



## **CITY OF SAN MARCOS**

### **AFFORDABLE FOR-SALE HOUSING PROGRAM GUIDELINES**

#### **PROGRAM OVERVIEW:**

The City of San Marcos (COSM) Affordable For-Sale Housing Program is a homeownership program designed to assist low- and moderate-income households purchase a home at an affordable price. The price the buyer pays for the home is below the fair market value of the property. During the affordability period of 55 years, the home can only be sold to an eligible buyer at a price that is affordable as determined by COSM; this price will be less than the fair market value of the home.

There are homes in a limited number of developments with long-term affordability requirements that are currently owned by families and individuals. When the current owner sells the property, it must be sold to an eligible buyer as determined/approved by COSM. **An extremely limited number of homes become available for resale each year. Properties available for sale are generally listed on Multiple Listing Service (MLS), Redfin & Zillow. Interested buyers should ask their real estate agent to check the MLS for available units.**

#### **ELIGIBLE BUYER(S):**

**Income Limit:** The household's gross annual income must be below the income restriction for the property, which varies by property. Income limits range from 60 to 120 percent of Area Median Income. The income limit is based on the [San Diego County Area Median Income \(AMI\)](#), as adjusted for household size. Gross income will be calculated based on the program guidelines stated below. To establish program eligibility, income of all household members 18 years old and older will be taken into account.

**Household Size:** The bedroom size (number of bedrooms) in a home for which applicants qualify is dependent on the number of members in the household. Applicants must meet the following occupancy standards:

- 1 bedroom unit: 1 – 2 people
- 2 bedroom unit: 2 – 4 people
- 3 bedroom unit: 4+ people

For the purpose of determining household size, any person claimed as a household member must have lived with the borrower for a minimum of one year prior to the purchase and must provide evidence they will live in the subject property. In addition, any non-borrowing person listed as having no income on the application, must be a dependent on the applicant's tax return for the previous year to be considered a household member.

Co-borrowers or co-signers who will not occupy the property as their primary residence are not permitted. A non-borrowing spouse is considered a co-borrower even if they will not be on the loan for the first mortgage. Student dependents who live on campus or in another city / county at or near their college will not be counted as a household member.



The borrower(s) is required to provide all pertinent documentation requested by COSM.

**First-Time Homebuyer:** Applicants and all household members over the age of 18 must be first-time homebuyers. “First-time homebuyer” means a person who has not owned a home during the three-year period prior to purchase of a property under the Affordable For-Sale Housing Program. The following individual or individuals also qualify as a first-time homebuyer under this definition:

- A displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by a spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive 12-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without compensation to care for his or her home and family; or
- A single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried and has one or more minor children (under age 18) for whom the individual has custody or joint custody (borrower must have custody a minimum 51 percent of the time if joint custody).

**No Prior Participation in First-Time Homebuyer or Affordable For-Sale Housing Programs:** Applicants may only participate once in the homeownership programs (First-Time Homebuyer or Affordable For-Sale Housing) currently or previously administered by COSM.

**Preferences:** Consistent with state and federal law, seller shall endeavor to use its best efforts to prioritize Affordable For-Sale Housing properties to Low to Moderate Income Households with the preference for one or more members who live or work in the City of San Marcos. Supporting documentation will be required.

#### **INCOME QUALIFICATION FOR PROGRAM ELIGIBILITY:**

The combined gross annual income of all members of the household age 18 and older who are currently living together and have lived together for 12 months or more and will be living in the property must be included in the determination of income. The household’s income must be projected as an annual income. All households must be income-qualified no more than 60 days prior to the closing date. For the purpose of determining income eligibility, all income is included even if there is less than a two-year work history. The income from employment or any other source ended within 6 months of the application date will be counted for eligibility purposes if it was not replaced by new verifiable employment.

#### **INCOME QUALIFICATION FOR UNDERWRITING/DEBT-TO-INCOME CALCULATIONS:**

Program guidelines require the combined income of all persons on title, including a non-borrowing spouse (if applicable), to be included in the calculation of income. The household’s actual/average income will be calculated for underwriting purposes.

At least one of the applicants, co-applicants or non-borrowing spouses must have a minimum of a two-year recent and continuous work history.

COSM, at its sole discretion, reserves the right to request any supporting documentation necessary to calculate the household income and may use alternative methods for calculating income based on information and documentation available.



## DEBT-TO-INCOME RATIO:

The borrower's proposed monthly housing debt including principal, interest, property taxes, property insurance, and if applicable, mortgage insurance and homeowner's association dues, *plus* all other household monthly debt (including credit cards, automobile payments, etc.) reflected on the credit report, cannot exceed 45 percent of the borrower's gross monthly income.

The income of a non-borrowing spouse is included when calculating the debt-to-income ratios if s/he has a work history of two or more years.

## COOLING-OFF PERIOD FOR DECLINED APPLICATIONS:

If an application is declined for exceeding the income or assets limit, there will be a 12-month cooling-off period before a new application will be accepted.

One exception to this "cooling off" period is when HUD increases the program income limit. If the new income limit is higher than the declined borrower's income, the borrower can apply again without having to wait 12 months.

The household members and income sources must be the same at the time of re-application. A change in employers may be acceptable; however, a loss or reduction of income and/or assets that would otherwise have put the household over the income or asset limit will not be accepted. COSM, at its sole discretion, reserves the right to refer to the original application to confirm consistency.


## DOWN PAYMENT REQUIREMENTS:

- Minimum required down payment is 3 percent of the purchase price.
  - The borrower's down payment must be from their personal funds or a gift from an immediate family member. Immediate family members include the following people: father, mother, brother, sister, grandparent, uncle, aunt or child. The 3 percent requirement cannot be substituted by any seller/lender contributions, subsidies, using 100% VA financing, subordinate financing, grants, etc.
- Maximum down payment: 20 percent of the purchase price.
  - An exception to the maximum down payment guideline may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability, in which case a down payment sufficient to bring their housing debt-to-income ratio to no less than 30 percent may be accepted.
- As the program is designed for low-income buyers with limited assets but sufficient income to support a first mortgage payment, down payments in excess of 20% will not be considered.
- All-cash transactions are not permitted. An exception may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability, and the proposed payment for property taxes, Homeowners Association (HOA) dues and homeowners' insurance is equal to or greater than 30 percent of their income. The buyer must meet all eligibility requirements, have acceptable credit and have sufficient income to
  - support the HOA, property tax and monthly debt obligations.

## ASSET LIMITATION:

At the time eligibility is determined, the liquid assets of all household members, including minors, must not exceed an amount equal to the maximum income limit for the particular affordable unit, as adjusted for family size.

- The term "liquid assets" refers to cash and assets, which are readily convertible to cash within a reasonable period, including but not limited to savings and checking accounts, certificates of deposit of any term,



marketable securities, money market and similar accounts, mutual fund shares, annuities and insurance policy cash values.

- The term “liquid assets” shall not include retirement account funds if those accounts are not accessible to the buyer without penalty.
- An exception may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability and a down payment of more than 20 percent is required to bring their housing debt-to-income ratio to no less than 30 percent. In this case, the borrower’s assets must not exceed an amount equal to the maximum income limit for the particular affordable unit, as adjusted for family size after the maximum allowable down payment contribution.
- The minimum household reserve requirement is \$1,000. The reserves must be from liquid assets.

### CREDIT GUIDELINES:

- Minimum credit score: 640
- No foreclosure or bankruptcy (Chapter 7 or 13) within the last 7 years;
- A letter of explanation is required for all derogatory reporting dated within two years of the close of escrow;
- All collections, charge offs and judgments must be paid or settled with the creditor through escrow or prior to the close of escrow. Back-up documentation showing the account has been paid is required if paid outside of escrow; and
- A credit report for a non-borrowing spouse is required. All debt of the non-borrowing spouse will be used in the debt-to-income ratio calculations.
- COSM, at its sole discretion, reserves the right to decline for unacceptable credit history.

### FIRST TRUST DEED LOAN:

The loan must be a 30-year, fixed interest rate loan. Conventional, FHA and VA financing are acceptable. First trust deed lenders are required to collect and manage an impound account for payment of taxes, assessments and property insurance for the term of the first mortgage.

### SUBORDINATE FINANCING:

Subordinate financing is prohibited, provided, however, the City Manager may make exceptions and allow subordinate financing to the extent such subordinate financing is reasonably necessary in order for a purchaser to acquire an affordable unit.

### HOMEBUYER EDUCATION:

All applicants, co-applicants and non-borrowing spouses, whether on title or not, are required to complete Homebuyer Education AND Pre-Purchase Counseling from an HUD certified Homebuyer Education Provider. These are two separate requirements and must be completed no less than 12 months prior to the date of purchase. Visit [www.san-marcos.net](http://www.san-marcos.net) for the Homebuyer Education and Pre-Purchase Counseling Provider List.


### OCCUPANCY REQUIREMENTS:

For so long as the borrower(s) owns the affordable unit, the borrower(s) must continuously occupy the Property as their sole place of residence, and they can own only the affordable property and no other real property. After purchase of the affordable unit, if the borrower decides to buy, or owns another residential dwelling (regardless of the purpose or use), the borrower must contact COSM immediately to initiate sale of the affordable property. The borrower is not permitted to own ANY other residential dwelling anywhere while owning the affordable unit. The borrower(s) shall also not rent or lease all or any part of the restricted unit at any time. Borrower(s) must comply with annual occupancy certifications.

Any violation of the above constitutes a default of the terms and restrictions of the affordable unit, and COSM has the right to initiate default proceedings, including without limitation, foreclosure.

### AFFORDABLE RESALE RESTRICTIONS:

On the date of the first sale of each Affordable For-Sale Housing Program unit, COSM records resale restrictions



on each property. Depending on the development in which the unit is located, the resale restrictions include income restrictions, sales price restrictions, occupancy restrictions, and length of restriction (restrictions remain in effect for 55 years). The resale restrictions include the following documents:

- Affordable Housing Resale Restrictions, Option to Designate Eligible Purchasers and Option to Purchase Upon Default
- Affordable Deed of Trust
- Affordable Promissory Note

### **PROPERTY CONDITION:**

Upon opening escrow, the eligible buyer will be required to have a full home inspection, and a Housing Quality Standards (HQS) inspection, done on the Affordable For-Sale Housing Program unit. The inspections must be completed by a qualified inspector approved by COSM.

Any work that needs to be completed is the seller's responsibility and is non-negotiable. The property is to be left in a "move-in" ready condition. All required repairs are to be made prior to the close of escrow.

Once the inspection is completed, a copy of the report will be sent from the buyer, or their agent, to COSM. COSM will review the report, and the seller, buyer and their agents will be notified of any repairs that need to be completed by the seller prior to escrow. Due to the nature of some required repairs, COSM may require some items to be completed by a licensed contractor.

### **REAL ESTATE AGENT REPRESENTATION:**

The seller and buyer may be represented by a real estate agent or qualified representative. The sales contract, disclosures and division of real estate costs, i.e., agent's commission, title and escrow, etc., is negotiated between the seller and buyer, and COSM is not involved. COSM may recommend real estate agents who have contracted with COSM to represent either the seller or buyer for a reduced, flat commission. In addition, for sale by owner and dual representation are not allowed in any Affordable For-Sale Housing Program transaction, except in the case of the initial sale from developer to the first purchaser.

### **LOTTERY SYSTEM FOR BUYER SELECTION:**

All pre-qualified buyers are placed into a lottery system where they receive a unique lottery number. A unique lottery is run with COSM present using a list randomizer to give everyone a unique rank. The rank determines each pre-qualified buyer's place in line. Example if 48 applications are received, the lottery will give each applicant a rank between 1 and 48. Each applicant's place in line is based on their ranking from the lottery.

### **COSM'S ROLE:**

COSM is the Affordable For-Sale Housing Program administrator and secondary lender. As the program administrator, COSM is responsible for oversight and compliance of the affordable resale restrictions. COSM's responsibilities include but are not limited to:

- Calculating the sales price for affordable for-sale units at the time of the first sale and for each subsequent sale
- Ensuring that upon resale, the property is in a "move-in" ready condition
- Verifying eligibility of buyers that participate in the program
- Verifying lottery system preparation for randomizer

- Annual occupancy monitoring

COSM is a lien holder on each unit and does not have an ownership interest in the properties.

## REFINANCE:

The Affordable Deed of Trust and Promissory Note may be subordinated to the refinancing of the existing first trust deed loan in order to lower the interest rate or reduce the loan term. Refinancing for cash out may only be approved if the funds will be used solely to complete capital improvement upgrades on the affordable unit. All refinances are subject to prior written approval by COSM in accordance with the Affordable For-Sale Housing Program Refinance Guidelines.

*These guidelines are provided as a basis for the determination of program eligibility and underwriting of Affordable For-Sale Housing Program loans. The Affordable For Sale Housing Program is aligned with Housing Element Goal 1 to Provide a broad range of housing opportunities with emphasis on providing housing which meets the special needs of the community. Additionally, certain sections of the First-Time Homebuyer Program guidelines may apply. COSM reserves the right to request any supporting documentation or information as needed.*

*Please be aware that reporting fraudulent, untrue and/or incomplete documentation is a serious program violation. This could lead to the termination of your participation in the Affordable For-Sale Housing Program.*

*Title 18, Section 1001 of the United States Code, states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department or agency of the United States. It is very important to provide complete and accurate information as requested by COSM.*



*The City of San Marcos (COSM) is committed to affirmatively furthering fair housing by promoting fair and equal housing opportunities for individuals living in the City of San Marcos. This commitment extends to all housing programs managed or owned by COSM and to all grant-funded programs provided by COSM. It is the policy of COSM to provide services without regard to race, color, religion, national origin, ancestry, age, gender, familiar status or physical/mental disability. For more on our commitment to affirmatively furthering fair housing, visit our website at [www.san-marcos.net](http://www.san-marcos.net).*

Applicant Eligibility	Standards
Co-Signers	Co-signers who will not occupy the property are prohibited.
Documentation	<ul style="list-style-type: none"> <li>• If married: spouse must sign COSM forms, disclosures and promissory note, regardless of vesting.</li> <li>• If divorced: copy of final divorce decree and judgment from the court.</li> <li>• Death certificate for deceased spouse.</li> <li>• Non-U.S. Citizen: copy of permanent alien registration card (green card). All borrowers must be a U.S. Citizen or Permanent Resident.</li> <li>• Copy of driver's license or other photo ID</li> </ul>



<b>Income</b> (Required for ALL households members over age 18)	<b>Standards</b>
Alimony and Child Support	Copy of divorce decree and/or child support agreement, with twelve months proof of payment. To be used for eligibility and underwriting. Support must continue for 36 months or more.
Disability Income	Copy of most recent award letter
Social Security Income	Copy of most recent award letter
Pension Income	Copy of most recent award letter or 1099-R
Tax Returns & W-2s	Three years Federal signed tax returns including all filed schedules. Two years W-2s for all employers.
Salaried / Wage Earners	Most recent pay stubs covering a minimum of two month's income. Pay stubs to reflect year-to-date earnings and deductions. If there are multiple employers, all pay stubs showing year-to-date earnings.
Part-Time Employment	Most recent pay stubs covering a minimum of two months income. Pay stubs to reflect year-to-date earnings and deductions.
Bonus, Commissions, Overtime, and Double-Time Income	Must be documented on pay stub. Will be used if there is a two-year history and likelihood of continuation.
Self-Employed	Three years Federal signed tax returns including all filed schedules and a year-to-date signed profit and loss statement. Three years signed business tax returns if applicable. 12 months of bank statements. Must have a documented minimum two-year history of self-employed income.
Commission Only	Two years of tax returns with Schedule C and a year-to-date signed and dated profit and loss statement <u>or</u> most current pay stubs covering a minimum of one month. Must have a minimum two-year history of commission income.
<b>Assets</b> (Required for ALL households members over age 18)	<b>Standards</b>
Checking and Savings Accounts	Three months most recent bank statements for ALL accounts.
Stocks and Bonds	Must be verified by brokerage firm or similar company and statement of account.
401K or Retirement Accounts	Copy of account statement and letter from employer verifying that borrower does not have access to the funds, if applicable.
<b>Liabilities</b>	<b>Standards</b>
Alimony/Child Support	Included as debt if more than six months remaining. Copy of divorce decree.

Installment Loans	Included as debt if more than six months remaining.
Revolving Accounts	Payment stated on credit report or application is used, whichever is higher. If payment is not stated, the higher of \$10 or 5 percent of the outstanding balance owed is used.
Student Loan	Payment stated on credit report is used. For student loans in deferment, 1% of loans will be used unless borrower provides documentation to prove they are on an income-based repayment plan with a lower payment in which case the income based repayment plan payment will be used.
<b>Credit History</b>	<b>Standards</b>
Credit Reports	Must be a "three repository merged" credit report. Any items not belonging to borrower must be removed from the report. Credit report must be dated within 90 days of COSM approval.
Collections	All unpaid collections must be paid. Need letter of explanation from borrower.
Derogatory Credit	Letter of explanation is required for all derogatory credit. No accounts can be past due at the time of loan application.
Bankruptcy	No bankruptcy (Chapter 7 or 13) within the last 7 years.
Short Sales / Foreclosures	No short sale or foreclosure within the last 7 years.
Judgments, Garnishments and Involuntary Liens	No outstanding judgments, garnishments or involuntary liens are allowed.
Inquiries	Any inquiries within the last 90 days must be explained.
No or Limited Credit History	Alternative credit history is required. Utility payment records (at least 12 months most recent statements), rental payments (past 12 months) or other personal loans (past 12 months). Need three forms of credit history, at least one must be a rental history.
<b>Preferences</b>	<b>Standards</b>
Live or Work in San Marcos	There are two ways to be eligible: <ol style="list-style-type: none"> <li>1. If you currently live in San Marcos as proof, you will need to show one of these: <ul style="list-style-type: none"> <li>• Telephone bill (land line only)</li> <li>• Cable and internet bill</li> <li>• Electric bill</li> </ul> </li> </ol>





	<ul style="list-style-type: none"><li>• Gas bill</li><li>• Water bill</li><li>• Paystub (listing home address)</li><li>• Public benefits record</li><li>• School record</li></ul> <p>2. If you work at least 75% of your working hours in San Marcos. As proof, you will need to show:</p> <ul style="list-style-type: none"><li>• Paystub with employer address</li><li>• Letter from employer</li></ul>
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