TOWN OF VAIL

THE TOWN OF VAIL
EMPLOYEE HOUSING GUIDELINES

October 4,
2022

I. PURPOSE

The purpose of the Employee Housing Guidelines (Guidelines) is to set forth the occupancy requirements, resale procedures, and maximum resale price for the Town of Vail deed-restricted for-sale employee housing. Additional information pertaining to Employee Housing Unit deed restrictions can be found in the applicable Master Deed Restriction Agreement (Master Deed Restriction) for the occupancy and resale of certain developments such as Vail Commons, North Trail Townhomes, Chamonix Vail Community, Arosa Duplex and Red Sandstone Creek Townhomes. Prior to closing on an employee housing unit, the purchaser(s) must sign an individual deed restriction which references the Guidelines and the Master Deed Restriction which shall be recorded at the closing, and which shall run with the property in perpetuity.

II. MAXIMUM RESALE PRICE

An owner may desire to sell a deed-restricted for-sale employee housing unit (Employee Housing Unit) provided that the resale price and prospective purchaser meet the standards of the Guidelines and the Master Deed Restriction. Resale price may not exceed:

A. The original purchase price on the original date of purchase plus

B. An increment equal to three (3) percent or one- and one-half percent (1.5%) per annum, depending upon the property, (see Master Deed Restriction) of the original purchase price from the original date of purchase (prorated at the rate of 0.25% for each whole month of any part of any year) plus

C. The value of capital improvements (including professional architect's fees) made to the Employee Housing Unit not exceeding fifteen (15) percent of the original purchase price. For every ten (10) years from the original date of purchase and deed restriction, another ten (10) percent of the original purchase price may be added to the value of the property for capital improvements plus

D. The value of any special assessments made by a homeowner's association or by a local government that has been paid by the owner.

Additional details regarding maximum resale price as well as calculation methods are provided in the deed-restriction.

III. RESALE PROCEDURES

The Employee Housing Unit shall be listed for resale with the Town of Vail. The resale procedures will be administered through the Town's Housing Department with oversight from the Vail Local Housing Authority.

A. Listing the Unit with the Town of Vail: Listing Duties

1. An owner of an Employee Housing Unit desiring to sell should consult with the Housing Department and review the Guidelines, the terms of the recorded deed restriction and the Master Deed Restriction governing the Employee Housing Unit to determine the maximum resale price and other applicable provisions concerning a resale. Unless otherwise provided in the Master Deed Restriction, the unit must be listed for resale with the Town and the Town staff, or its designee will administer the resale in accordance with the Guidelines and Master Restriction in effect at the time of listing. There shall be a minimum listing period of three (3) months before the maximum resale price of an Employee Housing Unit can be recalculated. Any termination in the listing may require the payment of administrative and advertising costs. The one-half (½) percent of the resale price required to be deposited with Town of Vail at time of listing will be forfeited. Costs exceeding the amount of the deposit shall be paid by the owner.

2. The Guidelines are intended to ensure that all purchasers and all sellers will be treated fairly and impartially. Questions will be answered, and help provided to any potential purchasers or seller equally in accordance with the current Guidelines and Master Deed Restriction. Listings, sales contracts, extensions to contracts and closing documents will be prepared and all actions necessary to consummate the resale shall be undertaken.

3. In pursuit of the above, the town staff will be acting on behalf of the Town. It should be clearly understood by and between all parties to a sales transaction that the staff members are not acting as licensed brokers to the transaction, but as representatives of the Town and its interests. They shall nevertheless attempt to help both parties consummate a fair and equitable resale in accordance with the then current Guidelines and Master Deed Restriction.

4. 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 purchaser's or seller's expense. The fees paid to the Town are to be paid regardless of any actions or services that the purchaser or seller may undertake or acquire.

B. Advertising the Resale:

Once an Employee Housing Unit is listed for resale with the Town, the Town, at a minimum, will arrange to advertise the unit for sale in two (2) consecutive Friday editions of the Vail Daily and on the Town's Housing Department webpage.

C. Resale Housing Lottery Procedures:

The Town of Vail Housing Department will conduct a resale lottery drawing. The resale lottery drawing will be conducted within sixteen (16) business days of the Employee Housing Unit being advertised for sale. During this time period, the Town shall publicly announce the time, date and location of the lottery drawing and the maximum resale price of the unit. In addition, the Town will host a minimum of two (2) open houses to allow opportunity for potentially interested parties to view the unit available for resale.

Resale Lottery Application Forms are due seven (7) business days prior to the date of the resale lottery drawing. Upon receipt of the Resale Lottery Application Forms, the town staff will verify basic eligibility of each applicant and publish a final list of Qualified Applicants two (2) business days prior to the resale lottery drawing date. A Qualified Applicant shall be defined as a person that meets the minimum lottery participation criteria. Minimum lottery participation criteria and basic eligibility includes:

- Completed and signed a Resale Lottery Application Form
- A pre-qualification letter from a mortgage lender demonstrating financial ability to purchase the Employee Housing Unit, if selected
- Verification of successful completion of a Town of Vail approved homebuyer education class within the previous five years prior to the resale lottery application deadline.

Each Qualified Applicant shall receive a minimum of one lottery ticket for entry into the resale lottery drawing. Additional lottery tickets shall be awarded, up to a maximum of three (3) total, based upon the following criteria:

- Submit a complete lottery application = 1 lottery ticket
- Not owning non deed restricted real estate within the Town of Vail at the time of the lottery application submission = 1 lottery ticket

- Unsuccessful participation in a Town of Vail housing lottery process within the previous 24 months = 1 lottery ticket

Maximum Total: 3 lottery tickets

If the winner of the lottery does not proceed to contract within three (3) business days after notification, the next in line will be notified and so on, until the unit is under contract for purchase. Back-up contracts in the priority order set forth in the lottery will be accepted.

Any misrepresentation by an applicant in submittal material shall disqualify the applicant from purchasing an Employee Housing Unit.

D. Sales and Other Fees:

1. Unless otherwise set forth in the Master Deed Restriction governing the unit, at the closing of the sale, the seller will pay the Town a sales fee equal to two (2) percent of the contracted resale price. The Town may instruct the title company to pay said fees to the Town out of the funds held for the seller at the closing. Unless otherwise specified in the Master Deed Restriction, a one-half percent (1/2%) fee is paid by the Seller at the time of listing, which is applied to the total sales fee payable at closing. In the event that the seller fails to perform under the listing contract, rejects all offers at maximum resale price in cash or cash-equivalent terms, or should withdraw the listing after advertising has commenced, that portion of the fee shall not be refunded. In the event that the seller withdraws for failure of any offers to be received at maximum resale price or with acceptable terms, the advertising and administrative costs incurred by the Town shall be deducted from the fee, with the balance credited to the owner's sales fee when the property is sold.

2. Conventional-type financing provisions (i.e. FNMA) are those which provide, among other things, for the removal of the Master Deed Restriction on the unit upon foreclosure of the mortgage if the Town does not exercise its option to purchase the unit within a specified time following foreclosure. Unless otherwise set forth in the Deed Restriction governing the unit, upon the initial sale, resale or refinancing of units where conventional-type financing provisions are used (the use of which shall be at the sole discretion of the Town) there may be a fee charged by the Town. The fee shall be paid by the mortgagor; shall be based on the amount of the mortgage; shall be paid for each mortgage transaction; and shall be deposited in the Town mortgage reserve fund account. If the

fee is paid on a unit and the unit is subsequently refinanced, the fee shall only apply to that amount of the refinanced mortgage greater than the initial mortgage upon which the fee was initially collected. The amount and adequacy of the fee and the mortgage reserve fund shall be reviewed annually as part of the review of the Guidelines.

E. Deed Restriction:

The purchaser must execute, in a form satisfactory to the Town and for recording with the Eagle County Clerk concurrent with the closing of the sale, a document acknowledging the purchaser's agreement to be bound by:

(1) the recorded Master Deed Restriction governing the sale unit, and

(2) the then-current Guidelines.

IV. RESALE LOTTERY CRITERIA

A. The basic eligibility requirements which must be met prior to an individual submitting a resale lottery application form to purchase an Employee Housing Unit are as follows:

1. The applicant must acknowledge their intent to use the unit as his/her primary residence and maintain it as his/her primary residence in the future, subject to the terms of the deed restriction.

2. The applicant must be currently employed at a legitimate business located within Eagle County, must be employed an average of thirty (30) hours each week on an annual basis, and must maintain this minimum level of employment for as long as he/she owns the unit.

3. The applicant must demonstrate that at least seventy-five (75) percent of his/her income and earnings are earned by working at an Eagle County business and provide employment verification.

4. Neither the applicant nor any member of the applicant's immediate family (including, but not limited to, spouse and children under 18 years of age) may own improved residential real estate in Eagle County at the time of closing, except where that real estate is deed-restricted as a Town of Vail employee housing unit.

A current residence may not be deeded to a corporation or other entity in order to qualify the applicant for a Town of Vail employee housing unit.

5. The applicant must be prequalified with a mortgage lender.

B. Notes

1. Seasonal work and part time work shall be counted on a pro-rata basis. Seasonal work and part time work alone may not be adequate to meet the 30 hours/week average *annual* requirement. This type of work *may* need to augment other employment to meet the minimum eligibility.

2. If two individuals are applying jointly, only one individual may be referenced in regard to tickets awarded but both applicants need to abide by the Housing Guidelines as owners.

3. All claims will be verified by Town of Vail staff. Claims of non-homeownership and previous unsuccessful participation in to Town of Vail housing lotteries that do not check out or are un-verifiable will not be counted in determining your eligibility.

4. An application process to establish a reserve list will be maintained open to the public on a continuous basis.

5. The application and any accompanying documentation shall become the property of the Town of Vail and will not be returned to the applicant.

V. OCCUPANCY REQUIREMENTS

Once an Employee Housing Unit has been purchased, it must continue to be occupied in a manner that is consistent with the goals and policies of the Town of Vail Housing Program, the terms of the recorded deed restriction, Employee Housing Guidelines and Master Deed Restriction. The purchased Employee Housing Unit must be owner occupied by:

An employee, working in Eagle County, who works an average of thirty (30) hours per week on an annual basis.

A retired individual, sixty years or older, who has worked a minimum of five (5) years in Eagle County for an average of thirty (30) hours per week on an annual basis.

Notes:

A. A leave of absence may be granted for one year, subject to clear and convincing evidence which shows a reason for leaving and a commitment to return to the Vail/Eagle County area may be approved by the Vail Local Housing Authority. Said evidence shall be in written form presented to the Vail Local Housing Authority for review and recommendations thirty (30) days prior to leaving. The Leave of Absence shall be for one year and may, at the discretion of the Vail Local Housing Authority, be extended for one year, but in no event shall it exceed two years. The unit must be rented during said year or years to tenants/residents who comply with occupancy requirements. Rental periods shall be not less than thirty (30) days. After verification and qualification of tenant(s), a copy of the executed lease shall be furnished to the Town. Decisions of the Vail Local Housing Authority may be appealed for further review to the Vail Town Council.

B. If the Employee Housing Unit is listed for sale and the owner must relocate to another area, the unit may, upon approval of the Town, be rented prior to completion of the sale to persons who comply with the occupancy requirements. A letter must be sent to the Town of Vail Housing Department requesting permission to rent the unit until sold. A lease of not less than six (6) months must be provided to the tenants with a sixty (60) day move out clause upon notification that the unit is sold.

C. Occupants may request waivers to the provisions of this section by providing a written request to the Town of Vail Housing Department, which will then be forwarded to the Vail Local Housing Authority for their consideration.

D. Co-signers may be allowed but shall not occupy the unit unless the co-signer meets the occupancy requirements of this section.

VI. ANNUAL VERIFICATION REQUIRED; PENALTIES FOR VIOLATION

A. No later than February 1st of each year, the owner of the restricted employee housing unit shall submit two copies of a sworn affidavit on a form to be obtained from the Town of Vail Housing Department, to the Vail Local Housing Authority and the Town of Vail Housing Department verifying that the employee housing unit continues to be owner occupied in accordance with the Guidelines, recorded deed restriction and Master Deed Restriction that the occupant has worked thirty hours per week for the previous year, and where the occupant has worked.

B. If the Town determines that there has been a violation of the occupancy standards, the owner of the employee housing unit shall be found to be in noncompliance. Penalties the Town may assess against the owner include eliminating resale gain and/or penalties found in the Town of Vail Municipal Code Title 1, Chapter 4.

VII. SUBMITTAL REQUIREMENTS

In conjunction with completing a resale lottery application form to purchase an employee housing unit, the applicant shall provide the following documentation:

A. Signed and sworn affidavit for not owning non deed restricted real estate in the Town of Vail at the time of lottery application.

B. Federal Income Tax return forms. Applicant must provide the last two (2) years of Federal Income Tax Returns, an audited financial statement, or acceptable documentation to the Town.

C. Valid Driver's License (address, issue date)

D. Prequalification for a loan from a mortgage lender.

E. Deposits for down payment shall be verified by the holder of such funds.

F. Any co-ownership interests other than joint tenancy or tenancy-in-common must be approved by the Town.

G. Any documentation which the Town deems necessary to make a determination.

VIII. FORECLOSURE

In the event of a foreclosure or of acceptance of a deed in lieu of foreclosure by the holder (including here and hereinafter assigns of the holder) of the promissory note secured by a first deed of trust on a deed restricted dwelling unit (hereinafter "the Property"), and subject to the issuance of a public trustee's deed to the holder following the expiration of all statutory redemption rights, the Town of Vail (the "Town") shall have the option to purchase the Property which shall be exercised in the following manner:

a. Notice.

The holder shall give such notice to the Town as is required by law in the foreclosure proceeding.

Said notice shall be sent by certified mail, return receipt requested, and addressed as follows:

Housing Department
Town of Vail
75 S. Frontage Road West
Vail, CO 81657

Town Attorney
Town of Vail
75 S. Frontage Road West
Vail, CO. 81657

b. Option to Purchase.

The Town shall have thirty (30) days after issuance of the public trustee's deed or the acceptance of a deed in lieu of foreclosure by the holder in which to exercise this option to purchase by tendering to the holder, in cash or certified funds, an amount equal to the redemption price which would have been required of the borrower or any person who might be liable upon a deficiency on the last day of the statutory redemption period(s) and any additional reasonable costs incurred by the holder during the option period which are directly related to the foreclosure.

c. Title.

Upon receipt of the option price, the holder shall deliver to the Town a special

warranty deed, conveying the property to the Town. The holder shall convey only such title as it received through the public trustee's deed and will not create or participate in the creation of any additional liens or encumbrances against the Property following issuance of the public trustee's deed to the holder. The holder shall not be liable for any of the costs of conveyance to the Town or its designee.

d. Release.

In the event that the holder is issued a public trustee's deed and the Town does not exercise the option to purchase, as provided herein, the Town shall cause to be recorded in the records of the Clerk and Recorder of Eagle County a full and complete release of the describe covenants affecting the Property which appear in said records in Book at Page . Such release shall be placed of record within fourteen (14) days after demand therefor by the holder following expiration of the option and a certified copy of the release shall be mailed to the holder upon its recordation.

e. Perpetuities Savings Clause.

If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this Option to Purchase shall be unlawful or void for violation of: (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the period of the lives of the current duly elected and seated Town Council of the Town of Vail, Vail, Colorado, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.

f. Successors and Assigns.

Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties hereto.

g. Modifications.

The parties hereto agree that any modification to this option to purchase shall be effective only when made be writing and signed by both parties and recorded with the Clerk and Recorder of Eagle County, Colorado.

VIII. For additional information, contact the Town of Vail Housing Department.