



# CITY OF ENCINITAS

## RESIDENTIAL REHABILITATION PROGRAM POLICIES AND PROCEDURES OWNER OCCUPIED ACTIVITY

### I. PURPOSE OF THE RESIDENTIAL REHABILITATION PROGRAM

The City of Encinitas (City) receives Federal Community Development Block Grant (CDBG) funds. The City has a community development objective of assisting in the rehabilitation of housing within its jurisdiction. The Encinitas City Council determined that the implementation of a CDBG funded Residential Rehabilitation Program (Program) is an opportunity to utilize these funds to assist eligible lower income homeowners in the rehabilitation of their homes.

### II. PRIORITIES

The primary purpose of the Program is to assist lower income households, as defined in 24 CFR (Code of Federal Regulations 570.3 and 92.2) to rehabilitate their dwellings to correct code violations and health and safety problems and to provide a decent, safe and sanitary living environment.

### III. PROGRAM DESCRIPTION

A. Single-Family Homes and Condominiums - Assistance is available to owner-occupants of: single family detached homes; single family attached homes; and, condominiums. The maximum property value after rehabilitation may not exceed 100 percent of the appraised value. The program offers: three percent, simple interest, deferred loans up to \$50,000 per eligible household. Accrued interest will be forgiven prorated over the following period of time based on the loan amount: Less than \$15,000 = five years; \$15,000-\$40,000 = ten years; more than \$40,000 fifteen years. The minimum rehabilitation loan amount is \$5,000. The City may deny rehabilitation assistance to properties that are deemed infeasible for Rehabilitation.

B. Manufactured Homes - Assistance is available to mobile home owner-occupants of manufactured homes in both rental and resident-owned

mobile home parks located within the jurisdiction of the City. The program offers: (1) grants up to \$5,000; and, (2) zero interest, forgiven loan of up to \$20,000. The after rehabilitation value of the property may not exceed the appraised value or the current single family mortgage limits under Section 203 (b) of the National Housing Act. The minimum rehabilitation loan amount available is \$5,000. The City may deny rehabilitation loan assistance to properties that are deemed infeasible for rehabilitation.

- C. Loan - Deed of Trust - A Deed of Trust (or lien agreement for a mobile home) securing payment shall be recorded on the housing unit.
- D. Loan Repayment - Loan repayment is to be made to the City at such time as the property is leased, sold or transferred to a new owner, property is no longer occupied by the borrower as their primary residence or the unit or the mobile home unit is moved outside the City limits.
- E. Loan Limitation - Only one grant and/or loan shall be permitted per property. Notwithstanding the foregoing, for mobile homes only, a second grant and/or loan may be issued to the same property provided that:
  - 1. The prior rehabilitation assistance has been fully forgiven in accordance with the applicable affordability period;
  - 2. All terms and conditions of the prior loan or grant agreement were satisfied;
  - 3. The property remains owner-occupied and continues to meet all program eligibility requirements at the time of the subsequent application; and
  - 4. Funding is available and the Director determines that the proposed improvements are necessary to address eligible health, safety, or code-related deficiencies; and
  - 5. New applicants who have not previously received program assistance shall be prioritized over properties applying for a second loan or grant.

This exception shall not apply to single-family residences or condominiums.

- F. Excess Loan Amount - Under certain warranted circumstances, as directed by the Director of Planning and Building, or his/her designee, the loan limit per participant may be exceeded. At no time, however, shall the loan amount exceed 100 percent of the property's value.
- G. Loan Subordination- It is the general policy of the City that requests for subordination of Program loans may be approved, provided that subordination agreements do not place any additional encumbrance in a senior position to the City's lien. Exceptions to this policy may be made for specific circumstances and emergency situations. The following circumstances and situations may provide the basis to approve a loan subordination agreement, which will further encumber the property:

1. Refinancing of existing debt in order to lower or stabilize overall housing cost. In this circumstance certain refinancing costs (including points, fees and impound charges) may be added to existing debt, provided they do not exceed reasonable current financing standards of the new loan amount.
2. Refinancing which homeowners can demonstrate is necessary due to an emergency or crisis situation including but not limited to the following:
  - a. Refinancing in order to pay uninsured and unpredictable medical costs for an immediate family member or dependent.
  - b. Refinancing in order to pay funeral costs for an immediate family member of dependent.
  - c. Refinancing which is necessary to avoid foreclosure action against the property, provided that the subordination agreement is deemed to be a part of a long term solution which will enable the homeowners to remain in housing that is affordable to them.

The City may approve requests for subordination in the foregoing emergency situations, and in any other situation deemed to be an emergency by the Director of the Development Services Department or his/her designee, provided that there is sufficient equity to protect the City's investment. For the purposes of this section "sufficient equity" is defined as a maximum loan to value ratio of 90 percent, based on a current market value appraisal.

3. The Director of the Development Services Department or his/her designee shall evaluate all requests for subordination of Program loans.

#### IV. ELIGIBLE APPLICANT

Assistance from the Program shall be available only to persons who:

1. Are legal age and have capacity to competently enter into financial and contractual agreements.
2. Reside in and own the property and possess proof of ownership such as a State of California, Housing and Community Development Certificate of Title (mobile homes) or a grant deed (real property) located in the City.
3. Have gross annual income that does not exceed 80 percent of the area median income, adjusted by family size, as determined by the U.S. Department of Housing and Urban Development.
4. Agree to comply with any and all applicable permit, code and other regulations of the City.
5. Are a legal resident of the United States.

Transfer of an assisted property into a trust would not automatically trigger any repayment clause. The loan becomes payable once all eligible family members are deceased, the property is not their primary residence, and/or when the home is sold or transferred.

In the event that a program participant dies and the assisted property is inherited by an eligible family member (defined as a natural or adopted child who qualifies as a low-income person) who occupies the property within six months, the loan may be transferred to that individual pursuant to the original terms of the loan.

## V. DETERMINATION OF ADJUSTED GROSS INCOME

In calculating the gross annual income, all of the income of the applicant and other household members eighteen years of age or older, and not full-time students, shall be considered as follows:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services;
2. The net income from an operation of a business or profession, as calculated by averaging the net income manifested by their Federal income taxes for the past three years;
3. Interest, dividends, and other net income of any kind from real or personal property (where the family assets are in excess of \$5,000, excluding property adjusted gross income shall include the greater of the actual income derived from all assets or percentage of such assets based on the current passbook savings rate);
4. The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;
5. Payment in lieu of earnings, such as unemployment, worker's compensation, severance pay, welfare assistance (NOTE: Such payments may be excluded by the lending institution providing the first mortgage, for purposes of underwriting, but shall be included in eligibility determinations for this program);
6. Periodic and determinable allowances, such as alimony and child support payment, and regular contributions or gifts received from persons not residing in the dwelling to the extent that such payments are reasonably expected to continue;
7. All regular pay, special pay, and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is the head of the family, spouse, or other person whose dependents are residing in the unit;
8. Any earned income tax credit to the extent it exceeds income tax liability;
9. Any other income that must be reported for Federal and State income tax purposes;
10. Gross Self-employed income, as reported on Schedule C, IRS 1040, will

be adjusted to reflect deductions for necessary and reasonable business expense.

## VI. ELIGIBLE IMPROVEMENTS

Program funds are available for improvements that are physically attached and permanent in nature as follows:

1. Repairs that remedy existing nonconforming uses, such as garage conversions, additions, etc.
2. Exterior work necessary to preserve or protect structures, such as painting, roofing, siding, grading of site to control flooding, landscaping (when necessary to control erosion), skirting, releveling, bracing, repair/replacement of screens/windows, doors and door locks, structural and/or foundation damage, repair of sidewalks and driveways, and fencing.
3. Interior work to make a structure more livable and repair/replace/restore important parts, such as plumbing, damaged flooring, faulty or inadequate heating/cooling systems, inoperable built-in appliances, damaged ceilings, water heaters, electrical wiring and service, painting.
4. Fumigation and treatment for termites and pest control.
5. Modifications which aid the mobility of the elderly and physically disabled such as shower units with seats, lever hardware, retrofitting toilets to achieve adequate height, moving power points and light switches, ramping, reconstructing doorways, lowering sinks in kitchens and bathrooms.

## VII. INELIGIBLE IMPROVEMENTS

Examples of ineligible improvements include the following:

1. Repair, purchase or installation of kitchen appliances, which are designed and manufactured to be freestanding. If it is determined at the time of inspection that a freestanding appliance poses a health and safety hazard to the property owner, at the City's discretion, the repair, purchase or installation of a freestanding kitchen appliance may be approved as an eligible improvement.
2. Recreational items such as barbecues, bathhouses, greenhouses, swimming pools, saunas, television antennae, tennis courts.
3. Luxury items such as burglar alarms, burglar protection bars, dumbwaiters, kennels, murals, flower boxes, awnings, patios, decks and storage sheds/workshops.
4. Landscaping, except when deemed necessary for erosion control or drainage.

5. Weatherization and energy conservation items such as insulation, caulking, weatherstripping and window coverings. Although weatherization alone is not an eligible expense, every effort will be made to integrate energy efficiency while performing housing rehabilitation work.
6. Other items as deemed ineligible by the Director of the Planning and
7. Building Department or his/her designated representative.

## VIII. PROGRAM CONDITIONS

Both the City and the applicant will adhere to certain conditions as follows:

### CITY

1. The City will comply with the Fair Credit Reporting Act that stipulates and guarantees the applicant's privacy and right to have all information regarding the loan transaction kept in a confidential manner.
2. The City shall not discriminate upon the basis of sex, age, race, creed, color, class, national origin, or ancestry in the awarding of financial assistance.
3. All home rehabilitation work performed must be brought up to the California Building Code and all applicable Federal, State and local codes.
4. Before rehabilitation value of the property will be estimated using comparable sales and/or appraisals using a licensed fee appraiser. After rehabilitation values will be determined before loan approval to ensure that after rehabilitation value does not exceed the current, applicable HOME after-rehabilitation limits for the San Diego County area. The current maximum limit is \$422,750 which is subject to periodic adjustment.
5. After rehabilitation values may be estimated using a 3:1 ratio of rehabilitation cost to rehabilitation value (e.g., \$3 rehabilitation cost corresponds to \$1 of increased value).

### APPLICANT

1. Income from assets is included as part of annual income. The value of necessary items such as furniture and automobiles are not included. (Note: it is the income earned – e.g. interest on a saving's account – not the asset value, which is counted in annual income).
2. The applicant shall agree to use the grant and/or loan proceeds only to pay for costs of services and materials necessary to carry out the renovation as

detailed in the Work Write-Up for which the loan is approved.

3. The applicant will permit inspections by the City of the property to be rehabilitated for compliance with the applicable Building and Property Rehabilitation Standards of the City.
4. The applicant agrees to not award any contract for rehabilitation work to be paid in whole or in part with the proceeds of the loan to any general contractor who is not a licensed contractor, and who, at the time, does not meet standards of the Program as an eligible contractor.
5. The applicant shall not allow any City Staff member who exercises any function of responsibility in connection with the administration of the Program, to have any interest, direct or indirect, in the proceeds of the grant and/or loan, or in any contract entered into by the applicant for the performance of work financed, in whole or in part, with the proceeds of the loan.
6. The applicant will not pay any bonus, commission or fee for the purpose of obtaining approval of the loan application.
7. The applicant shall maintain the housing unit in good condition during the term of the loan.
8. The applicant will maintain hazard insurance coverage on the housing in an amount that is at least the value of the property and keep property taxes current during the term of the loan.
9. The applicant shall add the City as an additional insured on the hazard insurance policy at the time of loan closing and maintain the City as an additional insured for the duration of the loan.
10. The applicant shall not discriminate upon the basis of sex, age, race, creed, color, class, national origin, or ancestry in the awarding of the construction contract.
11. The applicant will begin to utilize funds within ninety days of the signing of program documents unless granted a written time extension by the City.
12. In the event that the applicant fails to adhere to the conditions and restrictions contained within the Program Conditions, the City reserves the right to terminate the individual's participation in the loan program and/or demand full repayment of the loan with accrued interest.

13. As a condition of this loan, if the property was built before 1978, the applicant will obtain a lead hazard test and if lead-based paint is found within the property, the applicant shall consent to the containment of all lead hazards by a qualified contractor.

## IX. PROGRAM PROCEDURES

This section sets forth the steps that are to be followed in the application processing of Program loans.

1. The Program Administrator will mail application packets to homeowners who have requested information or whose names are listed on the Residential Rehabilitation Program List. Applicants will be given thirty days in which to return a complete application.
2. The Program Administrator shall establish a file for each applicant and determine eligibility by reviewing income, household size, location of subject property and the before and after rehabilitation value of the property.
3. If the applicant is not eligible, Program Administrator so notes disposition and notifies the interested applicant of the finding in writing. Application is filed under Ineligible Projects.
4. When applicants are determined to be eligible, the Program Administrator sets up an appointment for a site inspection and a work write-up/cost estimate.
5. The Program Administrator conducts a property inspection to document existing code violations, incipient code violations, otherwise eligible items and any requested home improvements. An explanation regarding what improvements are eligible and/or ineligible and priorities for the work to be accomplished occurs.
6. The Program Contractor will ensure that each home constructed prior to 1978 is tested for lead hazards. If lead-based paint hazards are determined to be present, abatement work will be completed in accordance with HUD requirements. The lead-based paint testing and abatement procedure is in place to comply with the Department of Housing and Urban Development (HUD) regulations that became effective on September 15, 2000 entitled "Requirements for Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance" (24 CFR Part 35 dated September 15, 1999).
7. The Program Administrator provides the applicant with written rehabilitation standards in the form of a Work Write-up which prescribes the methods and materials to be used in rehabilitation and includes:

- Scope of work
- Construction method
- Quantity
- Quality
- Location
- Cost Estimate

The applicant is also provided with a list of eligible contractors and a booklet titled "What You Should Know Before You Hire a Contractor", printed by the State Contractors License Board.

8. The responsibility for the selection of an eligible contractor rests with the property owner. For projects which will involve three or more trades, it is required that applicants select a licensed general contractor. All contracting work must be done in accordance with the State of California Contractors License Board Laws and Regulations. No contract agreements, written or otherwise, may be entered without prior approval of the Program.
9. The selected bid(s) must come within fifteen percent (15%) of the in-house cost estimate. The owner shall transmit bids and the Bidder Selection Form to the Program Administrator for review. The selected contractor(s) must give a one year guarantee on all labor and materials to the owner.
10. Program Administrator reviews the selected bid to determine cost reasonableness and compliance with Program requirements.
11. Program Administrator submits the application package to the Director of Housing and Neighborhood Service or his/her designee for approval/denial.
12. Program Administrator orders the preparation of all necessary loan documents, which include:
  - Promissory Note and/or Grant Document
  - Deed of Trust (real property)
  - Statement of Lien (mobile homes)
  - Truth-in-Lending Statement
  - Request for Notice
  - Fund Disbursement Instructions
  - Right of Rescission Notice
13. Program Administrator schedules and holds the loan closing/preconstruction meeting at City Hall. Contractor is strongly encouraged to attend loan closing/preconstruction meeting.

14. Applicant executes all loan documents and construction contract. The payment schedule is outlined so that all parties are aware of the timeline and order of job progression.
15. Upon completion of the loan closing, the necessary documents are sent to the appropriate recording entity. The Program Administrator forwards appropriate documents to the designated loan management and fund control system manager for funding.
16. Once documents have been recorded, Program Administrator issues a Notice to Proceed.
17. The selected general contractor contacts the Program Administrator to arrange a job site inspection for payment. Progress payments will not be issued for uninstalled material or equipment.
18. The Program Administrator visits the job site and verifies that the work included for payment is completed and that all necessary inspections by the City's Building Department regarding building permits have been satisfactorily accomplished.
19. The Program Administrator transmits a Disbursement Request to the Program's fund disbursement agent. A completed Disbursement form includes the amount of payment, name and address of the applicant, a description of the work completed, the date of inspection and the signature of the Program Administrator.
20. In the event of any dispute between the owner and the selected general contractor concerning the contracted scope of work, the Program Administrator will work with both parties to negotiate a satisfactory solution. Should a resolution not be possible on an informal basis, the parties may elect to have a hearing by a professional arbitrator.

#### X. PROGRAM ADMINISTRATION

- A. The Director of the Development Services Department and/or his/her designee shall administer the Program.
- B. The City may utilize a contractor for project management of the Program, however, the Director of the Development Services Department shall designate a City employee to be responsible for this program.

## XI. PROGRAM DEFINITIONS

**APPLICANT:** Any person or other legal entity that applies for a loan under the Residential Rehabilitation Program.

**APPLICATION PACKET:** Forms disbursed to residents.

**BORROWER:** Any person or other legal entity who holds title to a property being rehabilitated with the assistance of the Program and who is legally responsible for any repayment of said loan.

**BUILDING AND PROPERTY REHABILITATION STANDARDS:** The standards contained in the California Building Code and all other Federal, State, and local codes and ordinances pertaining to housing construction, land use, occupancy, and maintenance of existing residential properties which are applicable to the property through Code Enforcement action.

**BUILDING INSPECTOR:** City employee(s) responsible for inspection(s) of structural, electrical, and plumbing repairs and improvements. The inspector assures compliance of work to applicable Building and Safety Codes.

**BUILDING PERMIT:** The Development Services Department's authorization to commence building repairs or improvements. Permits must be issued for most home improvements, including, but not limited to, roofing, electrical, plumbing, structural changes, foundations, etc. A fee is charged for permits; inspections are included in the permit cost.

**CALIFORNIA PRELIMINARY NOTICE:** A notice sent to owner of dwelling by any person or supplier providing labor, services, equipment, or materials for the rehabilitation work. The notice is sent in the event that the primary contractor is listing, as security, the property being rehabilitated with the person or supplier sending notice.

**CONTRACT:** A legally-binding, standardized form which spells out, in detail, the entire scope of work, specific quality, brands of materials, and all other data pertinent to the rehabilitation of the property. The Contract must be signed by both contractor and applicant and be present at the time of all City building inspections.

**DEED OF TRUST:** The legal document that secures the loan with the property which is being rehabilitated. The Deed of Trust is for the same amount as the loan and must be signed by the Borrower in the presence of a public notary.

**DEFERRED LOAN:** A loan whose principal and or interest installments are postponed for a specified period of time. The Deferred Loan payment is required at such time that the home is sold, rented or the title is transferred.

**ELIGIBLE CONTRACTOR:** An eligible contractor is any contractor who is in good standing with the State Contractors License Board and has been licensed in compliance with City and State regulations to do the necessary housing rehabilitation work. For rehabilitation

projects which involve three or more trades, an eligible contractor must have a valid general contractor's license. An eligible contractor may not be the owner of the property for which the rehabilitation project is proposed.

**ELIGIBLE IMPROVEMENTS:** All improvements required to bring the dwelling unit up to Housing Quality Standards (safe, sanitary, and decent), California Building Code, and all applicable Federal, State, and local codes.

**HOUSEHOLD:** An individual head of household or a head of household and all other persons living in same household who are related to the head of household by blood, marriage, or adoption. Any live-in care provider is considered to be excluded from the household definition once live-in care provider is approved by the City.

**INCOME VERIFICATION:** The first step in the rehabilitation loan process used to determine gross household income, including participant submittal of most current income tax returns, employer verification of wages, W-2 Forms, Social Security verification, profit/loss statements, etc.

**INFEASIBLE PROPERTY:** A property is economically infeasible to rehabilitate when the cost of rehabilitation of that property exceeds the fair market value of that property after rehabilitation. Housing alternatives may be available for those homeowners whose properties are deemed infeasible for rehabilitation.

**INSPECTION CARD:** Card posted at the site of rehabilitation once building permits are issued. Building Inspector(s) sign off various inspections on Card as job progresses.

**LIEN RELEASE:** A form signed by the contractor upon payment for labor services in the rehabilitation process. A Material Lien Release may also be provided which is also signed by the material supplier or contractor.

**LOAN DISBURSEMENT:** The principal amount of the loan, which is paid out to the participant as the rehabilitation work progresses. The Disbursement may be in accordance with a contractual agreement between participant and contractor. Prior to disbursement, the work accomplished must be in accordance with the scope of work as detailed in the Work Write-Up. If inspection by the Development Services Department is required for the particular rehabilitation item, the inspector must sign off for said work prior to disbursement.

**LOAN DOCUMENTS:** All forms relevant to the actual execution of the loan, include 3-Day Recession Notice, Truth-In-Lending Form, Promissory Note, and Deed of Trust.

**MANUFACTURED HOME:** A structure transportable on a street or highway by authorization or a permit in one or more sections, designed and equipped for human habitation, to be used with or without a foundation system. Does not include recreation vehicles, commercial coach, or factory-built housing resting upon permanent foundations.

**NOTICE TO PROCEED:** Notice issued to contractor that specifies the time period within which the work should begin and when work should be completed. It also details the progress payment schedule.

**OWNER/OCCUPIED PROPERTY:** A property used entirely for residential purposes and occupied by the owner.

**PARTICIPANT:** Any person or legal entity that has applied for and is in the process of rehabilitating a property through the Program.

**PERSON:** One or more persons who occupy a property to be rehabilitated.

**DEVELOPMENT SERVICES DEPARTMENT:** The Division of the City responsible for issuance of building permits.

**PROPERTY STANDARDS:** These are the Housing Quality Standards used to determine that a unit is decent, safe and sanitary.

**PROGRAM ADMINISTRATOR:** Staff member having the primary responsibility for administering and coordinating the housing rehabilitation projects for the Program.

**PROGRESS PAYMENTS:** Payments made to contractor for work satisfactorily completed. Progress payments are made after work has been inspected and approved for payment. Progress payments cannot include the value of uninstalled material or equipment.

**PROMISSORY NOTE:** A form, part of the loan documents, which is the Borrower's agreement to pay back the amount borrowed in accordance with the established terms of the loan. All persons on Title to the Property must sign the Promissory Note.

**REHABILITATION COST:** The total cost of repairs and improvements and other costs for rehabilitation to be incurred by the participant that may be included in a loan.

**REHABILITATION FUND DISBURSEMENT ACCOUNT:** An account used for deposit and disposition of all funds used in the rehabilitation of specific property.

**RIGHT OF RESCISSION :** The borrower's right, within a three working day period from the date of loan settlement to rescind the entire loan transaction.

**STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT:** The Agency of the State of California that has jurisdiction over aspects of manufactured homes including title search.

**TRUTH IN LENDING:** The form included in the loan document package, which details all terms of the Loan. Participant must sign receipt of said form.

**WORK WRITE-UP:** A form completed by the Program Administrator and provided to Homeowner that prescribes the specific methods and specific materials to be used in rehabilitation. The work write-up outlines a complete and suggested scope of work to be performed in the rehabilitation project. It also includes the name and address of the applicant and other pertinent information.

**WRITTEN REHABILITATION STANDARDS:** These are contained in the Work Write-Up. They establish the standards for rehabilitation work that will bring substandard housing into compliance with the property standard and provide the basis for the contractor bids.