

AFFORDABLE AND SENIOR HOUSING PROGRAM AND PROCEDURES

The Simi Valley City Council recognizes the need to assist very low- and low-income families and seniors to obtain desirable housing in the City. The following is information and guidelines to assist property owners and developers in working with the City to provide affordable and/or senior housing.

Generally, the City and the property owner(s) (“applicant” or “developer”) enter into an Affordable or Senior Housing Agreement where affordable and/or senior housing is provided in exchange for a density bonus, incentives, concessions, or waivers from the City, and in some cases funding assistance.

The Program may be funded through the Community Development Block Grant (CDBG) Program, the City's Local Housing Fund, and the State HOME Program. These funding sources make it possible to provide financial incentives to facilitate the development of affordable housing. The requirements of the Program supplement the affordability requirements established by the City's Density Bonus regulations (SVMC Section 9-31) adopted to satisfy the requirements of State Government Code 65915 et. seq.

If interested in developing an affordable or senior housing project in the City, you are encouraged to contact the Planning Division at (805) 583-6307 or enviroservices@simivalley.org for guidance prior to submitting an Affordable and Senior Housing Agreement application.

Affordable and Senior Housing Agreements

The City will evaluate Affordable and Senior Housing Agreement applications for density bonuses and/or other incentives or concessions in accordance with SVMC Section 9-31. The proposed project must be consistent with the City's General Plan Land Use designation for the project area, with the exception of the increased density allowed through a Density Bonus or through consideration and approval of a General Plan Amendment.

In addition, the applicant must demonstrate: 1) that the proposed project will maintain fiscal stability during project development/unit sales, and, if applicable, throughout the term of the rental agreement; 2) that the proposed project will provide affordable rents to qualified tenants or resale restrictions throughout the term of the affordable agreement; 3) the applicant's experience in owning, constructing and operating housing projects, as evidenced by the length and quality of the applicant's experience and qualifications, the experience of individual members of the company's board, its staff and consultants; 4) that the proposed project will address the specific affordable housing needs in the area, as indicated in the Housing Element of the City's General Plan and a market feasibility study provided by the applicant, if required by the City; and 5) that any proposed projects providing affordable 2- and 3- bedroom units provide amenities suitable to the

needs of families with children, such as a children's play area, recreational area, pool, basketball court, and child care services (either on site or in close proximity).

If financial assistance is requested from the City, the application must include an independent analysis of the project's costs, revenues, and any property appraisals – a pro forma, which incorporates the following elements: Project Description, Development Hard Costs; Development Soft Costs; Debt Financing Assumptions; Revenue/Expense Assumptions; Absorption/Occupancy Assumptions; and Agency Public Assistance Assumptions. All assumptions regarding annual rate of increase in revenues and operating expenses must be clearly identified. In addition, applicants of affordable rental projects requesting financial assistance must also submit a 30-year cash flow projection.

Applications that include a request financial assistance will require review by the City's Consultant. The cost of such analyses shall be shared equally by the City and the applicant. The results of the consultant's analysis will be used to determine the need, if any, for any financial assistance. The City's consultant will perform analyses of the proposed affordable housing project that includes: 1) identifying and explaining any discrepancies; 2) evaluating the necessity, risk, and degree of public financial participation requested by the applicant; 3) reviewing and commenting on the project's cost assumptions; 4) analyzing the risk under cost overrun or extended absorption scenarios; and 5) discussing project quality and various criteria, such as rents/sales prices per square foot.

Note that all Affordable Housing Agreements must clearly state that the affordable housing covenants must run with the land and will be enforceable by the City or its designee against any buyer or seller for the term of the affordability restrictions. The affordability covenants must not be subordinate to any monetary lien recorded against the affordable housing units.

Applications for an affordable or senior housing project are presented before the Affordable Housing Subcommittee (AHS) for review and recommendation to the City Council. The AHS evaluates the request, including the conceptual design of the project, density bonus, concessions, and any financial assistance. The AHS in reviewing the proposal works with the applicant to provide specific direction regarding issues raised by staff and the applicant, and may request additional information before making a recommendation to the City Council.

Qualification and Monitoring

Prior to occupancy of City approved affordable and senior housing projects, the City verifies the qualifications of each of the tenant applications and proposed rental agreements. Upon full occupancy of the project, the applicant prepares and submits to the City an Affordable or Senior Housing Unit Summary Report. The Unit Summary Report includes the following information for each affordable unit: unit type, household size and income, household type (i.e. senior, one-parent, two-parent, handicapped), initial rent, rental adjustment dates, and rental adjustment amounts. The City will

provide the applicant all appropriate tenant inquiry and reporting forms and income verification criteria.

Upon initial occupancy of the project, City staff will conduct annual compliance reviews and monitoring visits. The purpose of the visits is to review tenant files and update the Unit Summary Form to include new tenants, rental adjustment dates, and initial and current rent amounts. The City will coordinate with the applicant to conduct the monitoring at mutually convenient times. For for-sale projects, City staff will periodically review the status and occupancy of all for-sale units to ensure that the affordable units are owner occupied.

Upon verification of compliance during the annual monitoring, the City prepares a report after the monitoring visit and advise the applicant as to whether all requirements of the Agreement have been met. Non-complying projects will be advised of the actions necessary to comply. The applicant will have 30 days to achieve compliance. Non-compliance not remedied within that time may result in default under the terms of the project Agreement.

Rental Projects

The following items are required to qualify a tenant for an affordable unit and to maintain files in accordance with the affordable housing agreements:

1. A signed certified statement from the prospective tenant stating the name of the principal tenant and all household member, social security number(s), previous year's annual income of all household members, current monthly income of all household members, and age (if senior units);
2. Copies of income verification documents. Income verification samples include the following: previous year's tax return with W-2 forms, most recent pay stubs, year-to-date income statement from employer, and/or statement(s) from other income sources;
3. Rental agreement showing unit number, number of bedrooms, number of occupants, rental amount, and such notices as are required by the Agreement; and,
4. All notices given to tenants in accordance with the Agreement.

For-Sale Projects

Prior to opening escrow, the applicant will submit the buyer's income documentation (and age verification, if applicable), and purchase contract to the City. City staff will review the documents to make a preliminary determination of buyer eligibility. Staff will schedule a meeting with each buyer to review the terms of the resale restriction agreement, obtain the buyer's authorization to perform a credit check, and obtain authorization to verify the status of the buyer's future loan payments. City staff will issue a letter to confirm the City's preliminary determination of buyer eligibility to purchase the

affordable unit. The City will issue a final approval in writing approving the sale after receipt of the buyer's loan application, all supporting documentation, final primary loan documents, review of the buyer's qualifications by the City's Loan Review Committee, and approval by the City Manager.

Recapture

1. The City will be entitled to recapture its financial investment in an affordable project with interest or appreciation share payment through a deed of trust, lien, or other legally enforceable means. Recaptured funds will be placed into the account from which financial assistance was initially provided. The City may declare monies due, all or in part, should one or more of the following events occur:
 - a. Sale or refinance of any Bond financing;
 - b. Sale or transfer of any Tax Credits obtained for the project;
 - c. Title change, refinance, or foreclosure on any deed of trust for the property; or,
 - d. Conversion of all or part of the rental project units to ownership.
2. In the event that repayment of the City's financial contribution is deferred, the deferment period must not exceed 55 years. The City's contribution may accrue interest during the deferment period at an interest rate to be negotiated by the City. The City may, at its option, require a lump sum payoff at the end of a specific number of years, or may allow the principal to be amortized over an extended term to be determined by the City Council.
3. The City must be allowed to audit the financial documents and files for the project on an annual basis. Should the surplus cash for the project exceed 15 percent of the operating expenses, the City will be entitled to require initiation of repayment of its financial contribution.
4. Any delay in the scheduled repayment of the City's contribution may result in an extension of the term of the Agreement beyond the 50 years. This provision must not relieve the applicant of any responsibilities in repayment of the City's contribution.
5. In regard to affordable ownership units, the City will be entitled to retain a first right of purchase on all units reserved for, or purchased by, lower income buyers. The City may also provide for an equity share in the affordable units. The City's first right to purchase and/or equity share option may be exercised at sale or resale of the affordable units throughout the term of Agreement for the project.
6. The City's financial investment eligible for recapture will include fee waivers, Quimby fees, and subsidies to be reimbursed to the agencies that provided financial incentives.

Modification of Existing Affordable and Senior Housing Agreements

The City will evaluate requests for the modifications of existing Affordable or Senior Housing Agreements based on the following: 1) the applicant must submit an Affordable or Senior Housing Agreement Amendment application; 2) the modified Agreement must comply with applicable State and Federal laws in effect at the time of modification; 3) the applicant must illustrate how the proposed modification to the Agreement will assist the City to meet community needs; and, 4) if the request includes a request for financial incentives (refinancing of bonds, additional subsidies, etc.), the applicant must submit a project pro forma, as outlined above, for review and analysis (the applicant is responsible for consultant costs accrued in the review of the project pro forma).

The Affordable Housing Subcommittee reviews the request and makes a recommendation to the City Council for their approval prior to implementation. If modifications affect unit availability or rents, they must be phased according to a staff approved phasing plan. In the event of any owner/tenant displacement, the applicant must comply with Federal anti-displacement requirements in Section 104(d) of the Housing and Community Development Act of 1974 and the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended, (49 CFR 24).

Assignment

An applicant may not assign their rights or delegate duties and obligations to any other entity at any time without the prior written consent of the City. The applicant must notify the City of their intent to assign/transfer the Agreement at least 45 days prior to close of escrow. The City must be entitled to review the prospective buyer/assignee's housing background and financial standing, and the prospective buyer must provide a written statement that he/she has received a copy of the Affordable or Senior Housing Agreement and is aware and understands the benefits/responsibilities conferred under the Agreement.