

# Memo

To: Town Council Members and County Commissioners  
From: OCHA Board  
Date: April 23, 2015  
Re: Ouray County Affordable Housing Guidelines

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In 2013 the Ouray County Housing Authority Board (OCHA) began working on county-wide guidelines to aid in the development and administration of deed restricted properties throughout Ouray County. The Draft you have received is intended for public review and comment prior to OCHA adopting and then all of the jurisdictions.

The Guidelines have been designed to provide overall guidance in deed restricted sales and rentals with a customized deed restriction, created jurisdiction by jurisdiction or project by project. The Guidelines have purposefully eliminated some of the details inherently in Deed Restricted Guidelines in order to seek multi-jurisdictional approval on the broadest level and allow more or less restrictive language to be negotiated within each governing body. This allows each local government to develop and revise deed restrictions based on the needs in their region with agreement on the overall principles of the guidelines.

OCHA is looking for comment and direction to create a final version for adoption by each governmental entity and is meeting with each Council and the Commissioners throughout May.

At least two representatives from OCHA are trying to be at each meeting, including the elected official that sits on the Board, but more will attempt to attend. The Board members will respond to questions, clarify if needed and request the recorded record so all comments can be reviewed by the full Board to determine what and how to alter the proposed Guidelines.

Thank you in advance for your time spent reviewing the document and providing comment.

# Guidelines for Affordable Housing in Ouray County

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Ouray County Housing Authority

5/1/2015

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## MISSION STATEMENT & PURPOSE

***“The Ouray County Housing Authority’s MISSION is to provide access to safe, affordable, ownership and rental housing for those who live or are employed in Ouray County and seek the opportunity to build a life as part of our community. ”***

OCHA Mission Statement Adopted \_\_\_\_\_, 2015

### PURPOSE OF GUIDELINES:

Each year, or upon specific need the Ouray County Housing Authority (“OCHA”) establishes these Guidelines that govern the development of, admission to and occupancy of deed-restricted affordable housing units for residents throughout Ouray County. These Guidelines support the OCHA’s goals and are not intended to supersede Codes of Ouray County, the City of Ouray, and the Town of Ridgway, or the International Building Code.

These Affordable Housing Guidelines respond to housing needs in communities throughout Ouray County. The Guidelines are used to:

- Support local jurisdiction’s review of Land Use Applications
- Establish Employee Housing Income Limits
- Support/guide Employee Housing Rental Rates as needed
- Establish Employee Housing Sales Prices
- Establish Criteria for Qualifying and Occupancy of Units
- Support Housing Programs Created by the Local Governments
- Provide Information and Support to the Local Governments Developing Affordable Housing

**NOTE: These Affordable Housing Guidelines shall remain in effect until such time as the Board of Directors for the Ouray County Housing Authority Board approves new or amended Guidelines. These Guidelines shall be amended and approved to reflect changes in income levels and rental/sales pricing for the upcoming calendar year or at an alternative time during the year as needed.**

## **PART I**

### **OURAY COUNTY HOUSING AUTHORITY GOALS**

The 2013 OCHA Housing Guidelines established nine goals that reflect the overall mission of the OCHA, which is to meet the housing needs of persons living in Ouray County. The goals are intended to provide a long- range vision for the production of affordable employee housing within Ouray County.

The following goals will be reviewed and revised by the OCHA Board of Directors on an as needed basis.

1. Promote the development and maintenance of housing that is affordable to many economic sectors of the population. A variety of mechanisms shall be used to encourage a diversity of housing types and sizes as well as a diversity of ownership, rental and residence tenure for the units.
2. Work with Ouray County and all municipalities within the county and their respective planning agencies to encourage the development of affordable housing and eliminate constraints to such housing development. Counsel government staff and agencies as to possible housing-friendly changes to zoning and land use policies.
3. Participate in available federal and state housing support and assistance programs to acquire funding for the provision of affordable housing. In addition, work with all municipalities and private interests to access funding and/or land resources for housing production.
4. Whenever possible, provide housing that is within reasonable proximity to the employment locations of residents.
5. Maintain the affordability of existing and newly-constructed housing stock. Techniques that can be used include rental agreements, deed restrictions, and ownership of land and subsequent leasing of that land. The OCHA Board intends to work closely with any staff to utilize these techniques. (In specific cases, affordability must take into account HOA/Association fees and HUD-mandated utility allowances).
6. Preserve any public subsidy contributed for affordable housing utilizing any mechanism available.
7. Form working relationships with housing providers. Assist the private sector with the construction and maintenance of affordable, employee units. Encourage public-private partnerships.
8. Encourage “housing mobility” for current renter households by providing affordable, ownership opportunities. The transition out of a rental unit, in turn, will increase the availability of rental units to low-moderate income households.
9. Promote well-designed, energy-efficient housing units. Attention should be paid to solar access, Community-oriented development and the livability of each affordable housing unit.
10. Promote equal opportunity in housing throughout Ouray County.

**PART II  
ELIGIBILITY GUIDELINES**

The Guidelines have been established to support the creation of for-sale and rental affordable housing. Rental rates and sales prices are established in these Guidelines and they apply to Employees of various income levels as related to housing costs in Ouray County. In order to carry out this objective, deed-restricted housing units reflect the eligibility criteria as set forth herein.

**SECTION 1  
INCOME LIMITS**

Income is an Initial Qualification which is derived from the most recent data provided by the US Dept of Housing and Urban Development (HUD) regarding Area Median Income Levels (AMI) for Ouray County. Future increases to these amounts may be determined annually based upon current year HUD Data Sets or updated when needed for a project.

The maximum gross household income for a project will be set by the Local Jurisdiction and/or developer as set forth in **Table I** and adjusted according to the most recently published AMI.

**TABLE I  
MAXIMUM INCOMES BY HOUSEHOLD SIZE**

<b>Household</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>
<b>50%AMI</b>	\$ 26,350	\$ 31,000	\$ 33,850	\$ 37,600	\$ 40,650	\$ 43,650
<b>80 % AMI</b>	\$ 42,192	\$ 49,600	\$ 54,160	\$ 60,160	\$ 65,040	\$ 69,840
<b>100% AMI</b>	\$ 57,740	\$ 62,000	\$ 67,700	\$ 75,200	\$ 81,300	\$ 87,300
<b>120% AMI</b>	\$ 69,288	\$ 74,400	\$ 81,240	\$ 90,240	\$ 97,560	\$ 104,760
<b>150% AMI</b>	\$ 86,610	\$ 93,000	\$ 101,550	\$ 112,800	\$ 121,950	\$ 130,950

## **SECTION 2 NET ASSET LIMITATION**

For purchase or rental of an Affordable Housing Unit, the maximum net assets for a household shall not exceed (2) two times the purchase price of the unit. All units developed under these guidelines shall have a sale price designated even if the units are to be rental units.

**1. Assets/Household Total Net Assets:**

- a. All household members' shares of business assets, including real estate, shall be included in determination of total Household net assets. See definitions Section for further information.
- b. If at any time the Net Assets of the Household exceed the above limit, the designee shall give notice requiring the owner to sell the Housing Unit within one year from the date of the notice and upon receipt of the notice the owner shall have 15 days to request a meeting with the designee.

## **SECTION 3 EMPLOYMENT CRITERIA**

1. For the purpose of renting a Housing Unit or renting a room in a Housing Unit, the Employment Requirement is met if either:
  - a. at least one individual in a Household is employed and has worked or can demonstrate a clear intent to a minimum of 1000 hours within the boundaries of the Ouray; or,
  - b. at least one individual in a Household has lived in the county for at least 12 months prior to applying for the Housing Unit in question regardless of length or number of hours of employment.
2. For purpose of purchasing a Housing Unit, the Employment Requirement is met if either:
  - a. at least one individual in a Household demonstrates full-time employment during the previous twelve calendar months within the boundaries of the Ouray County; or
  - b. at least one individual in a Household demonstrates at least 1400 hours per year of employment during any five (5) of the previous seven (7) calendar years within the boundaries of Ouray County.
3. Up to ten percent (10%) of the required hours per year may be filled by verifiable Volunteer Community Service within those same boundaries.
4. Upon purchase or rental of a Housing Unit, the Household must make and continuously maintain the Housing Unit as their principal place of residence unless granted a Leave of Absence.

**PART III  
RENTING AFFORDABLE HOUSING**

**SECTION 1  
TENANT QUALIFICATIONS TO RENT AFFORDABLE HOUSING**

1. To initially qualify to rent and reside in an affordable-housing unit, a Household may not exceed the maximum income in Table 1 above, must meet the employment criteria, and cannot exceed the net asset limitation.
2. To qualify for tenancy:
  - a. one person in the Household must be employed for a minimum of 1000 hours in Ouray County for an employer whose business address is located within Ouray County; or
  - b. have resided in Ouray County for at least 12 months prior to applying for affordable housing and has been employed for 1000 hours; or
  - c. be a Retired person who has worked a minimum of 1000 hours annually for a minimum of four years immediately prior to his or her retirement and had resided in Ouray County; or
  - d. be a Disabled person residing in Ouray County who has been a full-time resident of Ouray County for at least 12 months immediately prior to applying for an affordable housing unit.
  - e. Up to ten percent (10%) of the required hours per year may be filled by verifiable Volunteer Community Service within those same boundaries.
3. Upon rental of the unit, the tenant(s) must occupy the unit as their primary residence.
4. The tenant(s) must not own residential real estate or a mobile home, or have an interest in an entity pertaining to such developed real estate or a mobile home, in Ouray County. If the tenant(s) own(s) or hold(s) and interest in developed residential real estate or a mobile home within Ouray County, the tenant(s) will have 180 days to sell said property or interest or tenant(s) shall terminate their lease with 30 days' notice. Documentation shall be provided to the OCHA if the property is to be disposed. WAIVERS: There may be specific conditions whereby a waiver may be granted to the tenant(s) for this requirement.
5. Household income and assets may be no greater than the maximum amount specified for the applicable household size. Assets which have been assigned, conveyed, transferred or otherwise disposed of within the last two years without fair consideration in order to meet the net asset limitations shall be valued at fair market prices.
6. If a tenant or potential tenant is under review for a non-compliance issue, they shall not be approved and/or his lease shall not be renewed until the non-compliance issue is satisfied.

7. An emergency worker may be placed in the top position of the rental sign-up list if approved as a qualified Emergency Worker through the OCHA review and as defined under the **Definitions** section herein. The applicant's supervisor must request the priority, in writing, to OCHA's Board/designee. It is the responsibility of the supervisor to prove to the OCHA that the employee is a required emergency responder. The OCHA Board/designee approves the individual for priority status with written verification.
8. Roommates are permitted under the Guidelines, however must apply as part of the household. All tenants shall be qualified through the OCHA prior to occupancy of the unit and must be part of the lease.
9. All qualification requirements must be verified every two years by the OCHA /designee unless the property has a yearly verification requirement.
10. The use and occupancy of the rental units shall be limited exclusively to housing for person(s) who meet the enclosed Tenant Qualifications.

**PART IV  
PURCHASING AFFORDABLE HOUSING**

**SECTION 1  
QUALIFICATIONS TO PURCHASE AFFORDABLE HOUSING**

1. To qualify and remain eligible to purchase and reside in an affordable-housing unit, a Household must meet the Initial Criteria and must not exceed the maximum household income as stipulated in the table below at time of purchase. Upon ownership of a unit, the household needs to meet the Employment and Net Asset limitation for the unit as continuous qualifications.

<b>Household</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>
<b>50%AMI</b>	\$ 26,350	\$ 31,000	\$ 33,850	\$ 37,600	\$ 40,650	\$ 43,650
<b>80 % AMI</b>	\$ 42,192	\$ 49,600	\$ 54,160	\$ 60,160	\$ 65,040	\$ 69,840
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<b>150% AMI</b>	\$ 86,610	\$ 93,000	\$ 101,550	\$ 112,800	\$ 121,950	\$ 130,950

2. To qualify for ownership, at least one person in a Household must meet one of the following areas of criteria:
  - a. an employee working a minimum of 1400 hrs. in Ouray County for an employer whose business address is located within Ouray County;
  - b. a resident of Ouray County for at least twelve (12) months prior to applying to purchase and have worked a minimum of 1400 hours;
  - c. a retired person who has been a full-time employee a minimum of four (4) years immediately prior to his or her retirement;
  - d. a disabled person residing in Ouray County for at least twelve (12) months immediately prior to applying to purchase.
  - e. Up to ten percent (10%) of the required hours per year may be filled by verifiable Volunteer Community Service within those same boundaries.
3. The maximum net assets for a household shall not exceed (2) two times the purchase price of the unit. All units developed under these guidelines shall have a sale price designated.

4. Upon purchase of the unit, Employee(s) shall occupy the unit as the primary residence and maintain at least one qualifying requirement until retirement age as specified herein.
5. A Household purchasing a unit must not own developed residential real estate or a mobile home in Ouray County. If such property is owned, the Household must list for sale, at competitive market prices, the residential real estate or mobile home prior to or simultaneously with closing on the affordable housing unit. The Household must meet all of the eligibility qualifications at time of purchase. The Household must provide the OCHA/designee with a copy of the appraisal of the property. Upon the sale, a copy of the closing documents indicating the sale price must be provided to the OCHA/designee. If the property is not sold by the time of closing on the affordable-housing unit, it must remain listed until sold. The owner has 180 days to sell the free- market unit. After such time, the owner must list and sell the deed-restricted unit according to their deed-restriction.
6. Beneficiary Ownership is permitted provided that he or she notifies the OCHA Board/designee within thirty (30) days of the date that he or she acquires title to the Subject Property and the OCHA Board/designee acknowledges receipt of the notification and sufficiency of the provided documentation. A Beneficiary Owner shall be exempt from both the Continuing Residence and Continuing Employment Standards, and shall be deemed a Qualified Owner for all purposes in connection with the Covenant on the Subject Property, for one year after acquiring title to the Subject Property. Furthermore, a Beneficiary Owner shall receive an automatic Approval to Rent for one year after acquiring title to the Subject Property. After one year, a Beneficiary Owner must receive approval as a Qualified Owner or otherwise comply with the terms of the Covenant for selling the Subject Property.
7. Each Household is required to sign a Requalification Affidavit every two years verifying they meet the continuous qualifications of: not owning other residential property in Ouray County, working a minimum of 1400 hrs. or meeting one of the other criteria as set forth in Part IV. Section 1.2.a-d and residing in the unit at least nine months out of each calendar year.

**NOTE: Any individual or household who is under review for a possible non-compliance issue may not enter any new lotteries, until the non-compliance issue has been satisfied. The owner MUST also be in good standing with their homeowners' association and a notarized document from the HOA will be required at the time of application.**

## SECTION 2

### Applying To Purchase Housing

In order to determine whether a person or household qualifies to purchase an affordable housing unit and meets all of the criteria set forth in Part III, Section 1, the OCHA/designee must review and have on file specific documentation which provides proof of: residency, employment, income and assets. The OCHA/designee may request any or all of the following documentation. **NOTE: All information and documentation received will remain confidential as allowed by law.**

It is understood that applicants who are working in traditional jobs are able to provide traditional forms of documentation to verify eligibility. It is also understood that some applicants are working in non-traditional jobs whereby traditional documentation may not be available. In these circumstances, the OCHA/designee may require non-traditional forms of documentation to determine eligibility. If documents provided are still not to OCHA/designee's satisfaction, the applicant may appeal to the OCHA Board.

1. Income Verification:
  - a. Copies of the past two years completed, executed and filed tax returns, including federal returns and any applicable schedules, with W2's attached. (No extensions will be accepted)
  - b. Current income and financial statement verified by the applicant to be true and correct. This will establish the income category. If someone did not have to file an income tax return or just started working full-time, their current income (based on a full year) will be used to establish the household category.
  - c. Social Security letter, or W2's for the past 3 years verifying employment in Ouray County.

If the above information is not available, the applicant must provide other documentation as requested by OCHA/designee and to OCHA /designee's satisfaction per the application. This may include any of the following:

2. Employment Verification:
  - a. All W-2 forms from a minimum of the previous two (2) years (purchase).
  - b. Recent pay stubs showing year-to-date or a payroll summary from the employer.
  - c. Employer(s) name, address, telephone and dates of employment.
  - d. OCHA's **Employment Verification Form** [signed by employer(s)].
  - e. Evidence of legal residency.
  - f. Landlord verification of residency, specific dates or a copy of a valid lease.
  - g. Valid Colorado Driver's License.
  - h. Valid Ouray County Voter Registration Card.
  - i. Copy of court approved Divorce Decree or Separation Agreement including alimony and child support with all supplements.
  - j. Applicants desiring to purchase a unit will be required to sign a release in order for the OCHA/designee to obtain a copy of the loan application from the lender.
  - k. Any additional information the OCHA/designee will require verifying the applicant's full-time residency.

**NOTE: *If the above information is not available, the applicant must provide other documentation as requested by the OCHA/designee.***

3. When someone is self-employed then their work in Ouray County must be clearly documented. It is the responsibility of the applicant to clearly demonstrate that he/she is meeting the qualification requirement. The applicant must provide documentation to the OCHA/designee's satisfaction. If the household does not specifically fall under the current policy, the household may request a Hearing before the OCHA Board for review.

**NOTE: *Applicants for deed-restricted housing must attest on the application that all information provided is true and accurate. If any of the information is determined to be false or non-verifiable, the applicant may be subject to disqualification.***

**SECTION 3**  
**MAINTAINING ELIGIBILITY FOR**  
**OWNERSHIP OF AFFORDABLE HOUSING**

A household must remain qualified under one of the definitions and continue to occupy the unit as their primary residence as defined in these Guidelines and meet other criteria as the Guidelines are amended from time to time. OCHA/designee will require all owners to complete and sign a Requalification Affidavit on a biennial basis.

The OCHA/designee has the right to request additional documentation through an audit or follow-up on a complaint to show proof of employment and/or residency. Additional documentation may include items previously stated in Section 1 above. A household reported as non-compliant will be provided the opportunity to demonstrate they are in fact compliant and/or cure the non-compliance utilizing the following procedures.

**OCHA /DESIGNEE RESPONSIBILITIES**

1. If a complaint is received, it is forwarded to the OCHA/designee, who researches the complaint. If there are grounds to move forward, the first compliance letter will be mailed within 30 calendar days of receipt of the complaint or if the biennial Affidavit has not been returned. The biennial affidavit will be treated as a compliance letter.
2. If the owner does not respond within two weeks to the initial compliance letter, a second compliance letter will be sent. The first and second compliance letters will be sent by regular mail.
3. If the owner does not respond to the second compliance letter within two weeks, and/or if the compliance situation is not fully resolved within 60 calendar days from the date of the first letter, a Non-Compliance Notice (NCN) will be sent to the owner. The NCN will provide the owner an option if they wish to dispute the violation by requesting a Hearing in writing within 15 calendar days from the date of the NCN. The NCN will be sent by regular and certified mail. The OCHA/designee will also notify the Governing Body when a NCN is sent.
4. If the owner does not respond or does not request a Hearing, or the owner does not request a Hearing within the specified deadline, the OCHA/designee will send a final letter to the owner. The final letter will state the owner has 30 days to comply with the terms of their deed restriction. The final letter will be sent by certified mail.

**OWNER RESPONSIBILITIES**

1. Owner must meet and maintain all of the continuous qualifications in their deed restriction.
2. When land is owned in Ouray County by the same household owning an affordable-housing unit, the land must remain unimproved. Once the land is improved with a residential unit(s), the owner must follow the terms of their deed restriction for other residential property ownership.

3. No household that currently owns any developed residential property in Ouray County can purchase a deed restricted property unless they are selling the residential property and still qualify under the income and asset limitations. Failure to sell the residential property while closing on deed restricted housing will trigger the requirement to list and sell the deed restricted housing immediately. Price, salability, financing or other market factors that may affect the ability to sell residential property are not factors that can delay the need to sell the deed restricted property.

a) **Exemption:** An employer, who owns a deed restricted unit, and has an opportunity to purchase another unit in Ouray County for the purpose of providing employee housing may do so under the following conditions:

- i. The employer would contact the jurisdiction to start the process for deed restricting a unit they found in the free market and would like to purchase;
- ii. The employer would then discuss with the jurisdiction their needs;
- iii. the deed restriction would be agreed to by both parties;
- iv. the jurisdiction may at this time or at any point in the process, request OCHA/designee review the request and provide the deed restriction to be placed on the free market property relating to the business; and
- v. if an agreement cannot be reached regarding how to manage the purchase of the property, said disagreement is equivalent to a denial by the jurisdiction or OCHA/designee.

b) The employer would only be allowed to rent the unit to a qualified employee per the qualifications in Part II, Section 1 of the Guidelines.

4. Owner must make timely payment of all regular and special assessments duly imposed upon the property by the applicable homeowners' association.
5. Once an owner receives a NON-COMPLIANCE NOTICE ("NCN") from the OCHA/designee, the owner must provide the applicable completed form and/or additional documentation in the manner outlined in the non-compliance NOTICE.
6. Should the owner be found out of compliance, a price-capped unit will have the appreciation on the unit suspended until compliance is certified.
7. If an owner wishes to dispute the NCN, the owner must submit a written request for a Hearing within the deadline stated in the NCN. The owner will then be scheduled for a hearing at the next available meeting of the OCHA Board or jurisdiction depending on the deed restriction. The Owner and the governing body will each be allowed one extension of the originally scheduled meeting date. Per the Guidelines and Grievance procedures, "the decision of the governing body shall be binding and the governing body shall take all action necessary to carry out their decision."
8. Once an Owner receives a Final NOTICE of Non-compliance, the Owner shall list his/her unit for sale within 30 days.
9. If the Owner does not respond and/or if the Owner does not list said unit by the final deadline, legal counsel for the jurisdiction will follow-up with appropriate action.

**SECTION 4**  
**PURCHASE OF AN AFFORDABLE**  
**HOUSING UNIT BY LOTTERY**

When necessary, the OCHA/designee will operate a lottery for the sale of affordable housing properties. All qualified households submitting completed applications shall be given an entry in the lottery. Any household not meeting the established criteria will be held and numbered in order of receipt in case the unit(s) does not sell by lottery. An additional entry into the lottery will be provided for households which provide at least 3 years of employment within Ouray County prior to the date of application. The governing body responsible for the project shall set minimum household sizes based on unit size.

Other lottery specifics will be established in advance of the lottery by the OCHA/designee and the jurisdiction or entity involved in the development of the housing. The lottery guidelines will be published for the public to view prior to the beginning of receipt of applications.

Applicants that have left Ouray County and then returned, may only become re-eligible for affordable housing if **all** of the following criteria are met: 1) a member of the household worked in Ouray County at least three (3) years prior to the absence ; 2) the absence has been for no longer than two years; 3) a member of the household is currently employed for at least 30 hrs/wk in Ouray County; and 4) the annual income will be calculated based on current wages projected forward 12 months and cannot exceed the income limits. (These criteria may change at the time a lottery is established and could also be removed)

**STANDARD LOTTERY PROCESS**

Priority for purchasing via the Housing Lottery is given to those persons who have worked in Ouray County a minimum of three consecutive years. An initial lottery is held for persons who meet one of the qualification criteria and an additional entry is provided to those who meet the additional employment requirement. A subsequent lottery may be held if necessary for unqualified households. Any persons in Ouray County meeting the criteria are eligible to participate in the Housing Lottery.

1. The lottery is held the Monday after the listing period has ended, unless otherwise specified.
2. All qualified households who have submitted a complete application by the deadline are entered into the lottery.
3. The names are printed out and verified prior to running the lottery to ensure that a household has not been excluded. The names are verified by the submitted applications that have identified the household as qualified. This list will be posted in a public location to be announced by Noon, the Friday before the lottery is held.
4. The lottery shall be run on the date specified in the advertisement.
5. Once the lottery has been run, the list is printed out and the names are, again, verified to ensure

that all households were included in the lottery. If there is a problem, the problem is noted on the printout and explained as to why the lottery has to be rerun. The lottery is then rerun with the correction(s) made.

6. Once the winner's information is verified, the winner is notified by the OCHA and an appointment is scheduled.
7. The lottery is then classified as "official" and the names posted on the bulletin board in the announced public location become the official list for offering a unit(s).
8. If the winner of the lottery does not proceed to contact the OCHA and sign the contract within five (5) business days, the next in line is notified and so on, until the unit is under contract for purchase.

**NOTE: The OCHA/designee has the right to disqualify a potential winner, if the winner's qualification information cannot be verified, or is inaccurate at the time of contract.**

**PART V  
PROCEDURES FOR THE SALE OF AN AFFORDABLE  
HOUSING UNIT**

**SECTION 1  
LISTING A UNIT WITH THE OCHA/Designee**

1. Prior to listing an affordable housing unit for sale, the owner of an affordable housing unit desiring to sell shall consult with the OCHA/designee and review the Deed Restriction encumbering the unit to determine the maximum sales price permitted and other applicable provisions concerning the sale.
2. Unless otherwise provided in the Deed Restriction, the unit must be listed for sale with the OCHA/designee, and the OCHA/designee will administer the sale in accordance with the Guidelines in effect at the time of listing.
3. The sale of a deed-restricted "for-sale" unit must be through the lottery process unless otherwise permitted in the deed restriction.
4. There shall be a minimum listing period of three (3) months before a unit may be sold by the owner. Any termination prior to the three month period may require the payment of administrative and advertising costs.
5. Questions to OCHA/designee will be answered and help provided to any potential purchaser or seller EQUALLY in accordance with the current Guidelines.
6. The OCHA/designee shall be responsible for preparing all documents pertaining to the sale and purchase of deed restricted 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 discretion and expense.
8. The fees paid to the OCHA/designee 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.

## **SECTION 2 ADVERTISING THE SALE**

1. After a unit is listed for sale with the OCHA/designee, the OCHA/designee, at its expense, arranges to advertise the unit for sale in the local media outlets. Upon listing, there is an initial three-week application period during which the unit is advertised, and open houses scheduled in conjunction with the Lottery process. OCHA/designee will accept applications during the three week application period, with the deadline stated in the Lottery Notice.
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 OCHA. OCHA/Designee will be available to assist interested parties with the purchase procedure and to answer any questions about the process.

## **SECTION 3 FEES FOR LISTING AND SALES**

The listing and/or sale of a Deed Restricted Affordable Housing Unit are subject to the payment of two fees by the owner of the Deed Restricted Affordable Housing Unit, an administrative fee and a sales fee. The sales fee shall not apply where the seller of a Deed Restricted Affordable Housing Unit is the Ouray County, the Town of Ridgway or the City of Ouray. In conjunction with listing a Deed Restricted Affordable Housing Unit for sale, the owner of such shall remit to OCHA/designee an administrative fee in the amount of \$550.00 (the "Administrative Fee"), unless otherwise specified in the Deed Restriction, to cover the administrative cost of OCHA/designee assisting with the sale of the Deed Restricted Affordable Housing Unit to a Qualified Resident or Purchaser. The Administrative Fee shall be non-refundable, regardless of whether the sale of a Deed Restricted Affordable Housing Unit is completed. In the event a sale is completed and closed a sales fee equal to one percent (1%) of the sale's price (the "Sales Fee"), unless otherwise specified in the Deed Restricted Affordable Housing Unit. Notwithstanding the foregoing, OCHA/designee may waive or remit all or a portion of both the Administrative Fee and Sales Fee, in its sole discretion, to promote affordable housing.

## **SECTION 4 DEED RESTRICTION**

The purchaser must execute, in a form satisfactory to the OCHA and for recording with the Ouray 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 OCHA/designee 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 OCHA/designee. This includes Quit Claiming unqualified persons onto the property without approvals.
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 OCHA/designee. An additional document will be required for the non-qualifying owner to sign at the time of closing and will be provided by the OCHA/designee. If title to a Unit transfers solely to a non-qualified co-signer, the Unit must be placed up for sale per the Unit's Deed Restriction Agreement.

**SECTION 6**  
**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 continue to qualify under one of the qualification criteria set forth. There are instances in someone's life where they must leave Ouray 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 as directed by the deed restriction. The homeowner must provide a reason for leaving and a commitment to return to the Ouray 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. The deed restriction may require the maximum sales price (MSP) to be frozen for the duration of the Leave and then appreciation restored upon the owner's return.

**LEAVE OF ABSENCE REQUEST PROCEDURE**

1. A **LEAVE OF ABSENCE REQUEST FORM** must be completed and returned to the OCHA/designee at least 90 days prior to leaving Ouray County. This form must be obtained by the applicant from the OCHA/designee. A meeting shall be held to discuss the Leave and terms within 3 weeks of receipt of the form by the OCHA/designee or as directed by the deed restriction.
2. Notice of such intent to rent an affordable dwelling unit and the ability to comment shall be provided to any applicable homeowners' association at the time of request for their input and recommendation by the owner. Evidence of notice to the HOA must be provided to the OCHA/designee. The terms of the rent, if approved shall be set by the OCHA/designee during the meeting with the applicant.

**SECTION 7  
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. An owner may rent a unit or room to a qualified person 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.

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

**SECTION 8  
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. Prior to any sale of a unit, the OCHA/designee will determine a maximum sales price based on the deed restriction.

**PART VI  
EXCEPTION PROCESS OR SPECIAL REVIEW**

A Special Review for a variance from the strict application of these Guidelines may be requested if an unusual hardship can be shown, and the variance from the strict application of the Guidelines is consistent with the Housing Program intent and policy. In order to request a Special Review, a letter must be submitted to the OCHA/designee stating the request, with documentation regarding the unusual hardship. The applicant shall submit any additional information reasonably requested by the OCHA/designee and a Special Review meeting will be scheduled in a timely manner (within 21 business days).

The Special Review 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 the Guidelines, and if an unusual hardship is shown.

## **PART VII GRIEVANCE PROCEDURES**

A grievance is any dispute that a tenant or purchaser (see Definitions) may have with the OCHA/designee or the jurisdiction with respect to action or failure to act in accordance with the individual tenant's or purchaser's rights, duties, welfare or status. A grievance may be presented to the OCHA/designee or the jurisdiction based on the deed restriction, under the following procedures.

### **I. FILING A GRIEVANCE**

A. Any grievance must be presented in writing to the governing body as stated in the deed restriction. It may be simply stated, but shall specify: 1) the particular ground(s) upon which it is based; 2) the action or remedy requested; and 3) the name, address, telephone number of the complainant and similar information about his/her representative, if any.

B. Upon presentation of a written grievance, a hearing before the governing body shall be scheduled for the next scheduled public meeting. The matter may be continued at the discretion of the governing body. The complainant shall be afforded a fair hearing providing the basic safeguard of due process, including notice and an opportunity to be heard in a timely, reasonable manner.

C. The complaint and the governing body shall have the opportunity to examine and, before the hearing at the expense of the complainant, to copy all documents, records and regulations that are relevant to the hearing. Any document not made available after written request may not be relied upon at the hearing.

D. The complainant has the right to be represented by counsel.

E. A Fee may apply

### **II. CONDUCT OF THE HEARING**

A. If the complainant fails to appear at the scheduled hearing, the governing body may make a determination to postpone the hearing or make a determination based upon the written documentation and the evidence submitted.

B. The hearing shall be conducted by the governing body as follows: Oral or documentary evidence may be received without strict compliance with the rules of evidence applicable to judicial proceedings.

C. The right to cross-examine shall be at the discretion of the governing body and may be regulated by the governing body as it deems necessary for a fair hearing.

D. Based on the records of proceedings, the governing body will provide a written decision and include therein the reasons for its determination. The decision of the governing body shall be binding on the governing body that shall take all actions necessary to carry out the decision.

## PART VIII DEFINITIONS

**Affordable Housing Unit (AHU)** - Dwelling units restricted to the housing size and type for individuals meeting asset, income and minimum occupancy guidelines approved by the Municipal Council, Board of County Commissioners and/or the OCHA/DESIGNEE, whichever shall apply.

**Area Median Income (AMI)** - Households whose incomes are determined by HUD annually, based on income and family size. To calculate the AMI for Table 1 the 50% AMI for Ouray County will be used and then doubled to calculate the 100% AMI. From there all other incomes will be a percentage of the 100% AMI.

**Assets** - Anything owned by an individual that has commercial or exchange value. Assets consist of specific property or claims against others, in contrast to obligations due others. See also definition for Gross Assets and Net Assets.

**Bedroom** - A room designed to be used for sleeping purposes that shall contain closets, have access to a bathroom and meets applicable City or County International Building Code requirements for light, ventilation, sanitation and egress.

**Beneficiary Owner** - A Subject Property Owner who is not a Qualified Owner, and who acquires title to the Subject Property as the result of the death of the deceased Subject Property Owner, whether through joint tenancy, a will, the intestacy provisions of the Colorado probate code or other applicable law, or the provisions of an Estate Planning Entity.

**Capital Improvements** - As defined in the Deed Restriction covering the affordable housing unit, any fixture erected as a Permanent improvement to real property excluding repair, replacement, and maintenance costs.

**Co-signer** - A joint signatory of a promissory note who shall not occupy the unit unless qualified by the OCHA/designee.

**Deed Restriction** - A contract entered into between the jurisdiction and the owner or purchaser of real property identifying the conditions of occupancy and resale. Such document shall be recorded with Ouray County.

**Dependent** - a "dependent" is either a "qualifying child" or a "qualifying relative." Generally, a "qualifying child" is: (a) a child (including stepchild, adopted child, or eligible foster child), or a sibling (or stepsibling) of one member of the household, or a descendant of either; (b) has resided in the principal abode of the household for **at least 100 days out of a calendar year**; (c) has not attained age 19 (or is a student who has not attained age 24 as of the end of the year); and (d) has not provided more than half of his or her support for that year. A child who does not satisfy the qualifying child definition may be a "qualifying relative."

Generally, a "qualifying relative" is an individual who: (a) is a child (including stepchild, adopted child, or eligible foster child), a sibling (including stepsiblings), the taxpayer's father or mother or an ancestor of either of them, a stepparent, a niece or

**Dependent continued** - nephew, an aunt or uncle, certain in-laws of the taxpayer, 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 the relevant calendar year not exceeding the exemption set by the IRS annually; (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.

**Disabled Person** - See definition for Disability.

**Disability** – With respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such impairment; or being regarded as having such impairment. This term does not include the current, illegal use of or addiction to a controlled substance. For qualifying for an affordable housing unit, the person must have resided in Ouray County for at least 12 months prior to date of application. (If conflicts arise during application of the definition of disability, the governing body will follow strict definitions of ‘disability’ as outlined by US Dept. of Housing and Urban Development [HUD]).

**Emergency Worker** - An employee or volunteer of a community based organization that provides on-scene assistance giving emergency personal care to victims, including, but not limited to the following: Fire Department Workers, Mountain Rescue, Sheriff’s Deputies, Police Officers, Hospital Emergency Room Technicians, Social Service Workers (mental health and abuse case workers), Ambulance Drivers, Emergency Medical Technicians, Communications Dispatchers through the Sheriff’s Office or Police Department, etc.

**Employee/Qualified Resident/Buyer** - A person who is employed for a Ouray County employer as defined below; resides in Ouray County for a minimum of 12 months prior to date of application; is retired or disabled as outlined in the definitions.

**Employer** - A business whose business address is located within Ouray County, whose business employs employees (as defined herein) within Ouray County, who work in Ouray County, and whose business taxes are paid in Ouray County. If an employer is not physically based in Ouray County, an employee must be able to verify that they work in Ouray County.

**Family** - For purposes of transferring property only, a family (or immediate family) is defined as a husband, wife, domestic partner, mother, father, brother, sister, son, daughter, either biologically or by legal adoption. Any transfer to a family member must fall under this definition.

**Financial Statement** - A statement detailing all personal assets, liabilities, and net worth (the difference between assets and liabilities) as of a specific date. OCHA/designee may provide an Asset Declaration Form upon request.

**Gross Assets** - Anything which has tangible or intangible value, including property of all kinds, both real and personal; 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 entire property of a person, association, corporation, or estate that is applicable or subject to the payment of debts. Gross assets shall include funds or property held in a living trust or any similar entity or interest, where the person

has management rights or the ability to apply the assets to the payment of debts. Gross assets shall not include, pension plans

**Gross Income** - The total income derived from a business, trust, employment and from income-producing property, before deductions for expenses, depreciation, taxes, and similar allowances. Also, gifts from family that are being used for the purchase of a deed restricted unit, alimony and child support .

**Household** - All individuals occupying the residential unit regardless of legal status and/or a married couple, whether both will be living in the unit or not.

**Household Net Assets** - Combined net assets of all individuals who will be occupying the unit regardless of legal status.

**Household Income** - Combined gross income of all individuals who will be occupying the unit regardless of legal status. See definition of Lotteries for further clarification. Adjustments to the gross income for business expenses can be made for persons who are self-employed.

**Joint Tenancy** - Ownership of real estate between two or more parties who have been named in one conveyance as joint tenants. Upon the death of one tenant, surviving joint tenant(s) have the right of survivorship.

**Leasehold Interest** - A time-restricted interest in real property created by a lease whether written or oral; a tenancy in real property.

**Listing Agreement** - A contract entered into between the OCHA/designee and the owner or purchaser of real property identifying the conditions of occupancy and resale according to the Deed Restriction.

**Lotteries** – A drawing to select a winner from qualified households. A household refers to all individuals who will be occupying a deed restricted unit regardless of legal status and/or a married couple, whether both will be living in the unit or not. All married couples may only **enter into a lottery once and cannot apply separately. If two separate households (single, file separate income tax returns as single, etc.)** enter together into one lottery, the income and assets will be combined.

**Minimum Household Size** - One person (with a leasehold/ownership interest) per bedroom. A minor child or dependent shall be granted equal status as a person with leasehold/ownership interest.

**Mortgagee** - A lender in a mortgage loan transaction.

**Mortgagor** - A borrower in a mortgage loan transaction.

**Net Assets** - Gross assets minus liabilities. Retirement accounts will be reviewed on a case-by-case basis to determine whether or not they shall be included as a net asset.

**Owner-Occupied Unit** - A deed restricted unit requiring the owner live in the unit as a primary residence.

**Ouray County Housing Authority** - OCHA.

**Ownership Exclusion** - Any developed residential property that has an address within Ouray County.

**Pre-qualification** - A borrower's tentative mortgage approval from a lender.

**Present Value** - For the purposes of these Guidelines and any Deed Restrictions containing such terms, the present value shall be the cost or price of any capital improvements as established at the time of such improvement and shall be neither appreciated nor depreciated from such time.

**Primary Residence** - The sole and exclusive place of residence. The owner or renter shall be deemed to have ceased to use the unit as his/her sole and exclusive place of residence by accepting permanent employment outside of Ouray county, or residing in the unit fewer than nine (9) months out of any twelve (12) consecutive months (unless permitted by the deed restriction).

**Purchaser** - A person who is buying or has purchased a deed restricted unit which is subject to these Guidelines, and any qualifying potential purchaser or past owner (claiming rights when he/she was a purchaser) of any such deed restricted unit, but only with respect to any issue arising under these Guidelines.

**Qualified Owner** - Person(s) meeting the income, asset, employment, and residency requirements and property ownership limitations, including retired and handicapped persons, or dependent(s) of any of these (as such terms are defined herein) established by the governing body.

**Rental Unit** - A deed restricted unit that has either been constructed as a rental unit or designated as such through the Leave of Absence procedure or other process as designated in the deed restriction.

**Requalification** - Requirements which renters/tenants and owners of affordable housing

must meet biennially to ensure continued eligibility (every two years).

**Retired** – The age where an employee can retire and maintain eligibility to continue to reside in affordable housing is 65 years of age.

**Self-Employed** - You are self-employed if you carry on a trade or business as a sole proprietor or an independent contractor; you are a member of a partnership that carries on a trade or business; you are otherwise in business for yourself; and you work for profit or fees. You must show a profit on an income tax return at least three out of every five years.

**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 Ouray County business ; and/or a full-time combination of work in Ouray County and school; such student shall be 18 years of age or older.

**Tenancy In Common** – Co-ownership in which individual holds an undivided interest in real property without right of survivorship. –Upon the death of one of the owners, the ownership share of the descendant is inherited by the party or parties designated in the decedent’s will.

**Tenant** - A person or occupant who is leasing or has leased a deed restricted unit which is subject to these Guidelines, and any qualifying potential lessee or past lessee, but only with respect to any issue arising under these Guidelines.