



# **Homeownership Loan Programs General Underwriting Guidelines**

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## **Mission and Goals of the City of San Jose's Programs**

The mission of the City of San José's Homebuyer Program is to assist low and moderate-income households attain homeownership in San Jose's neighborhoods through down-payment assistance loans provided by the City. The City's Homeownership funds are targeted to households that would not be able to purchase a home without City financing. The City strives to assist as many homebuyers as possible by limiting the subsidy levels to the amount needed by the household to purchase a modest home that is appropriately sized for the household.

The City's Homeownership Programs are comprised of three main programs:

- ❖ Building Equity & Growth in Neighborhoods (BEGIN) Program
  
- ❖ CalHOME Program
  
- ❖ Inclusionary Second Mortgage Program

The City requires a minimum loan amount of \$5,000 for all the City of San José's homebuyer programs:

**BEGIN Program:** Downpayment assistance program for low- and moderate-income first-time homebuyers.

**CalHOME Program:** Downpayment assistance program for low-income first-time homebuyers.

**Inclusionary Second Mortgage Program:** Some new construction builders may offer second mortgage programs to comply with the City's Inclusionary Housing Policy. However, the City provides the builders with an array of possibilities when it comes to meeting compliance; the second mortgage program is just one method.

# I. Program Requirements

## A. Borrower Eligibility

### 1. First-Time Buyer

All household members are required to be first-time homebuyers. A first-time homebuyer is a household whose household members have not owned any real estate during the prior three calendar and tax years. The City may utilize any reasonable method of documenting first-time homebuyer status including, but not limited to, a review of the households' tax returns and credit report. For example, if a household has received tax benefits through Schedule A on their itemized deductions within the last three years or if the household has a real estate loan appear on their credit report and ownership on the grant deed within the last three years, the household will not qualify as a first-time homebuyer.

#### **Exceptions:**

- All City loans will allow households to have owned and sold a mobilehome prior to application, however, they **cannot** own any real estate at the time of applying.
- A displaced homemaker is considered a first-time homebuyer. A displaced homemaker is someone who, while a homemaker, owned a home with his or her spouse/domestic partner or resided in a home owned by the spouse/domestic partner. A displaced homemaker must have not worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who must have 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. A displaced homemaker must not occupy a previously owned residence and must not be obligated to make mortgage payments and maintain a property. A displaced homemaker must not occupy the previously owned residence and must provide verifiable documentation that the household is renting and occupying another property. Note: If the spouse/domestic currently occupies a previously owned home

partner of a household, then the City will require the household to provide verifiable documentation that the household is not required to contribute to the housing costs from the previous home.

A displaced homemaker may also be a single parent (example: a divorced person) who, while married, owned a home with his or her spouse/domestic partner or resided in a home owned by the spouse/domestic partner. 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.

All households with previous ownership of a primary residence (e.g. previously married and **presently** separated or divorced thereby changing the martial status of the household to a displaced person) will be required to submit a Final HUD-1 from the sale of a previously owned home to verify eligibility as a first-time homebuyer.

## 2. Income Eligibility

Overview: There is no presumption of income eligibility. Verification from all income sources, for every household member who is 18 and over, must be obtained. All income documentation will be reviewed and any questions or concerns that arise as a result of the review, must be explained, and documented. It may be necessary to request additional information and documents BEFORE final approval can be obtained. The file must include sufficient written detail that documents how all questions and concerns were addressed. The most conservative income calculation approach will be used if information cannot be verified to the City's satisfaction.

A signed letter explaining the concern <b>MAY NOT</b> be sufficient. All attempts must be made to verify the information stated in the affidavit. If the concern cannot be adequately documented, the application may be denied.
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Total gross income for the entire household may not exceed the income limit in effect at the time of application to the homebuyer program. In general, Income is defined as income earned from all household members age 18 years and above and projected forward at the same level for the next twelve months. Income includes earnings from employment, government benefits, investments, interest income, and other cash-generating activities. All household members, 18 and over, must submit three of their most recent paycheck stubs as part of their loan application. City staff will use the following methods to calculate income for **all** household members:

A. Income from full-time employees will be calculated as follows:

- Hourly Employees- Income documentation and information will be obtained from the household's three most recent paystubs. Base pay income will be calculated by taking the gross year-to-date (YTD) earnings and annualizing the income over the number of months employed during the year to obtain the gross monthly income. The gross monthly income will be projected forward at the same level of earnings for 12 consecutive months. Paystubs are considered outdated after 60 days. For these purposes, months will be pro-rated using a 30-day month.
- Salaried Employees- Income will be calculated and projected forward by multiplying the bi-weekly gross salary by 26 weeks or the bi-monthly gross salary by 24 pay-periods and adding in the amount earned from annual bonuses, commissions, in-lieu payments, etc.
- Third party verification- Third party verification will be obtained to support paystubs. If the third-party verification is not available or was attempted with no success, then a review of paystubs will be sufficient to document income. All employed household members must submit a signed Verification of Employment Form and/or an Employment Acceptance Offer signed and dated from the employer on letterhead. The Employment Acceptance Offer must state the date in which employment shall commence, the salary, and signed by the employer and employee.

It is important to check the reported income against both the tax returns and the income provided to the Lender. If the calculated income does not match both documents, then further investigation and analysis is required and must be documented in the file. For example, a household member may have received either a pay increase or decrease since the income tax form was filed. The Verification of Employment Form should also be reviewed for automatic raises. The raise must be included in the income calculation.

B. Income from part-time or variable income employees will be calculated as follows: The City will calculate the gross year-to-date income from the most recent paystub and averaging the income over the number of months employed during the year to

obtain the gross monthly income. The gross monthly income will be projected forward at the same level of earnings for 12 consecutive months. If the year-to-date income covers less than three months in the current year, the City may include the average year-to-date earnings from the prior calendar year in addition to the current year if the employee's work schedule has not significantly changed. In cases where hours worked varies for each pay period, a third-party verification is required. Any income discrepancies must be verified by multiplying the hourly rate by the average number of hours worked provided by the household's employer.

- C. Income from overtime, commissions, ongoing stipends, shift differential pay, and other sources will be annualized (using year-to-date earnings) and included in the household's gross monthly income. Income that is received in lieu of earnings, despite the temporary nature of such pay (i.e. unemployment, worker's compensation, and severance pay) will also be included as income. Income received from one-time non-recurring bonuses, non-recurring lump-sum payments from the sale of stocks or bonds, stock options, lump-sum inheritances, retro-pay, insurance payments, or relocation benefits can be excluded. The non-recurring nature of such income must be documented by a fully completed Verification of Employment (e.g. VOE) and/or from alternate source documentation acceptable to the City.

<p>If it is determined that the overtime pay or bonuses earned by the household member will be received on a regular basis, then the average amount earned over the past 12 months will be added to the total amount of projected earned income.</p>
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- D. Interest income from investment and capital accounts, such as checking, savings, money market, certificate of deposit accounts, dividend income from mutual fund accounts, stocks, and other income-generating assets must be included in the household's income. The interest income earned will be calculated on all capital account balances, when the household has over \$5,000 in total assets. The interest rate will be calculated at the greater of the actual annual earnings, 2.5%, or the current passbook rate as established by the HUD regional office. These amounts will be included in the household's household income only when the interest income meets the following criteria:

- The account is considered liquid, and the household can withdraw the funds **without** tax penalty.



- The interest rate earned on the account is variable, and subject to change based on market conditions.
- E. Current monthly income and annuity payments from retirement accounts, (including social security and pensions), alimony, child-support, and other steady, ongoing sources will be included in the household's gross annual household income calculation. Non-taxable incomes will not "be grossed up" by the City, regardless of the lenders determination of such income.
- F. All forms of income from non-household spouses and other household members who are 18 and over will be included in the gross monthly income calculation, regardless of the taxability of such income. Annual income from full-time college students as described in Section VIII will be included.
- G. Income from seasonal and part-time jobs such as coaching, lecturing, test proctoring, etc., will be included only when the household can reasonably be expected to continue to be employed in the same line of work over the coming twelve months.
- H. Capital losses will not be deducted from the income calculation.
- I. For self-employed households, income will be based on the net income before taxes. The borrower must provide two forms of documentation including:
1. The most recent 3 years' business and/or personal federal tax returns, including W-2's or 1099's. Positive net income from a business will be added to the household's gross income AND
  2. A year-to date profit & loss and income statements, signed by the individual who prepared the statement. This must include information covered year-to-date and a letter of explanation, signed and certified by the household, stating the anticipated net household income (after deducting business expenses) over the next 12 months; or

3. A year-to-date-balance sheet, prepared and signed by the individual who prepared the statement, reflecting the financial position of the business at a specific point in time and a signed letter of explanation regarding the household's anticipated net household income (after deducting business expenses) signed and certified by the household.

It may also be important to check both the personal and business bank statements to determine if the information provided is consistent with the information provided.

**No-income Household members.** Each adult household member who does not receive income from any source shall be required to submit:

- 1) An Income Affidavit;
- 2) Letter of Explanation;
- 3) Social Security Administration Consent for Release of Information;
- 4) Request for Verification of Benefits, and;
- 5) An Authorization for Release of Records from the Employment Development Department.

The City may refuse to include a person as an eligible household member if the applicant does not provide sufficient documentation to determine program eligibility.

### 3. Asset Limitations

- All household members are required to provide a minimum of two months of recent bank statements for all asset accounts.
- Statements may not be older than 90 days upon the Housing Department's receipt of the application package.
- The household is required to liquidate a portion of their assets when the value of such liquid assets will exceed \$75,000 at the close of escrow. However, liquid assets do not include the value of cash-value of life insurance plans, furniture, jewelry, automobiles, pensions, and/or individual retirement accounts for persons under the age of sixty,
- Acceptable sources of down payments include, but are not limited to the following sources: Checking and Savings Accounts, Investment or Capital Accounts, Retirement Accounts, Gift Letters (a copy of the Gift Letter and the source

and origin of the funds must be included with the City's loan application, for example the bank statement, Investment Statement etc.).

#### 4. Definition of Household Size and Eligible Household Members

##### A. Household Size

Determining the household size is critical because income limits used to determine eligibility are based on the total number of people in the household. The Household is comprised of ALL individuals who are currently living together and will continue to be living together in the subject property. New household members **cannot** be added to the application to income qualify for a City loan. In addition, the following individuals are **not** counted as part of the household: foster children, unborn children, children who live with the household (parent) **less than** 50% of the time, children being pursued for legal custody or adoption who are not yet living with the household at the time of application, and non-family care-takers.

In some cases, documentation is required to establish whether a child is part of a household. If applicable, court documents verifying child custody or foster care must be included in the file.

##### B. Eligible Household Members

To be considered an eligible household member, the person must meet one of the following criteria:

- Person is on the title and loan of the property. All spouses and domestic partners must be included in the household and must appear on the City application and the City loan; or,
- Person is a dependent(s) listed on the tax returns of an eligible household member. All household members who are under 18 years of age must be the legal dependent of an adult household member.

##### **Exceptions:**

Members of the household who are not either on the title and/or primary loan of the property and are not a dependent can only be considered an eligible household member if they are currently living in the same household. If adequate proof cannot be provided that a person is currently living in the household, then the person **cannot** be included as part of the household.

**A household member MAY NOT self-certify residency NOR can they be added to an application after it has been submitted.**

Examples of documentation that may be provided to substantiate that the person is a member of the household include the following:

- Current lease or rental agreement
- School records
- Driver's license or CA ID
- Utility bills
- DMV registration
- Credit card or bank statement
- Credit Bureau Report

**Full-time college students, 18 and over, who is living away from home**

**To be eligible to be included as a member of the household, the full-time student must meet one of the following requirements**

- Be claimed on a household member's tax returns as a dependent **OR**
- Receive over **50%** financial support from the household

In either case, documentation from the educational institution must be provided that shows the student is enrolled for 12 or more units/credits. If the student is not claimed on a tax return, then documentation showing that the household provides 50% financial support must be provided with a letter of explanation outlining how the 50% threshold was met and backup documentation to support the calculation. The information cannot contradict any other funding source. For example, if the student receives a grant which required that he/she be emancipated, then the student cannot be counted as part of the household. **A self-certification letter will not be accepted.** If it cannot be established that the student receives 50% of his or her support from the household, then the student **cannot** be included in the household.

**Additional requirements:**

Student's income must be counted in the household's total income calculation. If the student is unable to produce income documentation, the City will add \$480 to the household's annual household income.

However, if the student is a head of household or a spouse/domestic partner of the household, the student will be required to produce verifiable income documentation.

**Note:** The income of family caretakers (e.g. relatives) who live with the household will be included in CalHome funded loans.

**C. Types of Persons Included in Household Size Eligibility Determination and Required Documentation**

Persons counted in Household Size	Employment Income documentation required?	Other Income and assets documentation required?
Head of Household	Yes	Yes
Spouse or domestic partner	Yes	Yes
Co-Head of Household	Yes	Yes
Other Adult (18 and over) living in household	Yes	Yes
Child under 18	No	No
Full-time Student (18 and over)	Only count the first \$480 of earned income	Yes

**Step-by-Step Methodology for Projecting Annual Income**

Step 1: Determine household size.
Step 2: Collect all income documentation.
Step 3: Calculate household’s projected income based on documentation.
Step 4: Compare the amount of projected income against the funding source’s current income limits. NOTE: Federal and state income guidelines are not always the same.

**5. Allowable Size of Home to be Purchased**

No City loan may be used to purchase a home larger than is considered adequate to meet the needs of the household. Adequate home size is established as one bedroom per household member, plus one (see chart below). This guideline applies to all City-administered and City-funded loan programs.

Household Size	Maximum Number of Bedrooms
1	2
2	3
3	4
4	5

**Exceptions:**

- Households that wish to purchase homes larger than these guidelines allow should send a written request, and an explanation of need, included in the household’s loan application, to the City. The Homebuyer Program Manager may make an exception for expecting parents; households who run a verifiable home based business, or a household who is in the process of applying for legal guardianship of a dependent. Households seeking exceptions under this policy should submit verifiable evidence of their projected increase in household size.
- Developers of new construction Inclusionary homes may sell a home to a household outside of this Policy, provided that the home has been listed for sale on the market and the builder has actively marketed the home to households in accordance with this guideline for a minimum of 60 days prior to offering the home to a household seeking an exception under this policy. To verify the time, the unit has been on the market, the City may require the developer to provide supporting documentation reflecting the release date of the unit.

**6. Homebuyer Education Requirement**

All household members who will either be on the title of the home or loan (or both) must complete an in-person, 8-hour; HUD-certified pre-purchase homebuyer education seminar through one of the HUD certified organizations prior to City loan approval. Households will be required to submit a certificate of completion, valid for three years from the date of completion, as a part of their loan application. Please

contact the City's Housing Department for a list of Homebuyer Education Service providers.

## **7. Credit Requirements and Underwriting**

The Lender must provide a credit report and the report will be analyzed for consistency with the loan application as well as for complete credit account information from the credit reporting agency.

All borrowers must have a middle FICO credit score of at least 620 on a merged credit report, no exceptions.

All outstanding liens or judgments must be disclosed at the time of application and cleared prior to loan approval.

The City requires buyers to contribute a minimum of 1% of the sales price, from his/her own funds, to close the transaction.

In general, the City's homebuyer programs are open to use from all lenders. The City maintains a list of active lenders, but does not provide referrals to any particular lender. The mortgage lender or broker will assist the household complete the City loan application and submit it to the City for review and approval on behalf of their client.

Lenders who have either successfully submitted a minimum of 3 City loan applications or successfully submitted 1 City loan application and attended the Homebuyer Educational Class in the prior 12-month period may request to be added to the City's active lender list.

The City reserves the right to remove inactive and/or non-compliant lenders from the list of lenders without notice.

The City also reserves the right to refuse to work with non-compliant realtors.

- A. Front-end Ratio: For applicants earning 80% or below of the Area Media Income (AMI) the front-end ratio (i.e. monthly housing payment) or the debt-to-income ratio as it is commonly called is calculated by dividing the total monthly housing payment by the household's gross monthly income. The front-end ratio shall not be less than 25%, or exceed **37%**. For applicants with an income between 81%-120% AMI, the front-end ratio shall not be less than 28, nor exceed **37%**.

The front-end ratio includes:

- Principal and interest payment on the first mortgage;
- Principal and interest payments, if any, on subordinate non-deferred loans;
- Real estate taxes;
- Hazard insurance premium;
- Flood insurance premium, if applicable;
- Private mortgage insurance premium, if applicable;
- Monthly Homeowners' Association dues for condominiums and for homes located in planned unit developments (PUD).

- B. Back-end Ratio: The back-end ratio, or the total debt-to-income ratio, is calculated by adding together the total monthly payments of all existing long-term debt (debt with a remaining term of 10 or more months) and the total monthly housing payment and dividing that sum by the household's gross monthly income, as defined in Section III. The back-end ratio should not exceed 43% of the household's gross monthly income. The back-end ratio includes:

- The monthly housing payment as defined above;
- Long-term installment debt beyond 10 months remaining to be paid;
- Revolving accounts and lines of credit;
- Alimony, child support or maintenance, if applicable.

**Exception:** Some households may qualify for first-mortgage financing at higher ratios than those cited above. Recognizing that the financial



circumstances of each homebuyer are unique and that there may be other factors besides debt-to-income ratios that reflect the household's ability and willingness to repay mortgage loans, the City may consider the following indicators in approving higher ratios:

- The household's proven ability to devote a larger amount of income to housing expenses. The household has successfully demonstrated an ability to make mortgage or lease payments for twelve consecutive months that are equal to or greater than the proposed monthly payments for the housing being purchased;
- The household's substantial net worth as demonstrated through non-liquid assets and retirement accounts;
- The household has at least one FICO credit score greater than 740;
- The household's demonstrated potential for increasing his/her earnings;
- The household's down payment on the purchase of the property is at least five percent of the sales price and is made from his/her own funds;
- The household's substantial non-taxable income such as child support, disability payments, retirement payments, *etc.*;
- The household's housing expense will not increase more than five percent over previous housing payments.

Lenders and households seeking City approval of higher debt ratios should submit a written request and a letter of explanation seeking higher ratios to the Homebuyer Program Manager as part of the household's loan application. The decision to approve or deny higher ratios will be made in accordance with the above stated compensating factors; however, the maximum front end ratio may not exceed **40%** and back end ratio may not exceed **45%**.

First mortgages may not include provisions for potential negative amortization, balloon payments, or principal increases on deferred interest. For most City loan programs, thirty year fixed-rate mortgages are required.

City loans may only be used for down payment assistance, and not used to pay for closing costs, buy downs, or prepaid mortgage insurance premiums. The total loan-to-value of all loans, including City, other junior and senior loans, cannot exceed one hundred percent of the CLTV.

## **8. Welfare Reform and Immigration Status**

Welfare Reform Act and Immigration Status: All City Programs are subject to verification of the legal residence requirements of the Welfare Reform Act (WRA).

To be eligible for benefits under the WRA, all household members must be U.S. Citizens, U.S. non-citizen nationals, or “qualified aliens”.

A “qualified alien” is:

- An alien lawfully admitted for permanent residence under the immigration and Nationality Act (INA);
- An alien granted asylum under section 208 of INA;
- A refugee admitted into the U.S. under section 207 of the INA;
- An alien paroled into the U.S. under section 212(d)(5) of the INA for at least one year;
- An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997 or whose removal is being withheld under section 241(b)(3) of the INA;
- An alien granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;
- An alien who is Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or
- An alien who (for whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431 (c) of the Act.

All household members must meet the legal residence requirements to be eligible for City programs.

## **B. Property Eligibility**

The home must be located within the municipal boundaries of the City of San José (cannot be located in county pockets). If the home is in a FEMA designated Special Flood Hazard Area, the household will be required to obtain flood insurance.

## 1. Eligible Housing

Eligible types of City-assisted housing types include single-family detached and attached homes including townhomes and condominiums.

The seller of the home must occupy the property as a primary residence or the home must be vacant for at least 90 days prior to listing date. The Property Owner must certify that no third party had to move out at any time before or after the listing date in connection with the sale of the Property or to facilitate the sale of the Property. Properties being occupied by tenants at the time the property is listed for-sale, are not eligible. The Housing Department requires the legal owner of the proposed assisted home to sign a seller's occupancy affidavit.

The exclusive selling agent of a bank-owned property may sign the occupancy affidavit on behalf of the seller.

Owners of a new construction unit that had no previous occupancy are not required to sign the seller's occupancy affidavit.

## 2. Property Conditions

All City-assisted homes must be in good condition and meet local and federal housing quality standards, and comply with local building codes. The City will not review the household's home inspection report, however, the City may elect to perform an inspection of the property and a copy of the inspection report will be shared with Housing staff. If the City elects to perform an inspection, the buyer's agent should be prepared to make arrangements to allow a City inspector into the property in his/her presence prior to obtaining a loan approval from the City.

In general, all ordered inspections occur within ten business days of the date the loan application was submitted to the City. However, if the City determines that a formal Lead Based Paint Test should be ordered, the inspection time may take up to fourteen business days. Buyer's and seller's agents, lenders, and the prospective homebuyer should consider the City's physical inspection timelines when scheduling escrow closing dates and removal of contingencies.

During an onsite inspection, housing staff will perform a visual assessment of the condition of the paint of the unit. All homes built prior to 1978 with signs of chipping, cracking, or other

deteriorated paint will be formally tested for the existence of lead based paint at no cost to the buyer or seller. However, a copy of the Lead Hazard Evaluation Report will be automatically sent to the California Department of Public Health and become available to the public. **The City may deny a loan based on the condition of the property.** Property conditions that may result in denial of the loan include:

- The existence of chipping, cracking, or other signs of deteriorating lead-based paint in either the interior or exterior of the unit.
- Violations of local building codes, or the presence of illegal or unpermitted structures, additions, or alterations.

The City recommends that all households order their own home inspection reports from a licensed home inspection company for his/her own protection. The City's inspection report should not be used by the buyer as a substitute for a buyer's own inspection. Further, a buyer's home inspection may not be used in-lieu of a City inspection completed by a Housing Department inspector.

For homes that do not meet the City's property condition requirements, the household may qualify for a City Home Repair Loan for up to \$15,000 to repair the property after the close of escrow. Contact the Homebuyer Staff for details.

### **3. Maximum Sales Price**

All Lenders must provide an appraisal, from a state licensed certified appraiser, of the fair market value of the home using the sales comparison method. The sales price of the home may not exceed the appraised value. The City's loan-to-value (LTV), combined-loan-to-value (CLTV), and other qualifying ratios will be based on the lesser of the sales price or appraised value.

## **C. Additional Requirements**

- The City's homebuyer programs are a "one-time" benefit per household. A household cannot have previously received assistance from the City's homebuyer programs.
- Any household that has been denied or determined ineligible for any of the City of San Jose Homeownership program, may not reapply for six months.

- The Housing Department discourages layering of other outside sources of funding so that scarce down payment assistance funds are evenly distributed among as many households as possible. Housing Staff may approve exceptions on a case-by-case basis.
- All City homebuyer program loan programs are deferred for the life of the loan. City assistance loans are not forgivable over time and they do not convert to grants. All City loans are expected to be repaid on or before their maturity dates. If the value of the home decreases after the home is purchased, the homebuyer is still required to repay the City loan in full at maturity. Assumability of City loans varies by program and funding sources.
- All City loans are structured as deferred repayment loans with an interest rate of 3% simple interest and a term of 30 years. There is no prepayment penalty on any of these loans.
- The City reserves the right to request additional documents from the primary lender to verify compliance with funding source regulations and/or these guidelines.
- Co-signers are not eligible for any City Homebuyer Programs, no exceptions.
- The Lender Instructions submitted with loan documents are “Master Instructions” mandated by the City of San José regarding the Recording and Closing procedure for all City loans. Contribution of future City funds may be suspended if escrow fails to comply with the Master Instructions. All documents must be recorded in sequential order as indicated in Section A-1/Recording of Documents as stated in the Lender Instructions. The escrow officer must sign and return a copy of the Lender Instructions, along with the complete funding package, to the City prior to funding the City's loan(s). Escrow must provide the Funding Package of all executed documents 48 hours prior to Release of City Funds - (further details located at C-1/Funding Package Compliance). If additional escrow conditions are required and once compliance of the Lenders Instructions has been adhered to, funds will be wired 24 hours from the date and time of receipt and review of the last funding condition required to fund all City loans.
- No financing subordinate to the City's loan may have a balloon, deferred, or negative amortization payment prior to 30 years. Fees and/or charges for subordinate financing shall be consistent with industry standards.

- **Hazard/Flood Insurance:** The City requires proof of Hazard Insurance, or a Master Insurance policy, to be provided at close of the escrow. Fire Insurance (and flood insurance if the property is in a FEMA designated Special Flood Hazard Area) requirements are as follows: Households must maintain insurance on the property in an amount at least equal to the replacement value of the improvements; and The City must be named as an additional loss payee on the policy.
- **Title Insurance:** The City requires an ALTA title insurance that includes the amount of each City loan, at close of escrow. Any funds required to close escrow must be deposited into an escrow account. For multiple City loans, the City will require multiple title insurance policies on each of the subordinate second mortgages. The City requires signed documents, and any required documentation, to be returned to the City, in accordance with the escrow instructions, prior to funding. Cash out of escrow, to households, is limited to the amount deposited into escrow and not needed for any lender-required minimum down payment. The City will not wire any funds into private lender or broker accounts.
- Borrowers can refinance for rate and term. In addition, “cash-out” refinances are approved once every five years. Subordination approval must be requested ahead of time.
- most City loans are not assumable, refer to the Promissory Note for details. Under no circumstances is CalHOME loan assumable. In addition, BEGIN loans are not assumable during the five years.
- A Third-Party Servicing Contractor will monitor homebuyers and their homes to ensure adherence to the program requirements including, but not limited to, the following:
  - Owner-occupancy: annual certification, BEGIN loan requires owner-occupancy for the first 5 years only
  - Property tax payment
  - Insurance coverage
  - Good standing on first mortgage loan
- All City loans are separately secured by a junior deed of trust and the interest and principal payments are deferred

for the terms of the loans. All City loans are due payable at the earlier of the following events:

- Transfer of title (exceptions in certain hardship cases) and sale of residence
- Property ceases to be continuously occupied by the homeowner
- Upon formal filing and recording of Notice of Default (unless rescinded)
- Thirty (30) years from the date of the Note depending on the loan's maturity date.

**NOTE:** Extending/modifying the loan may be possible if the payment causes hardship to the household.

## II. Application Process

1. All adult household members must complete homebuyer education class.
2. Submit a Pre-Qualification Verifications form and City Loan Application to the City of San José.
3. City will review the pre-qualification applicant within 30 business days and schedule an appointment. All adult household members must attend the meeting to discuss the results of the pre-qualification.
4. Select a lender and provide the City's prequalification approval to the lender/agent.
5. Upon locating a property, the lender will send a new completed application to the City.
6. If a loan application remains in the homebuyer program for more than 90 days with no activity (e.g. conditions have not been received, no response from lender, file has not moved forward), the loan may be cancelled by City staff without advance notice.
7. All City Forms and letters of explanation must be signed and dated by the household.

8. Any material misrepresentations, alterations, and/or omissions from the initial City Loan Application; including but not limited to household size, Income and asset information, loan details, etc., are not permissible and will render all future re-submissions ineligible for review and approval for a period of one year. The Homebuyer Manager may make an exception for re-submission of a loan application only for a significant life event such as a job/career change, marriage, divorce, or the birth of a child.

### **III. Annual Monitoring**

Owner hereby acknowledges that City or designee is required to monitor the Home and all affordable units under the jurisdiction of City on an annual basis to ensure compliance with all applicable State of California and County statutes, ordinances, and regulations. Upon the request of City, Owner shall furnish to City documents verifying Owner's occupancy of the Home as Owner's principal residence, and verifying that there have been no changes in the way title to the Home is held. Such documents may include, but are not limited to, copies of current utility bills or mortgage statements reflecting Owner's name and the address of the Home.

### **IV. Appeals Procedure**

Any applicant denied assistance from the Program has the right to appeal. The appeal process will be carried out as set forth below:

1. Complete and submit an "Appeal Form" that clearly states the basis for why you consider the City determination to be an error. Include any supplemental information that would be relevant to your appeal (updated pay stubs, tax returns, letters from employers, etc.)
2. Appeal Forms must be submitted within ten (10) calendar days from the date of the letter notifying you of the denial.
3. Send your completed Appeal Form to:  
  
City of San Jose Housing Department  
Attention: Assistant Director, Housing Director  
200 E. Santa Clara Street – 12<sup>th</sup> Floor  
San Jose, CA 95113
4. The Assistant Director will review the appeal and his/her decision will be final.
5. You will be notified of the outcome of your appeal in writing within seven (7) business days.



## **Appendix 1-Current Limits**

### **2016 Income Limits for Santa Clara County \*(updated annually)**

California Department of Housing and Community Development Income Limits are revised annually. Current limits can be found at:  
<http://www.hcd.ca.gov/hpd/hrc/rep/state/inc2k12.pdf>

#### **120% (Moderate-Income) of Area Median Income:**

1 person	\$89,950
2 persons	\$102,800
3 persons	\$115,650
4 persons	\$128,500
5 persons	\$138,800
6 persons	\$149,050

#### **80% (Low-Income) of Area Median Income:**

1 person	\$59,400
2 persons	\$67,900
3 persons	76,400
4 persons	\$84,900
5 persons	\$91,650
6 persons	\$98,450

#### **100% of Average Area Purchase Price for CalHome and BEGIN:**

Condominiums:	\$665,000
Townhomes:	\$665,000
Single Family	\$875,000
Detached	

**\*updated November 2016**

## Appendix 2

### City of San José Loan Application Review/Funding Process

#### Method of Delivery:

City staff will accept and review completed applications that are submitted by regular postal and overnight mail, or dropped off in-person. All required attachments noted on the loan application checklist are necessary for City staff to fully review and determine program eligibility.

#### City Review Timelines:

All City loan applications are processed on a first-come, first-served basis. In general, City staff will complete a file review and determine eligibility within eight to ten business days from the date a completed application is received. In the event that a household chooses to change lenders or properties after the initial submittal, a new application package must be submitted to the City and the household must allow up to ten business days for City review. Incomplete applications, including those with any missing attachments, will not be processed.

If a City loan application is cancelled or denied for any reason, the lender will be notified of the decision by City staff within 48 hours. A formal notification letter will be sent to the household within 30 days.

Upon City loan approval, the City may require up to an additional six business days for preparation of loan documents and funding.

For additional or current information, please refer to the Housing Department's website.

The availability of the equity-share and BEGIN programs are monitored by developers' sales offices and City staff. Developers' sales offices are responsible for treating City assisted buyers in the same manner as they serve other homebuyers.

#### Escrow:

Within three days of receipt of the City loan documents, the escrow officer must acknowledge and sign the City instructions and return the signed identified loan documents back to the City prior to closing.

Upon receipt of the executed City loan documents, staff will review for completeness and accuracy. If discrepancies are noted, City staff will request the escrow officer or lender to correct any deficiencies prior to funding and/or closing.

## **Appendix 3**

### **Disclaimer**

These General Underwriting Guidelines are designed to provide lenders and prospective City loan households with a general overview of City loan processes, procedures, and loan qualification guidelines. Each City of San José loan program are unique. The specific guidelines for each program and funding source as described in the City's Program handbook and/or project loan summary sheets. In the absence of additional materials, specific project eligibility requirements, or in the event of a conflict or discrepancy, the provisions contained in these Guidelines shall prevail.

Each program is funded by a distinct funding source, and each source of fund is regulated by State, local, and/or federal housing laws. In instances of discrepancies or conflicts between these Guidelines and any applicable law, the applicable law shall prevail.