



City of Capitola Redevelopment Agency

**First Time Homebuyer
Program Guidelines**

November 2003

CITY OF CAPITOLA REDEVELOPMENT AGENCY

**FIRST TIME HOMEBUYER PROGRAM
GUIDELINES**

**Revised November 2003
Income Limits Updated 2004**

PROGRAM SUMMARY

The City of Capitola Redevelopment Agency has established a First-Time Homebuyer Program (FTHB Program) to help low- and moderate-income first-time homebuyer households to purchase homes in the City of Capitola. The program is funded by the City of Capitola Redevelopment Agency, and is administered by the Housing Authority of the County of Santa Cruz.

To maximize the effectiveness of the FTHB Program, eligible borrowers pay no principal or interest on the City-funded second mortgage for as long as they own their home. The entire principal and interest of the second mortgage is due and payable on sale or transfer of the home, or at such time as the borrower no longer occupies the home as their principal place of residence.

Shared Appreciation

Interest due on loans for real property is “shared appreciation” which is calculated as a pro rata share of the equity appreciation of the home. This pro rata share is equal to the percentage of the original sales price loaned to the borrower by the RDA. Thus, if the City of Capitola Redevelopment Agency lends an eligible borrower 15% of the purchase price of their home, the borrower will repay the principal plus 15% of the equity appreciation of the assisted unit upon resale.

The value of significant capital improvements by the homeowner is deducted when calculating equity appreciation. In summary, shared appreciation is calculated as follows:

$(\text{Deferred Second Principal Mortgage} / \text{Original Sales Price}) \times [\text{Resale Price} - (\text{Original Purchase Price} + \text{value of capital improvements})] = \text{Shared appreciation}$

EXAMPLE OF SHARED APPRECIATION LOAN REPAYMENT

In this example, a home was purchased for \$250,000 with a program loan of \$37,500 (15% of the sales price). The homeowners make capital improvements with a value of \$8,000. Five years later the owners sell the home for \$360,000. The shared appreciation they will owe the Agency on their program loan, in addition to the principal amount of \$37,500, is calculated below, using the above formula:

$$\begin{array}{rcll} (\$37,500 / \$250,000) & \times & [\$360,000 - (\$250,000 + \$8,000)] & = \\ 0.15 & \times & \$102,000 & = \mathbf{\$15,300} \text{ Shared Appreciation} \end{array}$$

$$\text{Principal} + \text{shared appreciation} = \$37,500 + \$15,300 = \mathbf{\$52,800} \text{ Total amount due and payable}$$

Mobile Home Loans

Interest due on loans made on mobile homes and manufactured homes is in the form of 3% simple interest. Payments are deferred until sale or transfer of the home, or at such time as the borrower no longer occupies the home as their principal place of residence.

SECTION I: APPLICANT ELIGIBILITY

A. Income Requirements

Eligible Applicants must have a gross annual household income not exceeding the limits, depending on household size, as shown on the table below. FTHB Program Income Limits will be updated annually. (Please see Attachment 1, Applicant Eligibility Definitions for details on what income must be included and can be excluded from income calculations).

FTHB Program Income Limits - 2003

Household Size	1	2	3	4	5
Maximum Gross Annual Income (120% of Median)	\$63,250	\$72,300	\$81,300	\$90,350	\$97,600

For households with more than 5 members, higher income limits apply. Please inquire at the Housing Authority.

B. First Time Homebuyer Requirement

“First-time homebuyer” means an individual or individuals, or an individual and his or her spouse, who have not owned a home during the three-year period before the purchase of a home with FTHB Program. Possible exemptions to this rule include the following:

1. A displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the 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 twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;

2. 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 or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; and

3. An individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with FTHB Program, a dwelling unit whose structure is not in compliance with State, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(Please see Attachment 1, Applicant Eligibility Definitions for details on how to show proof of the First Time Homebuyer requirement.)

C. Principal Residence

The Applicant must occupy the residential property purchased with the FTHB Home Program loan as their Principal Residence. The Lender must obtain from the borrower, using the program affidavits, a statement of the borrower's intent to use the residence as his/her Principal Residence. This affidavit further states that the FTHB Home Second Mortgage borrower will notify the Lender and the administrator of the FTHB program if the residence ceases to be his/her Principal Residence. In other words, in no case will the “renting out” of a home purchased with the assistance of a FTHB Program loan be allowed.

D. Place of Employment

At least one of the buyers within the purchasing household must be employed full-time, or be under contract to be employed full-time, at a place of employment within Santa Cruz County. If self-employed, the buyer’s primary place of business must be in Santa Cruz County. Eligible households with a primary source of income other than employment income (retirement income, disability benefits, etc.) are exempt from this requirement.

E. Priority to City Residents/Workers

Among eligible applicants, priority to receive available loan funds will be given to those households whose current principal residence and/or primary place of employment is within the City of Capitola.

F. Lending Requirement Affidavit

To assure that all lending requirements are clear, an Affidavit is required of each Applicant and must be included in the FTHB application package submitted to the Housing Authority by the Primary lender. Eligible Applicants and Primary lenders must certify to the following:

- * Location of home (within City of Capitola)
- * First-Time Homebuyer Status of Borrower
- * Income Eligibility of Borrower
- * Principal Place of Residence/ Employment
- * Approval of First Mortgage by Primary lender/Terms of Financing
- * Any agreements regarding improvements, completions, or additions to home
- * No Transferability of Second Mortgage
- * No eminent domain power disclosure
- * Lead Based Paint Requirements
- * Housing Quality Standards
(Form FTH-13)

Strict penalties may be imposed on any Applicant making a material misstatement, misrepresentation or fraudulent act on documents submitted to obtain an FTHB Second Mortgage. Any person making a negligent, material misstatement or misrepresentation in any affidavit or

certification in connection with the application for or the issuance of an FTHB Deferred Second Mortgage shall be subject to all applicable fines and penalties.

SECTION II: PROPERTY ELIGIBILITY

A. Dwelling Type and Location

Eligible properties include any detached single-family house, condominium, townhouse unit, manufactured home or mobile home located within the City of Capitola.

B. Purchase Cannot Displace a Permanent Tenant

A home eligible for the FTHB Program Loan must be vacant or owner-occupied at the time of sale, or a tenant wishing to purchase their place of residence. **If a property is occupied by a permanent tenant (i.e., over 30 days) at the time of sale, and the sale of the residential property causes the displacement of that tenant, that property is not eligible for the FTHB Second Mortgage Program.** A rental unit that previously contained a permanent tenant must be vacant for at least four months prior to its purchase before it can be considered eligible. The seller of a rental home must certify in writing that this is the case before escrow can close. However, a permanent tenant may purchase a home he/she is currently occupying provided it meets the other eligibility requirements in this Section.

C. Eligible Homes Must Meet Local and /State Code Standards

Properties purchased with the assistance of the FTHB Program must comply with local code standards. If the property cannot be brought into compliance with State and local code requirements prior to the close of escrow, it shall not be purchased with the assistance of the FTHB Program loan.

D. Lead-Based Paint Certification

In accordance with federal regulations and the City of Capitola Redevelopment Agency's policy regarding the identification and abatement of lead-based paint hazards in housing assisted by the RDA, each residential property purchased through the FTHB Program which was constructed or manufactured before 1978 must be inspected for lead based paint hazards. The "Housing Quality Inspection" shall be performed by the Housing Authority. If defective paint surfaces are found in the residential property, a more detailed Risk Assessment of the property shall be conducted by a Certified Lead-Based Paint Technician under contract to the RDA. This Risk Assessment will be paid for by the Agency.

If the Risk Assessment identifies deteriorated lead-based paint, it must be stabilized and/or abated, by either the Seller or the borrower, prior to purchase of the property with a FTHB loan. Paint stabilization or abatement must be performed by a certified lead based paint profession, and requires that any defect in the substrate of a painted surface that is causing the paint to deteriorate must be repaired; loose paint and other material from defective surfaces must be removed, and a new coating or paint applied.

If paint needs to be stabilized and/or abated in the home to be purchased, this must be completed, and a Clearance Inspection and Notification issued by the certified lead based paint professional prior to the issuance of the FTHB loan. A lead hazard information pamphlet developed by the EPA, HUD and the Consumer Product Safety Commission ("How to Protect Your Family from Lead") shall be supplied by the Housing Authority with the issuance of the FTHB Program Commitment Letter.

E. Seller Affidavit

The Lender must obtain an Affidavit executed by the Seller stating that the above requirements of the property have been met. The affidavit may include an itemized list of any payments made by the buyer or for the benefit of the buyer for the purpose of completing any construction in or around the residence to correct any State or local Code violations prior to close of escrow, or complete any improvements that have been agreed to as part of the purchase.

SECTION III : FINANCE REQUIREMENTS

A. New Mortgage Requirement: A FTHB Program loan can only be issued in conjunction with a new first mortgage loan. The Lender must obtain from the Applicant, using the program affidavits, a statement to the effect that the First Mortgage is a new mortgage, and is not the assumption of an existing mortgage.

B. Transferability: A FTHB loan is not transferable.

C. Amount of Silent Second Loan: FTHB loans may not exceed the lesser of 15% of the purchase price, or \$60,000.

Lenders should use the following guidelines when structuring the amounts of the first mortgage, downpayment and Silent Second FTHB loan:

First Mortgage: 80% of purchase price
Downpayment: 5% of purchase price
Silent Second FTHB: 15% of purchase price (or \$60,000, whichever is less)

The Eligible Applicant is expected to borrow the maximum amount possible as the First Mortgage. Given the loan-to-value ratio and down payment requirements of the Lender, the Eligible Applicant is expected to dedicate as much of their personal cash-on-hand as possible, with the exception of 10% of annual gross income, to the closing costs and the down payment requirement. The amount of FTHB Deferred Second Mortgage should be calculated as the minimum amount necessary to close the transaction between the maximum First Mortgage amount an Eligible Applicant can qualify for from the Lender, the amount of the Eligible Applicant's personal cash-on-hand, and the purchase price of the residential property, plus closing costs. In light of the "minimum amount necessary" requirement, the FTHB Deferred Second Mortgage can be applied to down payment requirements and closing costs, in coordination with the Primary lender's requirements. Up to 3% of the buyer's down payment can be a private gift or an alternative loan.

D. Shared Appreciation Loan

For purchases of residential real property, the shared appreciation on the Silent Second deed of trust will be calculated as a percentage of the appreciation of the purchased property. This percentage is calculated as set forth below. Capital improvements are considered as set forth herein:

$(\text{Deferred Second Principal Mortgage} / \text{Original Sales Price}) \times (\text{Resale Price} - \text{Original Purchase Price} - \text{value of Capital Improvements}) = \text{Contingent Interest}$

In all instances of sale or transfer, the proposed sales price or transfer value must first be approved by the Redevelopment Agency . If the proposed sales price or transfer value reflects current real estate market conditions, such approval shall not be unreasonably withheld. Should the Redevelopment Agency withhold approval of the proposed sales price or transfer value, the Redevelopment Agency in its sole discretion may establish a reasonable market value for the sale or transfer. Such value to be established through an appraisal or other means acceptable to the Redevelopment Agency.

At maturity, the borrower shall repay the principle balance together with the accrued interest on the first note and deed of trust, and the principle balance together with the shared appreciation on the FTHB silent second loan. After these obligations have been paid the borrower is entitled to any excess in sales proceeds.

E. Mobile Home Loan

Interest due on loans made on mobile homes and manufactured homes will be in the form of 3% simple interest. Payments will be deferred until sale or transfer of the home, or at such time as the borrower no longer occupies the home as their principal place of residence.

F. Owner Occupancy Requirements.

The applicant will be required to certify that the purchased property will be the applicant's principal place of residence. The applicant shall be considered occupying the mobile home if the applicant is living in the mobile home for at least ten (10) months out of each calendar year, except for any period of time during which it is medically necessary for the applicant to reside elsewhere pursuant to the written opinion or statement of a licensed physician. The Borrower shall provide an annual written certification to the Agency that Borrower is occupying the mobile home as his or her principal place of residence. Failure to comply with the owner-occupancy requirement shall constitute a Default under the terms of the loan.

G. Right of First Refusal

Upon Sale of the Residential property by the Borrower, the City of Capitola Redevelopment Agency will have "Right of First Offer" to purchase the Residential property from Borrower at Fair Market Value.

H. Affordable Housing Cost

In accordance with state limits set forth for low and moderate income housing funds used by the Capitola Redevelopment Agency in Section 33334.22 of the California Health & Safety Code, the borrower's monthly housing costs (principle, interest, taxes and insurance) shall not exceed the following guidelines:

- 1) "Lower Income" borrowers (less than 80 percent of median income):

Lower Income borrowers whose gross incomes do not exceed 70 percent of the area median income adjusted for family size, the monthly housing cost shall not exceed the product of 40 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. For those whose gross income is between 70 and 80 percent of the area median income

adjusted for family size, the affordable housing cost shall not exceed 40 percent of the gross income of the household.

2. “Moderate Income” borrowers (between 80% and 120% of median income):

For Moderate Income households, affordable housing cost shall not exceed the product of 40 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, the affordable housing cost shall not exceed 40 percent of the gross income of the household.

I. Maturity Date

The principal amount of the Silent Second together with accrued interest as defined herein, and any other amounts owing, shall be due and payable in full upon the earlier occurring of any of the following events:

1. Upon the first sale or transfer of the Property to occur after the date of this Note. For purposes of this Note a sale or transfer shall be defined as any sale, assignment, or transfer, voluntary or involuntary of any interest in the Property, including but not limited to: a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, creation of a trust, or an interest evidenced by a land contract by which possession of the Property is transferred and Borrower retains title, except transfer by gifts, devise, or inheritance to an existing spouse surviving joint tenant, or a spouse as part of a dissolution proceeding, or in connection with marriage, or by devise or inheritance to children provided that such transferee agrees to assume the obligations of transferor.
2. Upon default under the Note, the Deed of Trust, or the Covenants, or other recorded documents of record pertaining to the Property, or Upon the Borrower's cash out refinance of the first or second lien superior to that of the deed of trust securing this Note.
3. Upon the Borrower's cash out refinance of the first or second lien superior to that of the deed of trust securing this Note.
4. Upon the date the first note and deed of trust becomes due and payable.

J. The FTHB Home Deferred Second Mortgage may be subject to Acceleration

If Borrower fails to comply with the requirements of the Note, the Subordinated Loan and Security Agreement, or this Program Manual, the FTHB Home Second Mortgage may become due and payable.

K. Conflict of Interest

No FTHB loan shall be issued to a person or the immediate family of a person who is in a decision-making position relative to the FTHB Program, which includes but is not limited to the staff of the Housing Authority of the County of Santa Cruz, and the staff and Board of Directors of the City of Capitola Redevelopment Agency.

Attachment 1
Applicant Eligibility Definitions

A. INCOME CALCULATION:

For underwriting purposes gross income of the mortgagor(s) (as defined by Revenue Ruling 86-124 promulgated by the Internal Revenue Service) is the mortgagor's annualized gross income. Annualized gross income is gross monthly income multiplied by twelve (12). Gross monthly income is the sum of monthly gross pay, any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration (VA) compensation, net rental income, etc., and other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received for trusts, and income received from business activities or investments). The income to be taken into account in determining gross income is income of all mortgagor(s) regardless of whether they are to live in the residence. In addition, the income of other persons expected to both (1) live in the residence being financed and (2) to be secondarily liable on the mortgage is also taken into account. If a co-borrower, co-signer, or co-habitator meets both requirements in the sentence above, his/her income is included in gross income calculations. Income includes the income of both spouses.

Gross Income is calculated prospectively, by verifying the Applicant's current gross monthly income (at time of application) and multiplying this income by 12. Gross income includes the gross amount, before payroll deductions, of wages, salaries, commissions, fees, tips, and bonuses, dividends and interest, including otherwise tax-exempt interest, alimony, public assistance, etc. The gross income of all co-mortgagors is counted. In addition, the gross income includes the income of all members of the household (other than minors) who will both be living in the dwelling unit and be secondarily liable for the payment of the mortgage. If the co-habitator who is not a co-mortgagor meets both of the requirements in the sentence above, his/her income must be included in gross income calculations for the purpose of income eligibility in the FTHB Program, but will not be considered for underwriting purposes.

Self-Employed or Seasonal Employees

Self-Employed: Two (2) previous years federal tax returns will be required as well as a Profit and Loss statement by an accountant or bookkeeper (third party verification). This must be on letterhead and be signed by the accountant or bookkeeper. The Housing Authority reserves the right to request an audited Profit and Loss statement by a Certified Accountant/Bookkeeper.

Seasonal Employees: Two (2) previous years federal tax returns will be required. When an FTHB application is submitted during the period between January 1 and April 15 and the Applicant has not yet filed his/her Federal income tax return for the preceding year with the IRS, the applicant will be required to provide W-2's and 1099's for the year in question.

Income of Co-Borrower/ Co-Mortgagor.

If co-mortgagor will be both on the title and the Subordinated Loan and Security Agreement for the loan, his or her income must be included in determining eligibility for the program. The IRS regulation states that "income to be taken into account in determining 'gross income' is income of the mortgagor (or mortgagors) and any other person who is expected to both live in the residence being financed and to be secondarily liable for the mortgage." Therefore, if someone is considered

a mortgagor (on both the title and Security Agreement) their income should be included. Secondly, the regulation specifies that the income of any other person who is expected to both live in the residence being financed and to be secondarily liable for the mortgage should also be included in the gross income calculation for the program.

B. FIRST TIME HOMEBUYER REQUIREMENT:

1) To demonstrate that they are a first-time homebuyer, Applicants must complete and sign the FTHB program affidavit and provide copies of their signed federal tax returns for the last three (3) years (or acceptable alternative exhibits - see below).

If the Applicant(s) can produce the signed 1040A, 1040EZ, or 1040 federal income tax returns for the last three preceding years with all schedules which show no deductions for mortgage interest or real estate taxes for a Principal Residence, these forms shall be submitted to the Primary lender, and forwarded to the Administrator with the FTHB-Residential property Affidavit and the complete FTHB Submission Package. If the Applicant filed the 1040 Long Form and cannot produce an original copy of the signed tax returns, then the Applicant shall request copies of the returns from the IRS by using IRS Request Form 4506. The Applicant should allow approximately 45 days for the copies.

2) If the Applicant(s) has filed the short form 1040A or 1040EZ for the last three (3) years but is unable to produce the signed returns, and if the applicant(s) completes and signs the required affidavits, the Administrator will accept a letter from the IRS verifying the filing status of the Applicant. The letter should confirm that the Applicant filed the 1040A or 1040EZ for the years in question. The Applicant can request tax account information, which is available free of charge, from the Local IRS office. This information will be provided on IRS Letter Form 1722 and will include: (1) name and social security number, (2) type of return filed; (3) marital status, (4) tax shown on return; (5) adjusted gross income, (6) taxable income; (7) self-employment tax, and (8) number of exemptions. If the address on the tax returns filed is different than the current address, the Applicant should also provide a handwritten note (signed by all Applicants) indicating that the previous returns had been filed at a different address.

The tax account information should be requested, in person, from the IRS office. The Applicant will not receive a response on the spot but can expect a written reply within (15) fifteen days. The tax returns must have an original signature certifying that "this is a true and exact copy of the returns submitted to IRS."

3) In the event the Applicant(s) was not obligated to file federal income tax returns for any of the preceding three (3) years, it will be necessary for the Primary lenders to obtain from the Applicant(s) a completed and signed Income Tax Affidavit (FTHB 6) which is required in place of (a), (b), or (c) above, along with the other Program Affidavits. This document is to be forwarded to the Administrator with the Application Affidavit and the Lender Initial Certification. The Income Tax Affidavit must be accompanied with documented proof of the reason for not filing taxes. For example, if the Applicant was in school, he/she would have to submit a copy of transcripts to support the status of the Applicant for that period of time. Affidavit must also be accompanied by documented proof that the Applicant was a renter during the specified period (i.e. notarized letter from the landlord or manager, canceled checks, or rent receipts).

4) When an FTHB Home application is submitted during the period between January 1 and April 15 and the Applicant has not yet filed his/her Federal income tax return for the preceding year with the IRS, the Administrator may with respect to such year, rely on an affidavit of the Applicant that the Applicant is not entitled to claim deductions for taxes or interest on indebtedness with respect to property constituting his/her Principal Residence for the preceding calendar year. The affidavit must be forwarded to the Administrator with the Submission Package.

5) If the tax returns indicate the Applicant took a deduction for mortgage or real estate taxes on property claimed not to be the Principal Residence, documentation would be required to show proof of rental to other persons (e.g. leases).

The Primary lender is cautioned that in the above noted situations an FTHB Home commitment will be issued conditional upon receipt of substantiating documentation. The Lender may reach the time of closing the loan without the benefit of the FTHB Second due to lack of Administrator's review of the certified tax returns prior to closing. In the event the certified tax returns do show a deduction for interest or taxes on a Principal Residence or in the event the certified tax returns are not obtained, the FTHB Silent Second will not be issued. The Lender must forward federal tax return exhibits to the Administrator for review prior to loan closing.

A Principal Residence includes a detached single-family house, condominium unit, manufactured home (as defined by federal law), share of a housing cooperative, or occupancy of a unit in a building with four or fewer units owned by the Applicant, provided that building is at least five years old. "Ownership interest" means ownership by any means, whether outright or partial, including property subject to a mortgage or other security instrument. "Ownership interest" also means a fee simple estate ownership interest, joint ownership interest by joint tenancy, tenancy in common, or tenancy by the entirety, an ownership interest in trust, a life estate interest, and purchase by land sales contract.