COMMUNITY SERVICES COMMISSION
Barbara Cardillo, Chair
Susan Gomez, Vice Chair
Leslie Alexander
Toni Blackstock
Christine Currie
Nancy Marcus
Anita Wolf
Stanford Stickney
Adam Hadar

TOWN OF LOS GATOS
COMMUNITY SERVICES COMMISSION

OCTOBER 2, 2008
5:00 P.M.

Neighborhood Center
208 East Main Street
Los Gatos, California

PARTICIPATION IN THE PUBLIC PROCESS

The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item NOT on the agenda, you may do so during the "Verbal Communications" period. The time allocated to speakers may change to better facilitate the Community Services Commission meeting.

The purpose of the Community Services Commission meeting is to conduct the business of the community in an effective and efficient manner. This is done by following meeting guidelines set forth in State law and in the Town Code. Conduct which is considered disruptive during Community Services Commission meetings include, but is not limited to:

- Addressing the Community Services Commission without first being recognized;
- Interrupting speakers, Community Services Commission members, and Town staff;
- Continuing to speak after the allotted time has expired;
- Failing to relinquish the podium when directed to do so; and
- Repetitiously addressing the same subject.

For the benefit of the community, the Town of Los Gatos asks that you follow the Town's meeting guidelines while attending Community Services Commission meetings and treat everyone with respect and dignity.

Writings related to an item on Community Services meeting agenda distributed to members of the Commission within 72 hours of the meeting are available for public review at the front desk of the Los Gatos Public Library, located at 110 E. Main Street and are also published on the on the official Town of Los Gatos website. Copies of desk items distributed to members of the Commission at the meeting are available for review in the Neighborhood Center at front desk.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Services Department at (408) 354-6888. Notification 48 Hours before the meeting will enable the Town to make reasonable arrangements to ensure accessibility to the meeting. [28 CFR 35, 102-35.104]

1. ROLL CALL/INTRODUCTIONS

2. MINUTES

2.1 Approval of June 5, 2008 Minutes **(Attachment 1)**

3. COMMUNICATIONS

(Three minute time limit per speaker for subjects not on agenda.)

3.1 Verbal

3.2 Written

4. COMMITTEE REPORTS

4.1 Steering Committee: (Cardillo) – No Report

4.2 Disaster Preparedness/CERT Activities: Informational Report (Cardillo)

4.3 Evaluation Committee (Gomez)
1. Membership
2. November Status Report

4.4 Approve Proposed BMP Guideline Revisions and Forward to Council (Cardillo) **(Attachment 2)**

5. LIAISON REPORTS: Informational Reports

5.1 General Plan Committee (Cardillo)

5.2 County Housing and Community Development; Citizens Advisory Committee: (Gomez) – No Report

5.3 Town Youth Commission

5.4 Drug Free Community (Blackstock)

5.5 West Valley Green Leaf (Currie)

5.6 Senior Services Consortium/COA (Marcus)

6. OTHER BUSINESS: Information Reports

6.1 Community Services Connections: Commissioner Reports
1. Assign November & December Reports

7. STAFF REPORTS

7.1 Sustainability Committee - Status Report

7.2 Leadership Los Gatos

8. ADJOURNMENT

Adjourn to November 6, 2008.

ATTACHMENTS:

1. June 5, 2008 Minutes
2. Approve Proposed BMP Guideline Revisions and Forward to Council

ATTENDANCE: Please contact the Commission Chair or the Community Services Department at (408) 354-6888 if you are unable to attend. The current Town Attendance Resolution states that any commissioner who is absent from four regular meetings held in a twelve month period, shall surrender his or her office on the Commission.

MEMORANDUM
Community Services Department

To: Community Services Commission

From: Housing Sub-Committee

Subject: Approve Proposed BMP Guideline Revisions and Forward to Council

Date: September 26, 2008

Recommendation:

Approve proposed BMP Guideline revisions and forward to Council.

Discussion:

At it's August 18th meeting, the Town Council considered the attached report recommending changes to the Town's Below Market Price Housing Guidelines. Council voted to refer the recommendation to the Community Services Commission for consideration.

On September 23rd, Housing Subcommittee members Cardillo and Blackstock reviewed and discussed the recommended amendment. We agreed that the recommended change was in keeping with the intent of the Program. Therefore, we are recommending that the CSC approve the amendment and forward the recommendation to Council.

Attachments:

Council Agenda Report

MEETING DATE: 8/18/08
ITEM NO: 4

COUNCIL AGENDA REPORT

DATE: August 7, 2008

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

SUBJECT: ADOPT A RESOLUTION ADOPTING REVISED BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES AND RESCINDING RESOLUTION 2005-117.

RECOMMENDATION:

Adopt a Resolution adopting revised Below Market Price Housing Program Guidelines and rescinding Resolution 2005-117.

BACKGROUND:

The Community Services Department manages a Below Market Price Housing Program (BMP) to allow low and moderate income households to become home owners. Recently, the owner of a BMP unit has requested to sell their home in order to purchase another newer, upgraded BMP unit at a different development. In reviewing the request, Staff noted that the Town's Below Market Price Guidelines and Resolution require modifications to more directly address this question. This report includes a review of the current BMP Program and Guidelines and offers a comparison to BMP Programs in other local municipalities.

DISCUSSION:

Below Market Price Program

The Town's BMP Program has a limited number of homes, typically condominiums or townhomes, which are sold at a price below the current market value. In return for the ability to purchase a home at a below-market price, participating homebuyers agree to restrict the price at which they may resell the unit in the future.

PREPARED BY: Regina A. Falkner
Community Services Director

Reviewed by: _____Assistant Town Manager _GL_ Town Attorney
_____ Clerk Administrator _____Finance _____Community Development

The Town contracts with the Housing Authority for Program administration. Initial eligibility for the program is based on household income; households may not exceed 100% of the area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development (HUD). All applicants are responsible for securing their own financing. All units must remain owner-occupied.

The BMP Program also has a limited number of rental units available. In order to be eligible to rent a BMP unit, a household may not exceed 80% of the area median income, adjusted for household size, as determined by HUD.

Applications are ranked according to criteria established by the Town Council using characteristics such as current residence in Los Gatos, current employment within Los Gatos, senior citizen status, disability status, and household size. Successful applicants are typically families with children, who are current residents of Los Gatos.

The Housing Authority reviews assets of potential buyers to ensure adherence to the income restrictions. The BMP owner may use the equity gained to purchase a home at fair market value and free up the existing BMP unit to expand the program to another family in need.

The BMP program is administered with the intent of providing potential first time home buyers with an opportunity to enter the housing market and increase self sufficiency through equity gained as a result of homeownership. However, the Town's Below Market Price Guidelines and Resolution do not specifically make this statement.

Proposed Guideline Addition

A review of similar programs in six other local communities indicates that all have some limit on previous home ownership. Of the six municipalities reviewed, three had a limit on previous home ownership. The table below indicates home ownership limitations required by BMP Programs in other municipalities.

BELOW MARKET PRICE PROGRAM COMPARISON

City	First Time Home Ownership Requirement
Campbell	Must be a first-time home buyer.
Cupertino	Not specified
Morgan Hill	Applicant may not have owned a home for the last 3 years prior to applying.
Mountain View	Not specified
Palo Alto	Not specified

Sunnyvale	May not have owned residential property in the counties covered by Association of Bay Area Governments (ABAG) or Association of Monterey Bay Governments (AMBAG) (Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma) for three years prior to submittal of a BMP application.
Los Gatos Proposed	Same as Sunnyvale requirements listed above.

Staff recommends that the Sunnyvale requirement be added to the Town's BMP Guidelines. The specific language is stated below and has been included on page 4 of the draft guidelines.

> *First Time Home Buyers:*
> *The Below Market Price (BMP) Program is for First Time Home Buyers. A First Time Home Buyer, by definition, is an applicant whose name has not appeared on a residential title in the counties covered by the Association of Bay Area Governments (ABAG) or Association of Monterey Bay Governments (AMBAG) which are Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma for at least three (3) years prior to application. Exception is made for people who were homeowners prior to a divorce settlement.*

Additional BMP Program Review

During the next year, the BMP Program and condominium conversions will be reviewed as part of the Housing Element and General Plan update. Additional recommended changes to the ordinance and/or guidelines will be made, if appropriate, based on comparison with best practices. Consequently, changes will also be recommended to assist households displaced as a result of the conversion of apartments to condominiums if directed by Council.

CONCLUSION:

Staff recommends that the program be limited to first time home buyers who have not owned property in the above listed counties for 3 years prior to submittal of an application. This change reinforces the intent of the program and prevents BMP owners from "trading" units simply to purchase a newer or larger unit.

BMP Homeowners who benefit from the program are potentially able to use the equity to purchase a home at market price. The BMP homes left behind become available to others in need and the program continues to grow its scope and ability to serve more of those in need. While the housing shortage in the area is unlikely to be resolved in the near future, this program strives to make a small impact on the overall economic vitality of our community.

ENVIRONMENTAL ASSESSMENT:

The recommended action is not a project defined under CEQA, and no further action is required.

FISCAL IMPACT:
None

Attachments:
1. Draft resolution adopting Revised Below Market Price Housing Program Guidelines

Distribution:
Arun & Usha Gaikwad
Diana Moreno, Santa Clara County Housing Authority

ATTACHMENT 1

RESOLUTION 2008-____

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS ADOPTING REVISED BELOW MARKET PRICE HOUSING GUIDELINES AND RESCINDING RESOLUTION 2005-117

WHEREAS, the Town of Los Gatos Zoning Ordinance Sections 29.10.3000 through 29.10.3040 establishes a Below Market Price (BMP) Housing program to assist low and moderate income Los Gatos citizens purchase homes at prices below market value; and,

WHEREAS, the Program requires construction of dwellings that persons and families of low and moderate income can afford to buy or rent, and assures to the extent possible that the resale prices of those dwellings and rents, if they are rented, will be within the means of persons and families of low and moderate income; and,

WHEREAS, the program helps the Town meet State mandated housing goals; and,

WHEREAS, this resolution revises the Town of Los Gatos Below Market Price Housing Program Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Los Gatos (1) repeals Resolution 2005-117; and, (2) adopts the revised Town of Los Gatos Below Market Price Housing Program guidelines attached as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 18th day of August, 2008, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED: /s/ Mayor Barbara Spector
MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST: /s/ Jackie D. Rose
CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

TOWN OF LOS GATOS
BELOW MARKET PRICE HOUSING PROGRAM GUIDELINES

I. GENERAL PROVISIONS

A. Number of units

Every multifamily rental dwelling project at the time of building permit, every residential condominium or planned development residential subdivision at the time of subdivision, and every community apartment project and every residential stock cooperative apartment or unit project at the time of subdivision if the transaction involves subdivision, or at the time of sale, if it does not, shall contain one or more BMP dwellings according to the rules listed below with the following exception: Any planned development with an underlying zone of HR, shall only be required to pay an in-lieu fee as established by this resolution. The Town and developer may negotiate to provide more BMP units than required by the rules listed below, to fulfill a development's Community Benefit requirements.

1. Projects containing five or more but fewer than twenty market rate units must provide a number of BMP units equal to 10 percent of the number of market rate units.
2. Projects which include 20 to 100 market rates units must provide BMP units as determined by the following formula:
   Number of BMP units = (.225 x total # of market rate units) - 2.5
   This formula acts to increase the number of BMP units required, as a percentage of market-rate units, from 10% to 20% over the range of 20 to 100 market rate units.
3. All projects in excess of 100 market rate units must provide a number of BMP units equal to 20 percent of the market rate units.
4. Whenever the calculations of below market price units result in a fraction of one-half or more, the number of units to be reserved is increased to the next whole number.
5. BMP dwellings within a project of rental units shall also be rental units. BMP units within a project of owner-occupied units shall also be designated as units for purchase. BMP units within a project that contains both rental and owner-occupied units shall also be designated as both rental and as units for purchase, in a ratio similar to that of the market rate units.

B. Unit Standards

1. Size of units
   The size and design of BMP dwelling units shall be reasonably consistent with the market rate units in the project. The Town and developer may negotiate regarding the size of units if more units than required are to be

provided under the Community Benefit requirements. BMP units should be provided proportionately in the same unit type mix (number of bedrooms) as the market rate units. In consideration of the household size of the households on the current program interest list, the Town and developer may negotiate to provide a greater proportion of a particular unit type.

2. Location of units
BMP units shall be located throughout the development, to the extent feasible; in all buildings, on each floor, and in each project phase. A concentration of BMP units in one location is not desirable.

3. Finish of units
The external appearance of BMP units should be indiscernible to that of the market rate units in the project. The internal finish of BMP units should be identical to that of the market rate units in the project, except that the developer may request Town approval of substitutions for luxury interior finishings, appliances, or fixtures, if such substitutions do not violate any Town code requirement.

4. Project Facilities
All project facilities and amenities, including parking, must be available on the same basis to the BMP units as to the market rate units in the project, to the extent feasible.

C. In-Lieu Fees

1. Establishment of Fee:
Projects with five or more but less than ten units may pay a fee in-lieu of building a BMP unit in order to comply with BMP Program requirements. Approval of Hillside Planned Developments with five or more residential building sites shall require the payment of an in-lieu fee. The fee shall be equal to the amount of six percent of the building permit valuation for the project. The total building permit valuation is determined by the Building Official.

2. Fees shall be paid prior to or at time of final occupancy as follows:
   a. Multi-Family Owner Occupied Developments. Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.
   b. Multi-Family Renter Occupied Developments. Prior to occupancy of each phase, a proportional amount of fees shall be paid, as determined during the Planning approval process.
   c. Single-Family Planned Developments. At time of final occupancy

for each unit.

3. In-lieu fees will be deposited into the Town's Affordable Housing Fund. Applications/recommendations for use of remaining funds will be reviewed as received. Possible use of the funds include, but is not limited to, the following:

   a. subsidizing the cost of owner occupied units to make them affordable to low/moderate income households
   b. purchasing rental units to make them affordable to low/moderate income households
   c. purchasing land for the future development of affordable housing
   d. developing affordable housing
   e. supplementing of affordable housing projects developed through the Los Gatos Redevelopment Agency
   f. funding administration of the program, as approved by the Town Council in its annual budget process

D. Confidentiality

Any information provided by an applicant in order to demonstrate eligibility for the program is confidential and not considered public information to the extent permitted by law except for statistical information on the BMP units and general demographic information on the buyers and renters of BMP housing units. Through BMP program implementation, the Town is attempting to provide a supply of low-moderate income housing. The Town does not wish to set the occupants of such housing apart from the general community, attaching a stigma to the occupants. Furthermore, no public interest is served by disclosure of this information. The address of the projects containing BMP units may be provided as well as a range of sales prices.

II. OWNER OCCUPIED UNITS

A. Applicant Eligibility

1. Household Income:

In order to be eligible to purchase an owner-occupied BMP unit, an applicant's annual household income must be no greater than 100% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Household assets, such as real property, may also be considered in determining eligibility.

2. Housing Costs:

a. In order to be eligible to purchase an owner-occupied BMP unit, an applicant must also demonstrate the ability to pay monthly housing costs. The monthly housing cost shall include the following factors:

(1) unit price
(2) current lending rates
(3) estimated property taxes
(4) estimated homeowner's insurance costs
(5) homeowners's association fees, if applicable
(6) other expenses as determined necessary by the lender

b. All persons must qualify for their own mortgage without assistance from the Town. Qualifications must include the ability to pay taxes, insurance, closing costs and any homeowner association fees in addition to the mortgage.

3 *First Time Home Buyers:*
The Below Market Price (BMP) Program is for First Time Home Buyers. A First Time Home Buyer, by definition, is an applicant whose name has not appeared on a residential title in the counties covered by the Association of Bay Area Governments (ABAG) or Association of Monterey Bay Governments (AMBAG) which are Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma for at least three (3) years prior to application. Exception is made for people who were homeowners prior to a divorce settlement.

B. Buyer Selection

1. A point system is used to establish a ranking of applicants for the purchase of an available unit. Applicants will be ranked according to total points and must have at least one point to be eligible to purchase a unit. In addition, applicant households must contain at least the same number of persons as the number of bedrooms in a unit, at the time of application, in order to be eligible to purchase that unit, if the unit contains three bedrooms or more.

All points are calculated per household, not for each individual within the household For example, a household in which two members are senior citizens would receive six points for senior citizen status, not twelve points for two members having senior citizen status. Points are

awarded as follows:

a. **Six points:**

(1) Senior citizens who reside in the Town at the time of application and have lived in the Town for at least the prior two years. A senior citizen is defined as any person 62 years of age or older at time of application or married couples living together when at least one spouse is 62 years of age or older at time of application.

(2) Senior Citizens who have lived in the Town for at least two years and have moved out of the Town within the last five years prior to the time of application.

(3) Disabled persons who reside in the Town at the time of application and who have lived in the Town for at least the prior two years. The definition of "disabled" for the purpose of assigning points under this section shall be that used by the U.S. Social Security Administration for the purpose of determining eligibility for Social Security disability benefits.

(4) Households required to relocate their residence as a result of Council action or mobile home park closure.

(5) Regular Full-Time and Regular Part-Time Town employees as defined in the Town's Personnel Rules, who have been employed by the Town for a period of no less than 12 months prior to the time of application.

(6) Single heads of household with dependent children who reside in the Town at the time of application and have lived in the Town for at least the prior two years.

b. **Four points:**

(1) Persons who live in the Town of Los Gatos at time of application and who have lived in the Town at least the prior two years.

(2) Persons who work in the Town of Los Gatos at time of application and have worked in the Town for at least the prior two years.

c. **Two points:**

(1) Households who have lived in the Town for at least 10 years and have moved out within the last ten years prior to the time of application.

(2) Household size is worth two points per person.

d. **One point:**

(1) Households who live or work within Santa Clara County at the time of application.

(2) Households with an annual household income at or below 60% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA).

2. A lottery will be used to rank each qualified applicant in the case of a tie.

3. Applicants are provided the opportunity to purchase available units in order of point ranking, from most points to least points. An applicant has two opportunities to refuse to purchase a unit before being removed from the current applicant pool.

4. Applicants who do not qualify for a particular project or who are not provided the opportunity to purchase a unit in a particular project shall retain their eligibility to apply for future projects.

5. An applicant must obtain pre-approval for a mortgage loan within one week after notification of eligibility to purchase a unit. The applicant must submit documentation of loan approval within three weeks of notification of eligibility to purchase a unit.

C. Determination of Initial Selling Price

1. BMP units shall be priced to be affordable to households in two income categories: Median Income Households (those whose income is above 80%, but no greater than 100%, of the County Median Income); and Low Income Households (those whose income is above 50%, but no greater than 80%, of the County Median Income).

Fifty percent (50%) of the units in a project shall be priced to be affordable to Median Income Households; fifty percent (50%) shall be priced to be affordable to Low Income Households. Whenever the calculations result in fractional units, then the number of units priced to be affordable to Low Income Households shall be rounded up to the next whole number, and the number of units priced to be affordable to Median Income Households shall be rounded down to the next whole number, including zero (0). The following table applies this formula to projects with 1, 2, and 3 units:

Total Number of BMP Units in Project	Units Priced for Low Income Households	Units Priced for Median Income Households
1	1	0
2	1	1
3	2	1

The Town and developer may negotiate regarding the affordability mix of units, to fulfill a development's Community Benefit requirements.

The affordability level of a unit shall be for the purpose of setting the initial selling price only, and do not prevent its sale to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

2. Annually, the Town shall set the initial unit sales price for each unit type (number of bedrooms), for each of the two income categories. These initial sales prices shall be set using the most recent Median Family Income (MFI) figures from the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA), and through the following calculations:

   a. For units to be priced to be affordable to Median Income Households: the average of the 100% MFI annual income and the 80% MFI annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

      (1) Assumptions of household size by size of unit are as follows:

Unit Size	Household Size
Studio	1
1 Bedroom	1
2 Bedroom	2
3 Bedroom	3
4 Bedroom	4

These assumptions of household size by size of unit shall be for the purpose of setting the initial sales price only, and do not prevent the sale of any unit to any household eligible to purchase an owner-occupied BMP unit, as set forth in these Guidelines.

b. For units to be priced to be affordable to Low Income Households: the average of the 80% MFI annual income and the 50% annual income (assuming household size appropriate to size of unit) x Multiplier = Initial Sales Price.

c. Calculation of Multiplier. A Multiplier shall be calculated, based on reasonable assumptions about unit sales prices, based on the most recent comparable sales of BMP units; current lending rates, as determined by the most recent Primary Mortgage Market Survey (PMMS) conducted by the Federal Home Loan Mortgage Corporation (Freddie Mac); and related costs; and using the following formula:

(1) Determination of Total Housing Cost: Sample sales price - 10% down payment = mortgage. Annual debt service on mortgage + annual property taxes + annual homeowners fees + annual private mortgage insurance (PMI) = Total Annual Housing Cost.

(2) Determination of Minimum Household Income: Assuming one-third of household income goes for housing expenses, Total Annual Housing Cost x 3 = Minimum Annual Household Income.

(3) Determination of Multiplier: Sample Sales Price/Minimum Annual Household Income = Multiplier.

Copies of the initial sales prices, and the calculations made, shall be available on request from the Town's Community Services Department.

D. Deed Restrictions

Council approved Deed Restrictions shall be recorded with each Below Market Price dwelling unit.

E. Resale of Units

1. If the owner elects to sell his/her unit, the Town must be notified in writing by the owner.
2. When a Below Market Price dwelling unit becomes available for resale, the Town shall set the resale price and make the unit available for

purchase through the BMP process.

3. The Town determines the resale price in accordance with the deed restriction recorded on the property.

III. RENTAL UNITS

A. Administration

The program shall be administered by the Town or its designee.

B. Applicant Eligibility

1. Household Income:
   In order to be eligible to rent a BMP rental unit, a household's annual income must be no greater than 80% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA). Priority will be given to those households whose income is less than 50% of the MFI. Household assets may also be considered in determining eligibility.

2. Ability to Pay Rent
   A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility.

C. Tenant Selection

The property owner or manager of the development shall market the BMP unit(s), and solicit rental applications. Applications from tenants selected by property owner or manager will be forwarded to Town or designee for verification of income eligibility.

D. Management

1. BMP rental units shall be managed by the property owner or manager in the same manner as other units in the development.

2. Tenants of BMP rental units are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.

E. Unit Rents

Rents may not exceed 80% of the most current Fair Market Rents as determined by the Santa Clara County Housing Authority.

F. Annual Review

If a tenant's income increases so that it falls between 80 and 100 percent of MFI, then the rent may be increased in accordance with the Town's Rental Dispute Ordinance; and the unit shall still be considered a BMP Rental Unit. However, if a tenant's income exceeds 100 percent of MFI, the rent may be increased to the average rent of similar units in the complex; in this latter case, the unit will no longer be a BMP unit and the next available unit that is comparable in size shall be designated as a BMP unit in its place, and must be rented to an eligible household so that the number of BMP units within the project remains the same.

G. Deed Restrictions
Council approved Deed Restrictions shall be recorded for each Below Market Price rental dwelling unit.

IV. RENTAL UNITS - NEW SECOND DWELLING UNITS

A. Administration
The program shall be administered by the Town or its designee.

B. Second Unit Incentive Program
The property owner of a New Second Dwelling Unit, as defined in Section 29.10.310 of the Town Code, may choose to participate in the Second Unit Incentive Program (SUIP) as referenced in Section 29.10.320(a) of the Town Code and as set forth below.

1. The SUIP consists of a no interest construction loan to a property owner who intends to develop a new second unit. The loan amount shall be determined based on the square foot construction cost as set forth in the current version Uniform Building Code as adopted by the Town for new construction and remodels. The loan amount will be calculated at 100% of the construction cost if the unit is income and rent restricted to serve households with incomes below 50% of the Median Family Income (MFI), adjusted for household size, as defined by the United States Department of Housing and Urban Development (HUD) for the San Jose, CA Primary Metropolitan Statistical Area (PMSA), or 80% of the construction cost if the unit is income and rent restricted to serve households with incomes below 80% of MFI.

2. When a property owner participates in the SUIP, a deed restriction shall be recorded on the property. The deed restriction shall stipulate the rental rate, tenant income level, duration of affordability and loan repayment requirement as well as any other criteria as determined appropriate by the Town.

3. A SUIP loan to construct a second unit within the Central Los Gatos

Redevelopment Project area shall be funded using Redevelopment Affordable Housing Funds and shall remain affordable for 55 years. A SUIP loan to construct a second unit outside the Central Los Gatos Redevelopment Project area shall be funded using BMP Program Funds and shall remain affordable for 30 years. The SUIP affordability restrictions as set forth in this section may only be amended by action of the Town Council.

4. A tenant's ability to pay monthly rent will also be considered in determining tenant eligibility. Applications from tenants selected by the property owner or manager will be forwarded to the Town or its agent for verification of income eligibility. Rental agreements shall be submitted to the Town or its agent to verify compliance with the provisions of this section. Tenants are eligible to receive conciliation and mediation services provided through the Town's Rental Dispute Resolution Program except as they regard rent increases.

5. Units targeted to households with incomes up to 80% of the Median Family Income (MFI) shall have rents restricted to 80% of Fair Market Rents as determined by the Santa Clara County Housing Authority. Units targeted to households with incomes up to 50% of CMI shall have rents restricted to 50% of Fair Market Rents as determined by the Santa Clara County Housing Authority. Tenant rents and incomes will be monitored annually.

(Adopted by Resolution 2008- August 18, 2008)

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