments or rent (3 or more within a lease term)
4. Outstanding debt of any kind to APCHA;
5. Safety risk to APCHA staff or neighbors;
6. Subleasing a unit w/o APCHA approval
7. Trespassing on other property;
8. Eviction based upon lease violation;
9. Sale of property as a result of violating a deed restriction;
10. Other Violation(s) of applicable Deed Restriction or Violation(s) of APCHA Regulation;
11. Stage V Fine previously imposed; or
12. Other reason, as determined by APCHA.

## **B. Procedure for Additions to Ineligibility List**

1. The Executive Director, in consultation with the Compliance Manager, may add an individual to the Ineligibility List at any time.
2. Upon adding an individual to the List, APCA shall notify the individual of such action within 15 days, by email and letter. The notice shall identify with particularity the reason(s) for adding the individual to the List.
3. The notice shall advise such person of the opportunity to appeal such action to the APCA Hearing Officer in the same manner as an appeal from a Notice of Violation as provided in Part VI, Section 5.B.e-g of the APCA Regulations. The decision of the Hearing Officer shall constitute final agency action for the purpose of judicial review.

## **C. Procedure for Removal from Ineligibility List**

Any person on the Ineligibility List may request to be removed from the List. The request to be removed shall be addressed to, and determined by, the APCA Hearing Officer in the same manner as an appeal from a Notice of Violation as provided in Part VI, Section 5.B.e-g of the APCA Regulations. The decision of the Hearing Officer shall be considered final for purposes of judicial review. The Hearing Officer shall consider, without limitation, the following:

1. Where possible, if the reason for placing the person on the List has been cured;
2. The severity of the conduct which resulted in placing the individual on the List;
3. The likelihood of future violations of the same nature;
4. Conduct of the individual in connection with any tenancy or ownership since placement on the Ineligibility List; and
5. Any mitigating or aggravating circumstances associated with the past conduct of the individual towards APCA or neighbors.

## **Section 5. Special Review Policy and Procedure**

An applicant for a rental or ownership unit, in accordance with Part III, Section 1, may request a Special Review approval for a variance from the strict application of the Regulations, excluding cases involving compliance and enforcement, if the following can be shown:

- Unusual hardship; and
- Consistency with APCA policies and purposes.

### **A. Special Review Procedure**

A Special Review for a variance from the strict application of these Regulations may be requested if an unusual hardship can be shown, and the variance from the strict application of the Regulations is consistent with the Housing Program intent and policies. To request a Special Review, a letter must be submitted to the APCA stating the request, with documentation regarding the unusual hardship. The applicant shall submit any additional information reasonably requested by the APCA and a Special Review meeting will be scheduled with a Hearing Officer in a timely manner.

**B. Special Review Hearing Officer**

Special review is conducted by a Hearing Officer appointed by the APCA Board for that purpose.

**C. Decision**

The Hearing Officer may grant the request, with or without conditions, if the approval will not cause a substantial detriment to the public good and without substantially impairing the intent and purpose of these Regulations, and if an unusual hardship is shown.

**Section 6. Enforcement Policies and Procedures**

**A. Compliance with Applicable Deed Restrictions and APCA Regulations.**

All owners and occupants of deed restricted rental and ownership housing administered by APCA must comply with the requirements of applicable deed restrictions, the APCA Regulations as amended from time to time, and applicable federal, state and local laws. All violations of such requirements are subject to enforcement as provided herein.

**B. Enforcement Procedures.**

Enforcement procedures may be initiated by an APCA investigation or a complaint from a third party.

**1. Notice of Investigation (NOI)**

At the discretion of the APCA, before issuing a Notice of Violation (NOV), the APCA may issue a notice to the person under investigation that APCA is seeking information in order to determine if a violation has occurred and providing such person at least fifteen (15) days from the date of the notice to provide information in accordance with the notice. notice shall be provided by certified mail, regular mail, e-mail, text message, phone to the extent that APCA has been provided with current and accurate mailing address, e-mail address, and phone number. It is the responsibility of program participants (i.e., owners, renters, landlords, homeowners' associations, property managers and property owners) to provide APCA with up-to-date contact information at all times.

**2. Notice of Violation (NOV)**

a) In the event that APCA, as a result of an independent investigation or based upon a third party complaint as described in Section 4, paragraph A, below, or for failure to comply with a compliance request, audit or affidavit requirement, determines that a violation has occurred, APCA shall serve a Notice of Violation ("NOV") on the person(s) deemed to be in violation. The NOV may be served by regular mail, certified mail, e-mail, text message and phone, to the extent that APCA has been provided with current and accurate mailing address, e-mail address and phone number, or as otherwise provided by the applicable deed restriction or by law for service of process. The NOV shall state the following:



- i. identify the name of the alleged violator, and
  - ii. the date(s) of the violation if known, and
  - iii. the actions or inactions constituting the violation, and
  - iv. the requirement(s) which have been violated.
- b) The NOV shall, at the discretion of APCHA, require one or more of the following:
  - i. the violation be cured within fifteen (15) days of the NOV;
  - ii. the lease (if a rental unit) shall be terminated within a specified period of time;
  - iii. the unit shall be listed for sale (if an ownership unit) within a specified period of time;
  - iv. the owner will forfeit appreciation from the date that the violation occurred, until the violation is cured, or the unit is sold, whichever first occurs; and/or
  - v. a fine be paid in accordance with the Schedule of Fines found in the appendices of these Regulations.
- c) The NOV shall provide that the person charged in the NOV may, within fifteen (15) days of the date of the NOV, request in writing a hearing before the APCHA Hearing Officer. The hearing may be requested to appeal the finding(s) that a violation has occurred and/or to appeal the relief demanded in the NOV.
- d) If the alleged violator does not comply with the requirements of the NOV and does not request a hearing before the Hearing Officer within the fifteen (15) day period, the violation identified in the NOV and the relief demanded shall be deemed final. In the event of litigation, the failure to request a hearing as provided above shall be deemed by APCHA to constitute a failure to exhaust administrative remedies for the purpose of judicial review. At the conclusion of the fifteen (15) day period, APCHA may pursue all remedies as provided by law or in equity, including, where applicable, a requirement that the subject property be sold in accordance with the deed restriction.
- e) If, within the fifteen (15) day period, a hearing is requested before the Hearing Officer, such hearing shall be scheduled to commence no later than thirty (30) days from the date of the request. At such hearing, APCHA staff, the person requesting the hearing, and interested members of the public, including witnesses, shall be permitted to present evidence in the form of testimony and documents to the Hearing Officer.
- f) The Hearing Officer shall base its decision upon the evidence in the record and it shall make its decision in writing within thirty (30) days of the conclusion of the hearing. The Hearing Officer may uphold the NOV in whole or in part, or it may dismiss the NOV. In taking any such action, the Hearing Officer may impose a remedy appropriate to the case, which may include a requirement for the owner to pay a fine and/or sell the subject property or require the occupants to vacate the premises in accordance with paragraph 2(b) above. Where a sale is required, the procedures identified in the applicable deed restriction shall be followed. The determination of the Hearing Officer may direct that legal action be taken

to enforce its decision. The costs of such action, including reasonable attorney's fees, shall be assessed against the proceeds of the sale, or tenant's security deposit. In the event that the decision has been made by a Hearing Officer, that decision is subject to administrative appeal to the APCHA Board as provided in Part E below.

- g) APCHA staff and the alleged violator shall exchange the documentary evidence they wish to present at the hearing at least one (1) week prior to the hearing. The Hearing Officer may accept additional documentary evidence at the hearing for good cause shown and may continue the hearing if it is deemed necessary in the interest of fairness.

### 3. Complaint Based Investigation

- a) Any person may submit to APCHA a complaint that a violation has occurred. Within thirty (30) days of the receipt of any such complaint, and if sufficient grounds are found to exist, APCHA staff shall commence an investigation and notify the alleged violator of the receipt of such complaint. For good cause and as authorized by law, APCHA may withhold the identity of the complainant.
- b) In connection with its investigation of the complaint, APCHA shall proceed in accordance with Part VI, Section 5B, and shall request that the alleged violator provide written information as may be reasonably necessary for its investigation, and the alleged violator shall be required to provide such information within fifteen (15) days from the date of the request, or such additional time as permitted by APCHA. APCHA shall maintain the confidentiality of any financial or other information provided by the alleged violation which is not required to be disclosed by the Colorado Open Records Act.
- c) APCHA staff shall complete its investigation as soon as possible, and within ninety (90) days from the receipt of the complaint whenever possible. Upon completion of its investigation, APCHA staff shall either notify the parties in writing that there are not reasonable grounds to determine that a violation has occurred, or it shall issue an NOV and proceed in accordance with the subsection 5.B.2 above and follow those procedures.

### 4. Investigations and Site Visits

In responding to a complaint or in the conduct of any other investigation, APCHA may inspect the subject premises. Any such inspection shall be preceded by at least 24 hours' written notice to the owner and occupants, either by mail or posted on the premises in a conspicuous place. Except in an emergency, all such inspections shall occur between 8:00 a.m. and 5:00 p.m., Monday through Friday.

5. Aspen Municipal Code and Pitkin County Code

Enforcement by APCA as provided herein does not constitute a waiver by the City of Aspen or Pitkin County of any authority they may have pursuant to their respective ordinances for enforcement with respect to the events described in an APCA NOV.

**C. Grievance Procedure**

A “grievance” is any dispute, claim, or request a person may have with APCA, not covered by Section 5B above, arising out of a deed restriction or the APCA Regulations.

1. Any person with a grievance shall first submit such matter to APCA staff. APCA staff shall attempt to resolve such matter informally with the aggrieved party, but in doing so, APCA staff is not authorized to make any determination contrary to a deed restriction, APCA Regulations, APCA policies, or established precedents.
2. At such time as APCA staff or the aggrieved party determines that the procedure identified in Section C.1 above will not resolve the matter, or by agreement of APCA staff and the aggrieved party, the grievance may be submitted to the Hearing Officer for a determination. All such grievances shall be submitted in writing and shall include the following information:
  - Name, address, telephone number and e-mail address of the aggrieved party; and
  - A summary of the grievance, the relief requested, and identification of the provision of the applicable deed restriction and APCA Regulations at issue.
3. Upon receipt of a grievance in accordance with subsection C.2 above, the matter shall be set for a public hearing before the APCA Hearing Officer, at which time the Hearing Officer shall consider the testimony and other evidence presented by APCA staff, the aggrieved party, and members of the public.
4. APCA staff and the aggrieved party shall exchange the documentary evidence they wish to present at the hearing at least one (1) week prior to the hearing. The APCA Hearing Officer may accept additional documentary evidence at the hearing for good cause shown.
5. The APCA Hearing Officer shall base its determination regarding the grievance upon the evidence in the record and it shall make its determination in writing within thirty (30) days of the conclusion of the hearing. Such determination shall be considered a final administrative determination by APCA.

#### **D. APCHA Eligibility and Qualification – Trusts (Part II, Section 2 (d))**

Applicants for rental and ownership units who are trust beneficiaries may apply to APCHA for an exception to the requirement that trust assets shall be included when considering the maximum net assets of the applicant in accordance with Part II, Section 2 of these regulations. The determination shall be made by the Hearing Officer appointed by the APCHA Board.

#### **E. Hearing Officer**

##### **1. Establishment**

There is hereby established within APCHA the position of Hearing Officer.

##### **2. Appointment**

The Hearing Officer shall be appointed by and serve at the discretion of the APCHA Board. The Board may appoint more than one Hearing Officer if deemed necessary, based on conflict of interest, availability, or for other good reason. No employee of APCHA or member of the APCHA Board shall serve as Hearing Officer. The Hearing Officer shall be subject to the same code of conduct/code of ethics as the members of the APCHA Board.

##### **3. Powers and duties**

The Hearing Officer shall hear and consider those matters specific in these Regulations. All matters considered by the Hearing Officer shall be conducted in a public hearing and all such hearings shall be recorded. Notice of all such hearings shall be given in the same manner as meetings of the APCHA Board. In addition, personal notice shall be given in writing to the appellant and all other persons known by APCHA staff to have an interest in the matter.

##### **4. Decisions**

The Hearing Officer may approve, approve with conditions, or deny any matter subject to his/her review. The decisions of the Hearing Officer shall include findings of fact and conclusions of law, and shall be made in writing, signed and dated. All such decisions shall be deemed final after 15 days of the date of the decision unless appealed to the APCHA Board as provided below. An unappealed decision of the Hearing Officer is not subject to judicial review in accordance with CRCP Rule 106(a)(4), based on the failure to exhaust administrative remedies.

## **F. Appeals of Hearing Officer decisions**

### **1. General Procedures**

- a. Any person adversely affected or aggrieved by a decision of the Hearing Officer may appeal such decision to the APCA Board as provided herein.
- b. Notice of appeal and a written summary of the grounds for the appeal must be submitted to the APCA executive director within fifteen (15) days of the date of the Hearing Officer's decision.
- c. No appeal shall be considered by the APCA Board until the appellant, at its expense, presents the executive director with a transcript of the proceedings before the Hearing Officer, which must occur no later than sixty (60) calendar days after the Hearing Officer's decision unless extended by the APCA Board for good cause shown.
- d. Upon receipt of the transcript, the Board shall schedule the appeal for a public hearing at the earliest date possible, with the consideration to the interests of all parties.

### **2. Scope of review**

- a. The appeal to the Board shall be based solely on the record of the proceedings before the Hearing Officer. The Board shall consider the arguments of the appellant, APCA staff, and other interested parties based on the record.
- b. Based upon the arguments made at the hearing, the Board may affirm, modify or reverse the decision of the Hearing Officer. In addition, the Board may determine that additional evidence is necessary and remand the matter to the Hearing Officer for the receipt of additional evidence and reconsideration based thereon. The Board's decision shall be made in writing and shall include findings of fact and conclusions of law.

### **3. Judicial review**

The decision of the APCA Board shall constitute final agency action subject to judicial review in accordance with CRCP Rule 106(a)(4).

**PART VIII**  
**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 APCHA 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 APCHA.

**Deed Restriction** - A contract entered into by the APCHA, 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 APCA. See part II, sec. 3.

**Earned Income** – APCA 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 APCA 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, APCA 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.

**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 four (4) 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.

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

**Regualification** – 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.

| <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.

## REGULATION APPENDICES

### APPENDIX A: APCA FEE SCHEDULE

| <i>APCHA Fee</i>   | <i>Amount</i>    |
|--|------------------|
| Ownership Application Fee<br>Payable upon submission of application and/or Ownership Application and Bid Packet<br>No Bid Fee for first bid submitted with Ownership Application   | \$50             |
| Ownership Bid Submission Fee<br>Per-bid amount payable upon submission of bids after initial ownership application   | \$5              |
| First-Time Tenant Long-term Rental Application Fee (Non-Managed, Managed, Tax Credit Properties) / Payable upon submission of application  | \$50             |
| Seasonal/Dormitory Rental Application Fee (per person)<br>Payable upon submission of application   | \$35             |
| Rental Requalification Fee (Non-Managed, Managed, Tax Credit Properties)<br>Payable by APCA tenants and owners upon requalification every two years  | \$35             |
| Sale Listing Fee<br>Non-refundable portion of Transaction Fee payable by seller upon listing   | \$750            |
| Sale Transaction Fee<br>Payable upon closing, includes non-refundable Sale Listing Fee   | 2% of sale price |
| Ownership Transfer Fee<br>Payable by transferor upon transfer of ownership unit to immediate family member<br>No transaction fee for immediate family transfers  | \$100            |
| Capital Improvements Review and Site Visit   | \$50             |
| Fee-in-lieu (city fee) and Impact Fee (county fee),<br>Also known as a Dedication Fee charged for private sector property development,<br>Calculated under city and county land use regulations and codes and APCA Regulations | *                |

\*The fee-in-lieu/impact fee is based on the corresponding sections of the Land Use Codes for the City and County.

**APPENDIX B**  
**APPROVED BY RESOLUTION NO. 11 (SERIES OF 2019)**  
**EFFECTIVE MARCH 1, 2020**

| <b>SCHEDULE OF FINES</b>   |  |                |
|--|--|----------------|
| #  | Stage 1 Violation  | Fine Range** \ |
| 1  | Failure to submit accurate and all documentation required to qualify by original deadline set by APCA.   | \$150 - \$180  |
| 2  | Failure to provide requested information to establish continued compliance by original deadline set by APCA.   | \$150 - \$180  |
| 3  | Failure to provide Census Information by original deadline set by APCA.  | \$150 - \$180  |
| 4  | Failure to pay HOA assessments (general or special) after failing to cure delinquency. HOA must follow collections policies and procedures under CCIOA before reporting owner to APCA. | \$150 - \$180  |
| 5  | Failure to pay property taxes annually by the deadline imposed by Pitkin County.   | \$150 - \$180  |
| 6  | Failure to allow the APCA to inspect the property or unit as provided in the deed restriction, after providing Owner with no less than 24 hours' written notice.                       | \$150 - \$180  |
| 7  | Failure to get roommate approved prior to move-in.   | \$150 - \$180  |
| 8  | Intentionally Left Blank   | \$150 - \$180  |
| <p>**Fines will be adjusted annually based upon the Consumer Price Index, All Items, U.S. City Average, Urban Wage Earners and Clerical Workers (Current Series) published by the U.S. Department of Labor, Bureau of Labor Statistics. Fine amounts shall increase by an amount based upon the CPI effective January 1 of each year. Stage 1 Violations will have 15 days to cure prior to assessing any fines.</p> |  |                |

| #  | Stage 2 Violation   | Fine Amount    |
|----|---|----------------|
| 1  | Failure to requalify by Stage 1 NOV deadline.   | \$400 to \$480 |
| 2  | Failure to provide requested information to establish continued compliance by Stage 1 NOV deadline.                             | \$400 to \$480 |
| 3  | Failure to provide Census Information by Stage 1 NOV deadline.  | \$400 to \$480 |
| 4  | Failure to pay HOA assessments (general or special) by Stage 1 NOV deadline.  | \$400 to \$480 |
| 5  | Failure to pay property taxes by Stage 1 NOV deadline.  | \$400 to \$480 |
| 6  | Failure to maintain eligibility (generally).  | \$400 to \$480 |
| 7  | Failure to obtain approved Leave of Absence (LOA).  | \$400 to \$480 |
| 8  | Failure to provide APCHA with copy of signed lease prior to occupancy by tenant(s).   | \$400 to \$480 |
| 9  | Failure to notify APCHA in writing of any default within five business days of Owner's notification; e.g., pending foreclosure. | \$400 to \$480 |
| 10 | Failure to cure Stage 1 Violation.  | \$400 to \$480 |
| 11 | Intentionally Left Blank  | \$400 to \$480 |
| 12 | Intentionally Left Blank  | \$400 to \$480 |

| #  | Stage 3 Violation   | Fine Amount       |
|----|---|-------------------|
| 1  | Failure to requalify by Stage 2 NOV deadline.   | \$1,000 - \$1,200 |
| 2  | Failure to provide requested information to establish continued compliance by Stage 2 NOV deadline. | \$1,000 - \$1,200 |
| 3  | Failure to provide Census Information by Stage 2 NOV deadline.                                      | \$1,000 - \$1,200 |
| 4  | Failure to pay HOA assessments (general or special) by Stage 2 NOV deadline.                        | \$1,000 - \$1,200 |
| 5  | Failure to pay property taxes by Stage 2 NOV deadline.  | \$1,000 - \$1,200 |
| 6  | Failure to get lease approved in advance.   | \$1,000 - \$1,200 |
| 7  | Charging rent up to \$200 in excess of amount permitted by Deed Restriction and/or Regulations.     | \$1,000 - \$1,200 |
| 8  | Exceeding maximum vacancy period of rental unit.  | \$1,000 - \$1,200 |
| 9  | Failure to cure Stage 2 Violation or Pay Stage 2 Fine.  | \$1,000 - \$1,200 |
| 10 | Intentionally Left Blank  | \$1,000 - \$1,200 |
| 11 | Intentionally Left Blank  | \$1,000 - \$1,200 |
| 12 | Intentionally Left Blank  | \$1,000 - \$1,200 |

| #  | Stage 4 Violation   | Fine Amount       |
|----|---|-------------------|
| 1  | Failure to requalify by Stage 3 NOV deadline.   | \$2,500 - \$3,000 |
| 2  | Failure to provide requested information to establish continued compliance by Stage 3 NOV deadline.   | \$2,500 - \$3,000 |
| 3  | Failure to provide Census Information by Stage 3 NOV deadline.  | \$2,500 - \$3,000 |
| 4  | Failure to pay HOA assessments (general or special) by Stage 3 NOV deadline.  | \$2,500 - \$3,000 |
| 5  | Failure to pay property taxes by Stage 3 NOV deadline.  | \$2,500 - \$3,000 |
| 6  | Failure to occupy unit as sole and exclusive place of residence.  | \$2,500 - \$3,000 |
| 7  | Failure to use and occupy unit exclusively to house persons who meet the definition of Qualified Resident(s) (owner(s)) and their families. | \$2,500 - \$3,000 |
| 8  | Failure to work full-time in Pitkin County as required by Deed Restriction and/or Regulations.  | \$2,500 - \$3,000 |
| 9  | Owning other developed residential property in OEZ in violation of Deed Restriction and/or Regulations.                                     | \$2,500 - \$3,000 |
| 10 | Use of premises for other than residential purposes.  | \$2,500 - \$3,000 |
| 11 | Advertising rental without APCA approval as required by Deed Restriction and/or Regulations.  | \$2,500 - \$3,000 |
| 12 | Charging more than \$200 in rent in excess of amount permitted by Deed Restriction and/or Regulations.                                      | \$2,500 - \$3,000 |
| 13 | Failure to cure Stage 3 Violation or Pay Stage 3 Fine.  | \$2,500 - \$3,000 |
| 14 | Intentionally Left Blank  | \$2,500 - \$3,000 |
| 15 | Intentionally Left Blank  | \$2,500 - \$3,000 |



| #  | Stage 5 Violation   | Fine Amount       |
|----|---|-------------------|
| 1  | Failure to requalify by Stage 4 NOV deadline.   | \$5,000 – \$6,000 |
| 2  | Failure to provide requested information to establish continued compliance by Stage 4 NOV deadline.   | \$5,000 - \$6,000 |
| 3  | Failure to provide Census Information by Stage 4 NOV deadline.  | \$5,000 - \$6,000 |
| 4  | Failure to pay HOA assessments (general or special) by Stage 4 NOV deadline.  | \$5,000 - \$6,000 |
| 5  | Failure to pay property taxes by Stage 4 NOV deadline.  | \$5,000 - \$6,000 |
| 6  | Failure to occupy unit as sole place of residence during time unit is owned by Stage 4 NOV deadline.  | \$5,000 - \$6,000 |
| 7  | Failure to use and occupy unit exclusively to house persons who meet the definition of Qualified Resident(s) (owner(s)) and their families by Stage 4 NOV deadline. | \$5,000 - \$6,000 |
| 8  | Failure to work full-time in Pitkin County as required by Deed Restriction and/or Regulations by Stage 4 NOV deadline.  | \$5,000 - \$6,000 |
| 9  | Failing to list other developed residential property in OEZ in violation of Deed Restriction and/or Regulations by Stage 4 NOV deadline.                            | \$5,000 - \$6,000 |
| 10 | Selling or conveying a property or unit without APCA approval.  | \$5,000 - \$6,000 |
| 11 | Encumbering property with debt in any form which exceeds at any time the Maximum Resale Price of the Unit.  | \$5,000 - \$6,000 |
| 12 | Permitting any use or occupancy of Unit not in compliance with the Deed Restriction and/or Regulations.   | \$5,000 - \$6,000 |
| 13 | Making unauthorized improvements and/or failing to obtain building permit or certificate of occupancy with respect to capital improvements.                         | \$5,000 - \$6,000 |
| 14 | Creating an additional dwelling unit as defined in the Pitkin County or City of Aspen Land Use Codes, in or on the property.  | \$5,000 - \$6,000 |
| 15 | Rental of all or part of a unit in violation of the Deed Restriction and/or Regulations.  | \$5,000 - \$6,000 |
| 16 | Submitting false/inaccurate information.  | \$5,000 - \$6,000 |

|    |  |                   |
|----|--|-------------------|
| 17 | Failure by Non-Qualified Transferees to transfer Property or Unit to a Qualified Buyer.  | \$5,000 - \$6,000 |
| 18 | Using deed restricted property as income producing property.   | \$5,000 - \$6,000 |
| 19 | Failure to list home by deadline after NOV becomes final.  | \$5,000 - \$6,000 |
| 20 | Accepting any consideration which would cause an increase in the purchase price above the bid price to induce an Owner to sell to a prospective buyer. | \$5,000 - \$6,000 |
| 21 | Fraud (as defined in Regulations).   | \$5,000 - \$6,000 |
| 22 | Selling or otherwise transferring Unit not in accordance with the Deed Restriction and/or Regulations.   | \$5,000 - \$6,000 |
| 23 | Sell or otherwise transfer Unit for use in a trade or business.  | \$5,000 - \$6,000 |
| 24 | Purchasing other developed residential property in O EZ while owning an APCA deed restricted property.   | \$5,000 - \$6,000 |
| 25 | Failure to Cure Stage 4 Violation or Pay Stage 4 Fine.   | \$5,000 - \$6,000 |
| 26 | Intentionally Left Blank   | \$5,000 - \$6,000 |
| 27 | Intentionally Left Blank   | \$5,000 - \$6,000 |