

**Eagle Ranch Housing Corporation  
Housing Guidelines**

*September 28, 2022*

# Eagle Ranch Housing Corporation Housing Guidelines

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## Chapter 1 – Description of Guidelines

The Eagle Ranch Housing Corporation Housing Guidelines (the “Guidelines”) provide the technical procedures for developing, purchasing, owning, selling, and renting Affordable Housing in Eagle Ranch and other Eagle Ranch Housing Corporation (the “ERHC”) deed restricted properties. The Guidelines are updated periodically based on current real estate market, area median income and the most recent Eagle County Housing Needs Assessment which can be found at [www.eaglecounty.us/housing](http://www.eaglecounty.us/housing).

The Guidelines are separated into chapters, which set forth the requirements for buyers, owners, and sellers of Affordable Housing units.

## Chapter 2 – Definitions

The terms, phrases, words, and clauses in the Guidelines shall have the meaning assigned below.

**Affordable Housing:** The Workforce Housing Units in the ERHC portfolio protected by a Restrictive Covenant.

**Acknowledgement of Restrictive Covenant:** A document accepting a purchaser’s agreement to be bound by both the recorded Restrictive Covenant covering the Affordable Housing unit and the Guidelines.

**Agent:** An Agent means the entity or individual appointed by ERHC to resell Workforce Housing Units and to administer restrictions on them

**Base Price:** The initial price of a Price Capped For Sale unit set by the developer upon sale, which may appreciate over time.

**Gross Household Income:** Total amount of income a Household earns in one year from all sources before taxes.

**Maximum Resale Price:** The maximum amount an owner can sell the Affordable Housing unit for per the Restrictive Covenant requirements.

**Non-Qualified Buyers:** A Household that does not qualify as a Qualified Buyers.

**Permitted Capital Improvements:** Certain improvements made to an Affordable Housing unit that may be included in a seller’s Maximum Resale Price.

**Price Capped For Sale Housing:** Housing subject to a Restrictive Covenant requiring that the Affordable Housing is offered only to Qualified Buyers, and the occupancy, sale, assignment, or transfer of such is limited.

**Qualified Buyer:** Qualified Buyers are persons who can prove that they are (i) then currently permanent residents of Eagle County, Colorado, (ii) then currently employed full time and working in Eagle County, Colorado, or (iii) have been hired by an employer in Eagle County, Colorado, all as evidenced by (1) an affidavit of the person, (2) verification by employer, (3) two most recent pay stubs, or (4) other documents that the Agent deems necessary to make a determination, or (iv) as further defined by the guidelines or approved by the Agent.

**Qualified Employer:** An individual or entity that regularly conducts business in Eagle County.

**Short Term Rental:** A short term rental is defined as a non-owner providing compensation to lodge in another owner’s property for periods less than thirty (30) days. Owners shall not advertise any part of their Affordable

Housing unit available for short term lease on an open, public forum such as Airbnb, VRBO, Homeaway or equivalent.

**Workforce Housing Units (“WHU”) or Unit:** A WHU or Unit is affordable, for-sale housing offered only to Qualified Buyers, the occupancy, sale, assignment, or transfer of which is limited by the terms of the Restrictive Covenant.

## **Chapter 3 – Information for Buyers, Owners, and Sellers of Affordable Housing**

### **3.0 Buying Affordable Housing**

#### **3.0.1 Qualified Buyers**

Qualified Buyers must prove they are:

1. Currently permanent residents of Eagle County, Colorado;
2. Currently employed full time and working in Eagle County, Colorado, or have been hired by an employer in Eagle County, Colorado. Above as evidenced by:
  - a. An affidavit of the person, verification by employer, two most recent pay stubs, or
  - b. Other documents that the Agent deems necessary to make a determination, or
  - c. Further defined by the Guidelines or approved by the Agent.
3. Limits on Owning Other Real Estate:
  - a. An owner, in connection with the purchase and ownership of the Unit, must occupy the Unit as his or her primary residence during the time that the Unit is owned by such owner. In determining what is a permanent residence, the following circumstances relating to the owner may be taken into account: business pursuits, employment, income sources, residence for income or other tax purposes, residence of parents, spouse and children, if any, location of personal and real property, voter registration, motor vehicle registration, or any other information the Agent determines to be relevant for the purpose of determining the permanent place of residence of the owner.
  - b. An owner shall be deemed to have ceased using the Unit as his or her sole, exclusive and permanent place of residence if the owner resides at the Unit for fewer than nine (9) months per calendar year without the express written approval of ERHC.
  - c. In the event that the Unit is owned by more than one owner, at least one Qualified Buyer of the Unit must utilize it as his or her primary residence.
  - d. ERHC may require on an annual or other basis that the owner certifies in writing that the Unit is continuing to be used by the owner as outlined in this Restrictive Covenant including use as their exclusive and permanent place of residence.

### **3.0.2 Application Process and Selection Criteria for Price Capped For Sale Housing units**

Households interested in purchasing Price Capped For Sale Housing units must submit an application to the Agent to certify eligibility prior to submitting an offer to purchase a unit. Applications will be made available with the listing announcement.

The application steps are as follows:

1. Obtain an application from the Agent.
2. Provide evidence of employment by a Qualified Employer.
3. Provide evidence of residency in Eagle County.
4. Affirm on the application that your Household intends to live in the unit as your primary residence.
5. Provide a letter of prequalification from an Eagle County mortgage lender for a mortgage with a fixed interest rate of at least 5 years duration or a statement of proof of funds and submit a copy to the Agent. Reverse amortization mortgages are prohibited.
6. Supply a valid copy of a homebuyer education class certification.
7. Provide proof of funds for a down payment equal to at least 1% of the purchase price.

Once basic eligibility has been met, the applicant submitting the highest and best offer (not to exceed the Maximum Resale Price) will have the first right to negotiate for the purchase of the unit. Buyers purchasing without any contingencies will be given priority.

If two or more equal offers are received, those offers will be prioritized for selection based on the highest score using the criteria listed below.

The following buyer selection priority criteria applies to all resales of ERHC deed restricted units:

1. Full-time employed persons currently residing and employed within the Eagle town limits.
2. Full-time employees within the Eagle town limits but not currently residing in the Town;
3. Full-time employees currently residing in but not employed within Eagle town limits;
4. Full-time employees currently not residing or working in the Town but residing or working in Eagle County;
5. Those persons neither employed nor residing within Eagle town limits or Eagle County and only if a Local Employee Residence has been on the market for at least thirty (30) days.

Should multiple applicants meet the priority requirements, the applicant with the most cumulative years of living and working within Eagle town limits will break the tie.

1. One (1) point for each calendar year of full time employment within the Town of Eagle. Provide evidence of employment by a Qualified Employer as follows:

- a. The two most recent pay stubs, W2(s) from your employer(s), most recent tax returns, or
  - b. Employment contract or other documents that the Agent deems necessary to make a determination, or
  - c. Affidavit from employer verifying employment plus other documents that the Agent deems necessary to make a determination.
2. One (1) point for each calendar year of residency within the Town of Eagle. The applicant should provide evidence of residency status as follows:
    - a. Copy of lease or deed or property tax statement, or
    - b. Utility statements from service provider, or
    - c. Other documentation approved by the Agent.

The following rules apply to the selection process described above:

1. The physical place of residency and employment is relevant; the applicant's mailing address is not.
2. If two individuals are applying jointly, their points will not be combined.
3. All claims may be verified by the Agent. Claims of residency or employment that cannot be verified will not be counted in determining length of employment or residency.
4. Qualified Buyers may have no more than two occupants per bedroom at any time. For example, a household of five people does not qualify for a two bedroom unit.
5. If there is a tie based upon the selection criteria above, the Agent shall hold a lottery to determine the winning applicant. The drawing shall be held by the Agent during regular business hours and witnessed by the applicants with equal point priority, if desired.

### **3.0.3 Trust Ownership**

A Qualified Buyer may seek a variance to allow the title of an Affordable Housing unit to be held in trust for the benefit of a natural person who also meets the definition of a Qualified Buyer member. Such ownership in trust may only occur in the circumstances provided herein and at the sole discretion of the Agent.

In order to request a variance from the strict application of these Guidelines, the applicant shall submit a letter requesting a special review to the Agent as follows:

1. Affordable Housing units may be held in trust only for the benefit of a natural person who due to a physical or mental impairment lacks the capacity to contract or is prevented by such impairment from acquiring title to a unit in his or her own name. The letter shall include documentation of such impairment and the basis for ownership in trust. It should be noted that the applicant should submit any additional information reasonably requested by the Agent to allow the Agent to process this special request.
2. The beneficiary of the trust may not own other real property.
3. The beneficiary of the trust must be of the age of majority to qualify under this section.
4. The criteria set forth in the Guidelines may be met so long as the trust pre-qualifies for a loan. Further the trust must prove an adequate means of ensuring that expenses associated with ownership, including, but not limited to association dues and expenses are met.

5. Upon receipt of a request for a special review and any requested information and documentation, the Agent may grant the request with or without conditions, in a timely manner.

### **3.0.4 Rental of Affordable Housing by Qualified Employers for Employees**

Qualified Employers may purchase Affordable Housing and lease to employees who are Qualified Buyers. Qualified Employers may not impose additional Restrictive Covenants to Affordable Housing without the written consent of the Agent.

### **3.1 Owning Affordable Housing**

Section 3.1 addresses requirements for Qualified Buyers that own Affordable Housing units.

#### **3.1.1 Maintaining Occupancy**

The owner of an Affordable Housing unit shall continue to use the unit as its primary place of residence. The owner of an Affordable Housing unit will be deemed to have ceased to use the unit as its primary residence by accepting permanent employment outside of Eagle County, by residing in the unit for fewer than nine months out of any twelve months, or by registering to vote outside of Eagle County.

#### **3.1.2 Recertification**

Once an Affordable Housing unit has been purchased, it must continue to be owned and occupied only by a Qualified Buyer. On an annual date set by the Agent, the owner of an Affordable Housing unit, shall submit to the Agent verification that the owner continues to meet employment and residency requirements, as applicable.

The Agent will provide a paper or electronic form. Failure to provide information as required by the Agent and any applicable Restrictive Covenant may result in forfeiture of appreciation, a sale mandated by the Agent, or any other available remedy at law or equity.

#### **3.1.3 Leave of Absence**

A leave of absence for an owner of an Affordable Housing unit may be granted at the sole discretion of the Agent, subject to clear and convincing evidence that shows the reason for leaving and a commitment to return. Said evidence shall be in written form and presented to the Agent for review and decision prior to the owner leaving. The leave of absence shall be for one year and may, at the discretion of the Agent, be extended up to one additional year, but in no event shall it exceed two years. In the case of an approved leave of absence, the owner shall only rent to Qualified Buyers.

Rents charged during a leave of absence may not exceed the lesser of 1) Maximum Rental Rates for Affordable Rental Housing at 100% AMI or 2) the owner's monthly housing expenses. The tenant must submit a complete application and receive approval from the Agent. The owner shall provide a copy of the executed lease agreement between the owner and tenant to the Agent.

If an Affordable Housing unit is listed for sale and the owner has relocated outside of Eagle County, the unit may, upon approval of the Agent, be rented to a Qualified Buyer prior to completion of the sale.

### **3.1.4 Short Term Leases**

Short term leases are not permitted. A short term rental is defined as a non-owner providing compensation to lodge in another owner's property for periods of less than thirty (30) days. Owners shall not advertise any part of their Affordable Housing unit available for short term lease on any open, public forum such as Airbnb, VRBO, Homeaway or equivalent. No exceptions will be made.

### **3.1.5 Foreclosure**

In the event of a foreclosure or of acceptance of a deed in lieu of foreclosure by the holder of a promissory note secured by a first deed of trust on an Affordable Housing unit, ERHC shall have the option to purchase the unit, which option shall be exercised as set forth in the Restrictive Covenant. The owner has an obligation to notify the Agent in writing once the owner perceives a foreclosure difficulty.

## **3.2 Sales of Affordable Housing Units**

Section 3.2 addresses requirements for Qualified Buyers that are selling Affordable Housing units.

### **3.2.1 Listing Units**

All Affordable Housing units must be listed for sale with the Agent or its designee or as otherwise specified by the ERHC Restrictive Covenant.

The owner/seller of Affordable Housing must follow these steps:

1. Execute a standard listing contract on forms approved by the Agent.
2. Consult with the Agent to review the Restrictive Covenant recorded against the unit to determine the Maximum Resale Price and other applicable provisions concerning a sale.
3. The Agent or broker shall administer the sale in accordance with the requirements in effect at the time of listing.
4. The owner may consult legal counsel regarding examination of title and all contracts, agreements and title documents. The retention of such counsel, licensed real estate brokers, or such related services (excluding all sales fees), will be at the owner's own expense and shall not be included in the calculation of the Maximum Resale Price.

### **3.2.2 Inspection Prior to Sale**

The owner/seller shall commission a listing inspection by a listing inspector certified by the Agent before executing a listing contract to determine the condition of the unit.

1. The owner shall pay for the cost of the inspection at the time of inspection.
2. The inspector shall furnish a written report to the owner and the Agent.
3. This information shall be furnished to the purchaser as a part of the seller's property disclosure once a purchase contract has been executed.
4. The inspection will be valid for no more than sixty (60) days.

The owner shall replace or repair any items that are identified as unsatisfactory in the report at market value or reduce the listing price accordingly.

### **3.2.3 Sales Fees**

Unless otherwise set forth in the Restrictive Covenant recorded against an Affordable Housing unit, at the closing of the sale, the owner/seller shall pay the Agent or its designee a sales fee of two percent (2%) of the sale price.

1. The owner/seller must deposit one half percent (½%) of the list price with the Agent upon listing the unit for sale, known as the listing deposit.
2. In the event that the owner/seller fails to perform under the listing contract, rejects all offers, or withdraws the listing after advertising has commenced, the owner/seller shall not be refunded the listing deposit.
3. The listing deposit shall be considered a budgeted amount for advertising and administrative costs that will be incurred by the Agent. If the Agent incurs any additional costs, the owner/seller will be notified in advance by the Agent and shall be responsible for those additional costs.

### **3.2.4 Closing Costs**

Sellers of Affordable Housing shall not permit any prospective buyer to assume any of the seller's customary closing costs, including the fees set forth herein, nor accept any other consideration that would increase the purchase price above the Maximum Resale Price so as to induce the seller to sell to such prospective buyer.

### **3.2.5 Maximum Resale Price**

No owner of the Unit shall sell the Unit for an amount greater than the Maximum Resale Price for the Unit, which Maximum Resale Price shall be calculated as follows:

(a) Start with the purchase price paid for the Unit by the owner upon such owner's acquisition of the Unit (the "Prior Purchase Price"), which Prior Purchase Price may include all reasonable and customary expenses of the purchase incurred at the time of purchase by the owner as evidenced by a title company settlement sheet (including, but not limited to, closing costs and recording fees, but specifically excluding any costs of financing);

(b) For each year from the date that the owner acquired the Unit until the date of the listing of the Unit, multiply the Prior Purchase Price and any increases thereto as a result of the application of this subsection b. for prior years (in order to effect a compounding of the increase in the Prior Purchase Price) by the lesser of three percent (3%) or the percentage increase in the most recent CPI-U (hereinafter defined) for such year. Any such increase shall be prorated by day for any partial years. "CPI-U" shall mean the United States Department of Labor (Bureau of Labor Statistics) Consumer Price Index for All Urban Consumers - All Items Index for the consolidated metropolitan statistical area which includes the City and County of Denver, Colorado, which are published on a monthly basis. In the event that the CPI-U is substantially changed, re-named, or abandoned by the United States Government, then in its place shall be substituted the index established by the United States Government that most closely resembles the CPI-U;

(c) For each such year add the product of the multiplication described in b. to the Prior Purchase Price;

(d) Add the cost of any Permitted Capital Improvements (hereinafter defined) made by the owner during the time that the owner held title to the WHU;

(e) Add an amount equal to two percent (2%) of the total sum calculated above, which amount is intended to defray some of the expenses of selling the Unit.

### 3.2.6 Maximum Resale Price Example

The following is a hypothetical calculation of the Maximum Resale Price associated with a WHU acquired by the owner on December 31, 2001 and listed for sale on June 30, 2004.

The housing component of the CPI-U is assumed to increase 2% in 2002, and 4% in 2003 and 1.5% for the first six months of 2004:

\$ 225,000.00 **Prior Purchase Price** (including customary expenses of purchase) on December 31, 2001

+ \$ 4,500.00 **2% increase for year 2002** ( $\$225,000 \times .02$ )

+ \$ 6,885.00 **3% increase for year 2003** ( $[\$225,000 + \$4,500] \times .03$ )  
(Note: limited to 3% per this Covenant even though CPI increase was 4%)

+ \$ 3,545.78 **3% increase for 6 months in year 2004** ( $([\$225,000 + \$4,500 + \$6,885] \times .015)$ ) listed for sale June 30, 2004

= \$ 239,930.78 First Subtotal

+ \$ 9,500.00 **Permitted Capital Improvements**

= \$ 249,430.78 Second Subtotal

+ \$ 4,988.62 **2% of second Subtotal** (intended to defray some of the expenses of selling)

= \$ 254,419.40 **Maximum Resale Price** as of June 30, 2004.

### 3.2.7 Increases to Base Price and Permitted Capital Improvements

“Permitted Capital Improvements” shall only include those items of improvement to the Property that are defined hereinbelow, or as modified from time to time in the Guidelines.

(a) Owners of a Unit are allowed a maximum of ten percent (10%) of the initial purchase price (the price paid for the unit by the owner making the Permitted Capital Improvement) over each five year period for Permitted Capital Improvements from the date of the initial purchase by such owner. Unused amounts shall not accumulate from five year period to five year period, and unused amounts do not roll over from one period to the next.

(b) In order to verify the cost of a Permitted Capital Improvement, an owner shall provide to ERHC original or legible duplicate receipts evidencing the actual costs thereof and a copy of any building permit or certificate of occupancy required for the improvements, if any, along with the owner's affidavit verifying that the receipts are valid and correct receipts tendered at the time of payment. Only the owner's actual out-of-pocket costs and expenses shall be eligible for inclusion. Such an amount shall not include an amount attributable to the owner's labor, or that of his employees or business, or to any appreciation in the value of the improvements.

(c) Value will be given to the following improvements:

1. The addition of a habitable room or storage space;
2. The finishing of uninhabitable space if it is converted into a habitable room;
3. The conversion of a carport into a completely enclosed garage;
4. The conversion of surface parking into a carport or garage (if allowed under the development/subdivision agreement);
5. Kitchen and bathroom renovations;
6. Replacement of existing fixtures (e.g., flooring or major appliances);
7. Installation of permanent landscaping or air conditioning;
8. Window treatments;
9. Improvements that reduce the consumption of energy, including but not limited to roof replacement, furnace replacement;
10. Modifications or improvements to accommodate a person with a disability as defined in the Americans with Disabilities Act of 1990;
11. Other improvements necessary for the maintenance of the Unit.

(d) No other categories or types of expenditures may qualify as Permitted Capital Improvements unless pre-approved in writing by the Agent.

(e) Permitted Capital Improvements may be depreciated for wear and tear and obsolescence pursuant to the depreciation schedule determined by the Agent.

### **3.2.8 Other Title Transfers**

In the event that title to an Affordable Housing unit transfers, through descent or other method, to a person or entity that is not a Qualified Buyer, the Non-Qualified Buyers must notify the Agent of its intent as outlined below within ninety (90) days of taking title to the unit.

1. The Non-Qualified Buyers may list the unit for sale, following the procedures of the Restrictive Covenant and outlined herein.
2. The Non-Qualified Buyers shall have one year to become a Qualified Buyers. In the event the Non-Qualified Buyer is unable to become an Qualified Buyers in one year then the unit shall be listed for sale as provided herein.
3. Non-Qualified Buyers shall not:
  - a. Occupy the Affordable Housing unit;
  - b. Rent all or any part of the Affordable Housing unit, except in strict compliance with these Guidelines;
  - c. Engage in any other business activity on or in the Affordable Housing unit;

- d. Sell or otherwise transfer the Affordable Housing unit except in accordance with these Guidelines or corresponding Restrictive Covenant.
4. The Agent may require the Non-Qualified Buyer to rent or sell the Affordable Housing unit in accordance with the provisions of these Guidelines.

#### **Chapter 4 - Grievance Procedures**

A grievance is any dispute that a unit owner or potential purchaser may have with Eagle Ranch Housing Corporation or the Agent with respect to action or failure to act in accordance with the rights, duties, welfare, or status of these persons or entities under these Guidelines. Procedures for filing such a grievance are as follows:

1. A written grievance must be presented to the Agent. It shall specify:
  - a. The particular ground(s) upon which the grievance is based;
  - b. The action requested; and
  - c. The name, address, telephone number, email address of the complainant and similar information about his/her representative, if any.
2. Upon presentation of a written grievance, the Agent shall meet with the complainant to review the grievance and resolve the issue, if possible.