

PART V
PROCEDURES FOR THE SALE
OF A CATEGORY AFFORDABLE HOUSING UNIT

SECTION 1
LISTING A UNIT WITH THE APCA

1. An owner of an affordable housing unit desiring to sell should consult with the APCA and review the Deed Restriction covering the unit to determine the maximum sales price permitted and other applicable provisions concerning a sale.
2. Unless otherwise provided in the Deed Restriction, the unit must be listed for sale with the APCA and the APCA staff will administer the sale in accordance with the Guidelines in effect at the time of listing.
3. The sale of an Accessory Dwelling Unit (ADU) deed-restricted as a “for-sale” unit must be through the APCA lottery process, except that the developer may select the first fully-qualified purchaser as stated in Section 26.520.070, *Deed Restrictions and Enforcement*, of the City of Aspen Municipal Code.
4. There shall be a minimum listing period of three months before a unit's price can be readjusted. Any termination in the listing may require the payment of administrative and advertising costs.
5. The APCA acts as a Transaction Broker representing both Buyer and Seller. Questions will be answered and help provided to any potential purchaser or seller EQUALLY in accordance with the current Guidelines.
6. The APCA is responsible for preparing all documents pertaining to the sale and purchase of Category Units.
7. All purchasers and sellers are advised to 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, shall be at purchasers or sellers own expense.
8. The fees paid to the APCA are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire.
9. A seller in the process of purchasing a different unit may find it necessary to secure additional financing should the property listed for sale not close prior to the closing date on the newly purchased property.
10. A *Seller's Property Disclosure Form* will be completed by the Seller at the time of listing. This will be reviewed with the Sales Manager. Each seller will be provided a copy of the Minimum Standards required in order for the Seller to receive maximum value. It is required that the Seller shall provide the Buyer with a clean, working unit upon delivery of deed. Holes in the walls will be filled, carpets steam cleaned, damaged windows will be repaired, appliances will be in working order, and the plumbing shall be in working order. A final inspection of the unit shall be conducted

by the Buyer on the day of closing. If the unit is not left in satisfactory condition, at the sole discretion of the APCHA, monetary compensation shall be held in escrow at closing from the Seller's proceeds until the repairs and/or cleaning are completed. The repairs and/or cleaning shall be paid from this fund. Any monies left over shall then be distributed to the Seller. The escrow amount shall be determined by the APCHA.

SECTION 2 ADVERTISING THE SALE: BID PERIODS

1. After a unit is listed for sale with the APCHA, the APCHA, at its expense, arranges to advertise the unit for sale in the Wednesday daily papers. Upon listing, there is an initial two-week bid period during which the unit is advertised with one open house date for showing. APCHA will accept in-complex bids the first week only. Such deadline will be stated in the Guidelines. After the deadline, any bid from an in-complex owner will be treated as all other bids. The initial two-week bid period ends on the Wednesday after the second week of advertising. If there are no bids received in the initial bid period, there will follow consecutive one-week bid periods, ending Wednesday, until the unit is sold.
2. Prospective purchasers are encouraged to investigate sources of financing prior to submitting a bid for affordable housing and can obtain names of lenders from the APCHA sales department. Sales staff are available to assist interested parties with the purchase procedure and to answer any questions about the process.
3. If more than one bid is received during any bid period, bids are prioritized according to the Guidelines. If more than one bid is in top priority, a lottery is held.

SECTION 3 FEES FOR LISTING AND SALES

There are two fees involved in the listing and sale of a Deed Restricted Affordable Housing unit -- a **Listing Fee** and a **Sales Fee**. The **Sales Fee** is equal to two percent (2%) of the sale's price of the property, unless otherwise specified in the Deed Restriction. Also, unless otherwise specified in the Deed Restriction, the APCHA will collect half of the total fee (the **Listing Fee**) at the time of the listing. If a sale is completed by the APCHA, the **Listing Fee** is considered part of the overall **Sales Fee** and will be applied to the total **Sales Fee** payable at closing. The APCHA may instruct the title company to pay said fees to the APCHA out of the funds held for the Seller at the closing. In the event that the Seller: a) fails to perform under 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 **Listing Fee** 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 the APCHA shall be deducted from the fee. The balance will be credited to the Seller's sales fee when the property is sold.

SECTION 4 DEED RESTRICTION

The purchaser must execute, in a form satisfactory to the APCA and for recording with the Pitkin County Clerk concurrent with the closing of the sale, a document acknowledging the purchaser's agreement to be bound by the recorded Deed Restriction covering the sale unit. This form is either a Memorandum of Acceptance that relates to a Master Deed Restriction, or a Deed Restriction. The form is provided for signature by the APCA at the time of closing, and will be recorded along with the other documents that are required to be recorded.

SECTION 5 CO-OWNERSHIP AND CO-SIGNATURE

1. Any co-ownership interest other than Joint Tenancy or Tenancy-In-Common must be approved by the APCA.
2. Co-signers (persons providing security or assuming partial responsibility for the loan) may be approved for ownership of the unit but shall not occupy the unit unless qualified by the APCA. An additional document will be required for the non-qualifying owner to sign at the time of closing and will be provided by the APCA.

SECTION 6 SALE OR RESALE OF RESIDENT OCCUPIED UNITS

1. There may be a maximum initial sales price for a newly developed Resident Occupied Unit. This will be based on a project-by-project basis.
2. If a vacant lot is purchased for development, an initial Certificate of Occupancy must be obtained within three years of the sale of the lot.
3. For those RO projects that do not require the unit to be listed with the APCA, the APCA shall qualify prospective purchasers (under the APCA qualifications). Any other resales of RO units shall be listed with the APCA and will be marketed through the same process as the category units, unless specified differently in that project's specific deed restriction. This will guarantee that the maximum sales price is being adhered to in all aspects of the housing program. The Seller will be required to pay a **Listing Fee** of one percent (1%) of the total sales price in addition to the one percent (1%) **Sales Fee**, for a total of two percent (2%) of the overall sale's price. Mobile home parks with no sales price limits are exempt from this section, except that at the time of closing, a 1% fee of the sales price will be paid by the seller into the housing program, unless stated otherwise.
4. The maximum resale price shall be calculated as follows (unless specified differently in a recorded deed restriction). The appreciation is calculated using the simple method, not the compounded method.
 - the initial sale price of the RO lot or unit, plus 3% or the Consumer Price Index (CPI) whichever is less, appreciation on that amount, subject to the requirements below; **PLUS**
 - the actual cost to construct a unit on a lot, plus 3% or CPI, whichever is less, appreciation on that amount from the time of Certificate of Occupancy (CO), subject to the requirements below ; **PLUS**

- any additional cost to expand the unit to the maximum 2,200 square feet, plus 3% or CPI, whichever is less, appreciation on that amount, from the time of CO for that addition, subject to the requirements section stated below; **PLUS**
 - the actual cost of permitted capital improvements stated in an exhibit attached to the deed restriction, not to exceed 10% of the initial sales price of the completed unit, or the expanded unit.
5. Existing mobile home park(s) converted to the RO category will not have an appreciation cap on the mobile home and/or lot if the unit owners are qualified Pitkin County residents as defined by the Guidelines. The APCHA shall retain the right of first refusal on any resale.

SECTION 7 SALE OF SINGLE FAMILY LOTS

The City or County will receive sales proceeds from single-family lots when the land is being provided as mitigation of affordable housing impacts for a development or growth.

The property owner or developer will receive sales proceeds from single-family lots when the land is not being provided as mitigation of affordable housing impacts for a development or growth.

SECTION 8 LEAVE OF ABSENCE FOR OWNERS OF AFFORDABLE HOUSING UNITS

An owner of an affordable-housing unit must reside in their unit at least nine months out of the year and work at least 1500 hours per calendar year. There are instances in someone's life where they must leave Pitkin County for a limited period of time and desire to rent their unit during their absence. In those instances, a Leave of Absence may be granted by the APCHA. The homeowner must provide clear and convincing evidence, which shows a bona fide reason for leaving and a commitment to return to the Aspen/Pitkin area. A leave of absence can be requested for up to one year, with the possibility for an extension for up to one more year. At no such time shall a leave of absence be approved for longer than two years.

Leave of Absence Request Procedure

1. A *Leave of Absence Request* form must be completed and returned to the APCHA at least 30 days prior to leaving. This form must be obtained from the APCHA.
2. Notice of such intent to rent and the ability to comment shall be provided to any applicable homeowners' association at the time of request for their input and recommendation.

Terms and Conditions:

1. The unit may be rented during said period so long as the Deed Restriction covering the unit permits the rental. A three-month leave of absence may be granted upon approval of the APCHA and the appropriate HOA.
2. In the event that the rental rate is not set forth in the Deed Restriction, the rent shall be charged based on the owner's costs plus \$50. For someone who no longer has debt on their unit, the rent

would be calculated beginning with the rental amount associated with the Guidelines in effect at the time they bought the unit, and then appreciated forward per Table VI in the Guidelines.

3. Owner's cost as used herein includes the monthly mortgage principal and interest payment, condominium fees, utilities remaining in owner's name, taxes (if not part of the mortgage payment) and insurance prorated on a monthly basis, plus \$50 per month.
4. Prior to the APCHA's qualification of tenant, said tenant shall acknowledge as part of the lease that said tenant has received, read and understands the homeowners' association covenants, rules and regulations for the unit and shall abide by them. Enforcement of said covenants, rules and regulations shall be the responsibility of the homeowners' association.
5. A copy of the executed lease shall be furnished by the owner or tenant to the APCHA and homeowners' association.
6. Should the homeowners' association or APCHA recommend denial of the owner's request for a leave, the APCHA will conduct a Special Review with the owner, homeowners' association representative(s) present or a member of APCHA.
7. A short-term rental may be permitted, with the consent of the APCHA and the Homeowners' Association, to faculty or employees of a non-profit group and who shall be qualified without meeting income and assets only for a short-term rental (three months or less).

SECTION 9 ROOMMATES IN SALES UNITS

Owners are allowed to have roommates; however, there are certain conditions that must be followed when renting a room.

Terms and Conditions:

1. Roommates are permitted as long as the owner is a qualified employee and residing full-time in their unit.
2. The maximum rental rate for the room shall not exceed the maximum rental rate permitted under Part VII, Section 10, Table IV, for said unit pro rated on a per bedroom basis. One roommate in a two-bedroom unit shall pay a maximum rent of one-half (1/2) of the costs; one roommate in a three-bedroom household shall pay a maximum rent of one-third (1/3) of the total costs.
3. An owner may rent a unit or room to a qualified employee if it is permissible under the Deed Restriction and or covenants of the Homeowner's Association covering the unit. The owner must continue to reside in the unit as a sole and exclusive place of residence.
4. An owner may rent a room to a qualified employee for as short a period of time as one month. However, the rent cannot exceed the amount as stipulated in paragraph 2 above.

The owner shall be deemed to have ceased to use the unit as his or her sole and exclusive place of residence by accepting permanent employment outside of Pitkin County, or residing in the unit fewer than nine (9) months out of any twelve (12) consecutive months.

**SECTION 10
CAPITAL IMPROVEMENT POLICY AND
MINIMUM STANDARDS TO RECEIVE FULL VALUE AT TIME AT RESALE**

Capital improvements and upkeep on deed-restricted units are necessary to enhance the longevity of the affordable housing unit. A maximum sales price will be affected, either higher or lower, relating to the condition of the unit and if the unit meets the minimum standard criteria. Any owner wishing to utilize the new capital improvement policy will be required to enter into the deed restriction that is currently being used at the time of the request.

Units Built After January 1, 2004 and Re-Sale Units: An owner will be required to maintain a minimum standard for the unit purchased. See Table I, *Minimum Standards for Seller to Receive Full Value*. Prior to any sale of a unit, the APCA Staff will determine a maximum sales price. The Sales Manager shall conduct an inspection and a list provided to the Seller as to the items that will need to be done PRIOR to closing to get full value. The Buyer also has the right to pay for a formal inspection of the unit during the inspection period stated in the Sales Contract. If said inspection reflects items not met on the *Minimum Standards for Seller to Receive Full Value* table, the Seller shall be required to remedy those items. If the unit meets the standard criteria, the Property or Unit shall be sold for an amount ("Maximum Resale Price") in excess of the lesser of the purchase price:

- Plus an increase of three percent (3%) of such price per year from the date of purchase to the date of Owner's notice of intent to sell (prorated at the rate of .25 percent for each whole month for any part of a year); **OR**
- An amount based upon the Consumer Price Index (All Items, U.S. City Average, Urban Wage Earners and Clerical Workers (Revised), published by the U.S. Department of Labor, Bureau of Labor Statistics) calculated as follows: the Owner's purchase price divided by the Consumer Price Index published at the time of Owner's purchase stated on the Settlement Statement, multiplied by the Consumer Price Index current at the date of intent to sell;
- Plus any approved capital improvements.

Homeowners Requesting the Ability to Use this Capital Improvement Policy: If an owner requests to utilize the new capital improvement policy, such owner shall be required to enter into a new, updated deed restriction.

Capital improvements can be added to the maximum resale price. A 10% capital improvement maximum will be established for each new owner. All capital improvements will be depreciated. Certain capital improvements will not be counted as the 10%. Each capital improvement will depreciate according to the depreciation schedule stated in an approved handbook. The current source is the *Marshall Swift Residential Handbook*. Any capital improvements associated with health and safety, energy efficiency, water conservation, and green building products will be exempt from the 10% capital improvement cap; however, such capital improvements shall be depreciated according to the depreciation schedule stated in an approved handbook. An owner should check with the APCA prior to starting the improvement to verify that the cost can be recouped.

It will be up to the homeowner to maintain the unit in good condition. This would include, but not be limited to, the condition of the roof, boiler and water heater, and appliances. Educational programs shall be scheduled for existing homeowners' associations and newly developed homeowners' associations as to what their responsibilities are in maintaining the project in good condition

Permitted Capital Improvements

1. The term "Permitted Capital Improvement" as used in the Agreement shall only include the following:
 - a. Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements;
 - b. Improvements for energy and water conservation;
 - c. Improvements for the benefit of seniors and/or handicapped persons;
 - d. Improvements for health and safety protection devices (including radon);
 - e. Improvements to add and/or finish permanent/finished storage space;
 - f. Improvements to finish unfinished space;
 - g. Landscaping;
 - h. The cost of adding decks and balconies, and any extension thereto; and/or
 - i. Improvements associated with health and safety, energy efficiency, water conservation, and green building products.

2. Permitted Capital Improvements as used in this Agreement shall **NOT** include the following:
 - a. Jacuzzis, saunas, steam showers and other similar items;
 - b. Upgrades or addition of decorative items, including lights, window coverings and other similar items.
 - c. Upgrades of appliances, plumbing and mechanical fixtures, carpets and other similar items included as part of the original construction of a unit and/or improvements required to repair and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, and other similar items, unless replacement is energy efficient or for safety and health reasons.

3. All Permitted Capital Improvement items and costs shall be approved by the APCHA staff prior to being added to the Maximum Resale Price as defined herein. In order to get credit for an improvement where a building permit is required, the improvement will not be counted unless a Letter of Completion was obtained by the Building Department.

MINIMUM STANDARDS FOR SELLER TO RECEIVE FULL VALUE

- Clean unit
- Carpets steam-cleaned two or three days prior to closing
- All major scratches, holes, burned marks repaired in hardwood floors, linoleum, tile, counter tops, etc.
- No broken windows
- All screens in windows (if screens were originally provided)
- All doors will be in working order with no holes
- All locks on doors will work
- All keys will be provided; e.g., door, mail box, garage
- All mechanical systems shall be in working order
- Walls paint ready
- Normal wear and tear on carpet; if carpet has holes, stains, etc., the carpet and padding shall be replaced or escrow funds at current market value per square foot for a comparable product shall be held at the time of closing to be used by the new buyer
- No leaks from plumbing fixtures
- No roof leaks
- Any safety hazard remedied prior to closing
- All light fixtures shall be in working order

DEFINITIONS:

Clean Unit: All rooms will be cleaned as stated below:

- **Kitchen:**
 - Range – Inner and outer services will be cleaned.
 - Range hood and Exhaust Fan
 - Refrigerator and Freezer – Inner and outer surfaces of refrigerator and freezer will be clean. Freezer will be defrosted.
 - Cabinets and Countertops – Exterior and interior surfaces of cabinets and drawers will be clean. Door and drawer handles, if provided, shall be clean and in place.
 - Sink and Garbage Disposal – Sink and plumbing fixtures will be clean. If garbage disposal provided, this must be in working order.
 - Dishwasher – If provided, must be in working order and inner and outer surfaces shall be clean.
- **Blinds, Windows, Screens:**
 - Mini-blinds, Venetian Blinds, Vertical Blinds, and Pull Shades – Will be clean.
 - Windows – All window surfaces, inside and outside of the window glass, shall be clean.
 - Screens – Screens will be clean and in place with no holes or tears.
- **Closets:** Closets, including floors, walls, hanger rod, shelves and doors, shall be clean.
- **Light Fixtures:** Light fixtures will be clean and shall have functioning bulbs/florescent tubes.

- **Bathrooms:**
 - Bathtub, Shower Walls, Sinks – Bathtubs, shower walls and sinks shall be clean.
 - Toilet and Water Closet – Water closets, toilet bowls and toilet seats will be clean. If the toilet seat is broken or peeling, the seat shall be replaced.
 - Tile – All tile and grout will be clean.
 - Mirrors and Medicine Cabinets – Shall be cleaned inside and out.
 - Shelves and/or Other Cabinetry – Shall be cleaned inside and out.

- **Walls, Ceilings, Painted Doors and Baseboards:** Painted surfaces must be cleaned with care to ensure the surface is clean without damaging the paint.

- **Floors:** Floor cleaning includes sweeping and mopping and could include stripping, waxing and buffing. Types of floor surfaces include wood, wood parquet tiles, linoleum, asphalt tile, vinyl tile, mosaic tile, concrete and carpet. If carpet, all carpets shall be cleaned at least two days prior to closing.

- **Interior Storage/Utility Rooms:** Storage/utility rooms shall be cleaned. Properly cleaned storage/utility rooms will be free from odors, removable stains, grease marks or accumulations.

Safety Hazard: Any item that provides a safety hazard shall be fixed. This would include, but is not limited to, exposed electrical wiring, ventilation for gas hot water system, etc.

Walls Paint-Ready: All holes shall be patched; all posters, pictures, etc., shall be removed from all walls; all nails, tacks, tape, etc., shall be removed from all walls; and all walls shall be clean and ready for the new buyer to paint. If wallpaper has been placed on the wall and in good condition, the wallpaper can remain; if the wallpaper is peeling off, the wallpaper must be removed.

Windows: If a window is broken, including the locking mechanism, the window shall be replaced.