

**APPENDIX N**

**Model Affordable Housing Guidelines for Major Subdivisions in Crested Butte**

**PART I.**

**THE KAPUSHION ANNEXATION, OWNER-OCCUPIED AFFORDABLE HOUSING**

**Section 1. Owner-Occupied Affordable Housing Definition.**

Owner-Occupied Affordable Housing in Crested Butte is housing limited to a narrow segment of the market by deed restriction. The intended beneficiaries for such housing are people who cannot afford fair market sale prices for housing and who contribute toward making the Town of Crested Butte a community by providing personal time and energy for community projects, voluntary services or governance.

**Section 2. Rationale.**

The reason to create owner-occupied, deed-restricted, affordable housing is to serve one (1) of many segments of the community that need affordable housing. The target group for this housing is people who desire to purchase a lot or units for long-term housing in Crested Butte and who contribute to the community. These guidelines are not designed to provide housing as a stepping stone to larger or more expensive homes.

The 1992 Crested Butte/Gunnison Area Housing Needs Assessment demonstrates that affordable housing is needed and that most respondents prefer to own their home when they can afford to do so.

**Section 3. Qualifications for Ownership.**

To qualify for and be eligible to purchase an affordable housing lot or unit, a person must not own any residence or land or building approved by permit for residential use, and meet the following criteria:

**Table I-1  
Eligibility Qualifications**

<i>Category</i>	<i>Residency in Gunnison County North of Round Mountain</i>	<i>Minimum Earned Income in Gunnison County</i>	<i>Live on Site</i>
Category 1	5 of past 7 yrs	80%	Yes
Category 2	5 of past 7 yrs	80%	Yes
Category 3	3 of past 4 yrs	80%	Yes

A. *Residency at Birth.* To be eligible for Category 1, a person must also have had Crested Butte residency upon birth and the birth must have occurred at least eighteen (18) years prior to the submission of a contract for purchase.

B. *Process.* People eligible for Category 1 will be given the first chance to demonstrate to the Town that they qualify to purchase an affordable lot or unit. If not enough applicants meet the eligibility qualifications of Category 1, people eligible in Category 2 will be given the next chance to qualify for an

affordable lot or unit. People in Categories 1 and 2 may qualify at this time. If not enough applicants meet the eligibility qualifications of Category 2, people eligible in Category 3 will be given the next chance to qualify for an affordable lot or unit. People in Categories 1, 2 and 3 may qualify at this time.

C. *Income.* Eighty percent (80%) of all income must be earned income in Gunnison County. *Earned income* shall be defined by the Internal Revenue Service (IRC §32(c)(2)) Earned Income (3/20/1995).

D. *Town Makes Determination.* The Town of Crested Butte or its designee will decide which applicants meet the criteria for eligibility.

E. *Sale of Real Estate.* Applicants who own real estate must list and sell the real estate to an unrelated person or an entity in which the applicant has no interest for no less than fair market value prior to closing on the owner-occupied affordable housing unit or lot. However, if an applicant owns a fifty percent (50%) or less undivided interest in real estate, he or she may convey that interest to the joint owners with or without receiving consideration. If the real estate is not sold by the time of closing on the affordable housing unit or lot, the applicant becomes ineligible to purchase the affordable housing unit or lot and shall not close on it. The seller may delay closing until the applicant sells the other real estate or the seller may void the contract to sell and may enter into a new contract to sell to a different qualified person. Not more than one (1) affordable unit or lot may be owned by a person.

F. *Maximum Income Limits.* There shall be no maximum income limits for applicants.

G. *Asset Limits.* There shall be no asset limits for applicants.

H. *Residency Location.* Residency is restricted to residency in the East River Valley and its tributaries, north of Round Mountain.

I. *Co-borrowers.*

1. Co-borrowers, such as parents helping a dependent, are permitted so long as the person who meets the Qualifications for Ownership is a record owner of the property.

2. The co-borrower's name may be on the title if a lender requires both the purchaser and the co-borrower's names to be on the title.

3. The name of a married spouse of the person meeting the eligibility qualifications in Section 3 above may be on the title if the qualifying person is also a record owner.

4. If title transfers solely to the co-borrower or spouse, the unit must be relinquished unless the co-borrower or spouse meets the Qualifications for Ownership. This requirement may be waived by the Town for good cause shown. Co-borrowers who do not meet the Qualifications for Ownership and who receive title to the property may not occupy or rent the unit or lot prior to selling it.

J. *Deadline for Building.* Owners who have purchased an affordable housing lot shall obtain a certificate of occupancy for a dwelling unit thereon no longer than twenty-four (24) months after closing the purchase. Any owner who fails to meet this deadline shall forthwith sell his or her parcel.

#### **Section 4. Establishing Qualifications for Ownership.**

In order to determine that a person or household desiring to rent or purchase an affordable housing unit or lot meets all of the Qualifications for Ownership, the Town shall request any combination, or all, of the following documentation as proof of residency and income source:

- A. Federal income tax returns for the previous five (5) years; Form 1040, 1040E or 1040EZ.
- B. Wage and tax statements for the previous five (5) years; Form W2.
- C. Landlord verification (proof of residency by physical address).
- D. Copy of valid Colorado driver's license.
- E. Vehicle registration.
- F. Voter registration.
- G. Other verification deemed necessary by the Town (i.e., wage stubs or employer name, address and phone number).

#### **Section 5. Sales Procedures.**

A. The following describes how sales prices will be determined when selling affordable housing units.

1. Undeveloped lots: Lot prices will be determined by the developer of the land. The market is limited to those who qualify by meeting the Qualifications for Ownership described in Section 3 above.

2. Developed lots, or units: Once a structure has been built on a lot, or prior to a structure being built but after the initial sale by the developer, the resale value will be determined by the market; however, the market is limited to those meeting the Qualifications for Ownership in Section 3 above.

B. *Procedure for Initial Sales.*

1. When the developer is ready to sell units or lots, the developer shall place an announcement in the legal publications section of the official newspaper of the Town announcing the following:

a. The number or address of the units or lots that are for sale beginning on \_\_\_\_\_ (date).

b. People meeting the eligibility qualifications in Category 1 of Section 3 above may make an offer on the units or lots during the fifteen (15) days following publication of the notice.

c. The seller may be contacted at the following address.

2. People meeting Category 1 eligibility in Section 3 above may make an offer on the units or lots during the fifteen (15) days following publication of the notice. A representative of the seller with authority to enter into a contract must be available during said fifteen (15) days.

3. If contracts to purchase all of the units or lots at the advertised price are not consummated within said fifteen (15) days, the seller may place a second notice in the official newspaper of the Town announcing that the units or lots are for sale to people eligible for Category 2 in Section 3 above.

4. People meeting Category 1 and Category 2 in Section 3 above may make an offer on said unit or lot during the fifteen (15) days following said publication. A representative of the seller with authority to enter into a contract must be available during said fifteen (15) days.

5. If contracts to purchase all of the units or lots at the advertised price are not consummated within said fifteen (15) days, the seller may place a third notice in the official newspaper of the Town announcing that the units or lots are for sale to people meeting Category 3 in Section 3 above.

6. People meeting Category 1, 2 or 3 eligibility, as described in Section 3 above, may make an offer on a unit or lot following publication of the notice. The units or lots shall remain available to any person meeting Category 1, 2 or 3 until they are sold.

*C. Procedures for Sales After Initial Sales.* Units or lots may be sold only to people meeting Category 1, 2 or 3 in Section 3 above. There shall be no priority of eligibility within the categories.

#### **Section 6. Duplex and Accessory Dwellings.**

When a duplex or accessory dwelling is allowed on an affordable lot, the leaseholder or purchaser of the duplex or accessory dwelling unit must meet the Eligibility Qualifications in Section 3 above, including parts A. through H.

#### **Section 7. Enforcement.**

The terms, requirements and conditions set forth in these Guidelines shall be enforceable by any appropriate legal and/or equitable action, including but not limited to specific performance, injunction, abatement or eviction; and, if the Town substantially prevails in such an action, it shall be entitled to an award for its reasonable attorneys' fees and costs.

#### **Section 8. Deed Restriction.**

Each affordable housing lot or unit must be deed restricted by a recorded instrument in substantially the following form:

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**Model Affordable Housing Guidelines for Major Subdivisions in Crested Butte**

**AFFORDABLE HOUSING DEED RESTRICTION**

Subject property: \_\_\_\_\_ (Legal Description) \_\_\_\_\_

Hereafter, the "Property."

The ownership of the Property shall henceforth be limited exclusively to successful applicants and their spouses maintaining exclusive residency in Gunnison County, Colorado, who also meet the qualifications set forth in the Town of Crested Butte, 1995 Affordable Housing Guidelines, as amended ("Guidelines"), as determined by the Town or its designee at the time of purchase and during ownership. The use and occupancy of all or part of the property is hereby limited exclusively to people who meet the referenced qualifications, and their spouses and children.

Ownership, use and occupancy of the Property is subject to the following:

1. The Property must be owned, occupied and used only by persons meeting the qualifications set forth in the Guidelines, as they may be amended.

2. In the event the Property is sold, transferred or otherwise conveyed without complying with this Deed Restriction, such sale, transfer or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every conveyance of the Property, for all purposes, shall be deemed to include and incorporate by this reference all terms of the Guidelines and any amendments thereto, including but not limited to those provisions governing the qualifications for ownership, sale, transfer or conveyance of the Property.

3. The beneficiary of any deed of trust or other recorded instrument identifying the Property as security or collateral shall execute the Option to Purchase Affordable Housing prepared by the Town, unless waived by the Town, prior to the recordation of the deed of trust or other recorded instrument. Failure to so execute shall render any such encumbrance fully null and void.

The foregoing restrictions on ownership, use and occupancy constitute a perpetual covenant that runs with the land as a burden thereon for the benefit of the Town of Crested Butte, Colorado (hereafter the "Town"), or its designee, and shall be binding on the owner and the heirs, personal representatives, assigns, lessees, licensees and any transferees of the owner. The foregoing restrictions and covenants shall be administered by the Town and shall be enforceable by any appropriate legal or equitable action, including but not limited to specific performance, injunction, abatement or eviction of noncomplying owners or occupants or such other remedies and penalties as may be deemed appropriate by the Town. If the Town substantially prevails in such an action, it shall also be entitled to an award for its reasonable attorneys' fees and costs.

Notwithstanding the foregoing, this Deed Restriction shall automatically terminate upon the Town's failure to exercise and close its option rights under an Option to Purchase Affordable Housing.

The date of the termination of this Deed Restriction shall be the date of recording a Public Trustee's or court-ordered foreclosure deed conveying the Property to the encumbrance beneficiary.

The foregoing Deed Restriction may be modified with the written consent of the owner, the Town or its designee and, if reasonably available in Gunnison County, the original Property developer. No such modification shall be effective until an instrument in writing is executed and recorded in the office of the Clerk and Recorder of Gunnison County. Provisions added to this Deed Restriction and/or the Guidelines after the time of recording the final subdivision plat of the Property, which are more restrictive than those in effect at the time of such recording, shall not apply to parcels within the Property, unless such provisions are designed to satisfy the Town's expressed interest to have only those persons meeting the Eligibility Qualifications (which shall not be amended) own, occupy or use the Property. However, less restrictive added provisions shall apply.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Developer

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF GUNNISON    )

The foregoing Deed Restriction was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, developer of the Property.

Witness my hand and official seal.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(SEAL)

Return to: Town of Crested Butte  
Attention: \_\_\_\_\_  
P.O. Box 39  
Crested Butte, CO 81224

(Code §17-12-10; Ord. 4 §1, 2009)