

# **Community Land Trust Designation Policy**



**City of San Antonio**

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## Policy Overview

The Community Land Trust Designation Policy (Policy) is designed to create permanently affordable homeownership and rental opportunities for low- and moderate-income households in San Antonio. This policy outlines the City of San Antonio's process for issuing and renewing designations for Community Land Trusts (CLT) operating within city limits.

The City of San Antonio has developed this policy to guide groups interested in establishing and maintaining a CLT.

Organizations that successfully complete the application process to establish a designated CLT in San Antonio will be authorized to receive applicable tax abatements, subject to City, County, and State guidelines, on designated land for affordable housing developments. CLT-owned properties will be appraised according to the limited equity model detailed in the organization's ground lease or deed restriction. The CLT will set the terms of the ground lease or deed restriction and options for resale of improvements for all land acquired under the CLT. The approved non-profit organizations will also be responsible for all real property development and financing needs. The City of San Antonio will set Policy standards and best practices amongst all CLTs and review CLT performance on an annual basis. The Director of the Neighborhood & Housing Services Department (NHSD) or their designee is authorized to create and periodically update application materials. The Director of NHSD or their designee is also authorized to review and recommend re-designation, as appropriate.

NHSD will assess interested nonprofit organizations seeking a CLT designation on the following factors:

**Community:** What steps has the applicant taken to build community support and advance solutions to community needs?

**Programming:** What services will the CLT offer and who will it serve? How does the CLT help support the Strategic Housing Implementation Plan (SHIP) vision?

**Governance & Operations:** How does a CLT fit into the mission of the nonprofit organization? What are the CLT's board and staff like and how is the organization governed?

**Finances:** What is the CLT organization's business/strategic plan?

Applications will only be accepted when all documents have been submitted as one complete package. NHSD staff will review the completed application. This review may include but is not limited to the following: follow-up meetings, requests for additional documentation or clarification, legal review, reference calls, and community meetings. NHSD staff reserve the right to reject any application that they determine to be incomplete or inaccurate. Applicants may request written explanations if their application is rejected or otherwise disqualified.

When an organization meets the requirements set forth in the policy, NHSD staff will present the application to City Council for consideration of an official CLT Designation. Only City Council can approve or deny a CLT's designation.

## Eligibility Criteria

An organization seeking to be designated as a CLT by the City of San Antonio must meet the Eligibility and Operation Criteria set forth in this policy.

In its application to the City of San Antonio, a non-profit organization must demonstrate that the organization:

- has been created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the City of San Antonio;
- must be exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being certified as an exempt organization under Section 501(c)(3) of that code;
- has adopted articles of incorporation, or a similar governing document, stating that it has the purpose to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the City of San Antonio, provide affordable housing for low- and moderate- income residents in the community, promote resident ownership of housing, keep housing affordable for future residents, and capture the value of public investment for long term community benefit;
- currently owns or intends to own land for the purpose of selling housing units located on the land and leasing the land under a ground lease or deed restriction with terms of at least 99 years; or leasing both the housing units located on the land as well as the land, as provided by Chapter 373B of the Texas Local Government Code, as amended;
- has adopted articles of incorporation, or bylaws, stating that on discontinuance of the organization by dissolution or otherwise that the assets related to its CLT activities be transferred to the City of San Antonio, the State of Texas, the United States, or an organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986 and designated as a CLT by the City of San Antonio. This requirement does not obligate the City of San Antonio to accept the property, liabilities, or any other assets of the CLT; and
- is not controlled by, nor receives direction from, a for-profit entity or corporation.

## Program Requirements

### **Alignment with the Strategic Housing Implementation Plan (SHIP).**

The operation of CLTs shall align with the **Strategic Housing Implementation Plan**. **This CLT Program is designed to work in conjunction with other City programs and the City's existing affordable housing production and preservation goals. NHSD shall report to the City Council the year-to-date production and preservation data for the program, as requested.**

### **Source of Income Protection**

Lease Applicants shall not be denied the ability to rent a residential unit based on the renter's source of income such as Section 8 Housing Choice Vouchers, Section 8 Veterans Affairs Supportive Housing, other rental vouchers, child support, spousal maintenance, social security and supplemental security income, retirement income, emergency assistance or other public or legal forms of income.

### **Lease Applicant Denials**

Eviction history shall not be considered in reviewing lease applications if eviction proceedings resulted in a dismissal or judgment for the applicant. Further eviction history shall not be considered in reviewing lease applications if an eviction was settled with no judgement more than 12 months before a submitted tenant application or judgement against an applicant was more than 36 months before application.

Non-payment of rent evictions from the date of the first City of San Antonio's Declaration of Public Health regarding COVID-19 on March 13, 2020 through the end of the Federal Declaration Public Health Emergency Declaration on May 11, 2023 shall not be considered in reviewing lease applications.

Applicants shall not be denied solely based on insufficient rental history. Applicants shall not be denied solely based on credit history.

No applicant can be denied because they are a victim of domestic violence, dating violence, sexual assault, or stalking.

The CLT is prohibited from requiring applicants participating in the Section 8/Housing Choice Voucher, HOME TBRA, or other federal rental assistance program to demonstrate a monthly income of more than 2.5 times the household's share of the monthly rent or \$2,500 annually.

Within seven days after the determination is made to deny an application, the CLT must provide any rejected or ineligible applicant that completed the application process a written notification with the grounds for rejection. The written notification must include the specific reason for the denial and reference the specific leasing criteria upon which the denial is based.

The CLT must keep a log, subject to review by the City of San Antonio, of all denied applicants that completed the application process to include basic household demographic and rental assistance information, and the specific reason for which an applicant was denied.

### **Consistency with Fair Housing Laws**

The program will operate in a manner consistent with all local, state, and federal Fair Housing laws, including the City of San Antonio's Non-Discrimination Ordinance.

### **Fair Housing Marketing**

The CLT must adopt procedures that affirmatively use fair housing marketing practices in soliciting homeowners and renters, in determining eligibility, and concluding all transactions. The CLT must affirmatively further fair housing consistent with requirements set forth in 24 CFR 92.351(a)(2) of the US Code of Federal Regulations including:

- Informing potential residents about Federal Fair Housing Laws including the use of the Equal Housing Opportunity Logo or slogan in advertising for vacant units;
- Describing CLT requirements and practices to carry out affirmative marketing procedures and requirements (e.g., use of commercial media, use of community contacts, use of the Equal Housing Opportunity logotype or slogan, and display of fair housing poster);
- Soliciting applications from persons in the housing market who are least likely to apply without special outreach (e.g., through the use of community organizations, places of worship, employment centers, fair housing groups, or housing counseling agencies);
- CLTs with multi-family rental properties will provide and maintain a listing of vacancies through Housing Base.

### **Anti-Displacement & Relocation Policy**

The City of San Antonio's adopted definitions and criteria regarding the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD Handbook 1378 shall apply to CLTs receiving tax incentives from the City of San Antonio in acquiring, rehabilitating, demolishing, or developing multifamily developments. For a property that is occupied at the time of the CLT Designation application, a tenant relocation plan shall be submitted prior to final project approval. The tenant relocation plan must follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD Handbook 1378.

Applications for CLTs which would require direct, permanent displacement are not eligible for a designation.

### **Building Habitability**

At the time of application or re-designation, all buildings held by the organization should have no outstanding code violations that impact the safe habitability of the buildings. If such code violations exist, the organization must demonstrate a plan to resolve the violations to the satisfaction of the NHSD Director.

### **Operation Criteria**

In its application to the City of San Antonio, a non-profit CLT organization must demonstrate that the organization:

- defines its geographical boundaries of operation. A CLT may operate citywide or may elect to focus on a specific geographic area or areas;
- maintains at least 1/3 representation on the organization's governing board for community members with low to moderate incomes or beneficiaries of the CLT properties with regard to decisions on the design, siting, development, and management of affordable housing;
- uses standard documents, including but not limited to, a ground lease and/or deed restrictions;
  - that include a resale formula outlining the amount of equity per year that can be built while ensuring long term affordability;

- that ensure the owners of housing units built on CLT land will either be eligible for a property tax discount based on the deed restriction or, where the occupant is a tenant, that the occupant will benefit from any property tax discount;
- must sell or lease housing units only to eligible households as set forth in Chapter 373B.006 of the Texas Local Government Code, as amended;
- will consider the local neighborhood context for architecture that is respectful and within character of existing style and context. Additionally, by ensuring housing be affordable for neighborhood residents.
- has a business/strategic plan that ensures the CLT will have the financial capacity to perform its operations including supporting ongoing maintenance of all property improvement exteriors and grounds;
- has been in operation for at least one year or has at least one year of experience developing and managing affordable housing or has contracted with an organization that has such experience and that will provide management services or technical expertise until the non-profit independently meets the experience requirements;
- maintains paid staff, or has contracted with an organization that has staff, who have successfully developed and/or maintained affordable housing projects;
- complies with any other requirements imposed by the City of San Antonio through this policy.

## Initial Designation – Application Process

All applicants must submit the following information to be considered for a designation as a Community Land Trust (CLT) within the City of San Antonio. Small changes to the application and any associated materials may be made periodically by the Director of NHSD or their designee. Below is the minimum information to include in the application. Applicants should ensure they are using the most recent application published on NHSD’s webpage, [sa.gov/nhsd](http://sa.gov/nhsd).

Applicants are encouraged to complete a pre-screening questionnaire to ensure basic eligibility requirements are met. The questionnaire can be found on the website. Applicants must submit all application materials to [housingpolicy@sanantonio.gov](mailto:housingpolicy@sanantonio.gov). Complete applications will include all required documents, affidavits, and any additional information requested by NHSD.

NHSD staff will review applications and reach out for additional information, as needed. Once NHSD deems the application is complete, staff will bring its designation recommendation to council.

## Initial Designation Review

All application materials will be publicly available at [sa.gov/nhsd](http://sa.gov/nhsd). Applicants should ensure they are using the most recent application published on NHSD’s webpage. Applicants will be evaluated based on the following factors: Community, Programming, Governance & Operations, and Finances. Applicants must satisfactorily demonstrate they meet the criteria listed to be considered for a staff recommendation to City Council.

The table on the following page is a guide for what needs to be included in an application.

## Key Application Factors

### Community

Describe the community engagement activities that were conducted as part of forming this CLT.

Provide a statement outlining the merits and the need of the CLT and why it is important to the community or city.

State and map the total acreage of property in the CLT designated by land use type (single family, commercial, multi family, etc.).

### Programming

Provide the real or anticipated breakdown of the area median income (AMI) of each household in homes on CLT-owned land at time of sale or transfer. Indicate if the households are renting or owning their home. Indicate how the AMI of households served, or to be served, compares to the AMI of the defined service area.

Provide any demographic data available on who the CLT plans to serve, and/or where available, each member of the household currently being served (age, ethnicity/race, gender, household size, and other data that may be relevant to the. specific services offered by the CLT)

Define additional services (if any) that will be provided to households through the CLT or CLT parent organization. Programming may also be provided by additional organizations that partner with CLTs to provide services to residents.

State which activities of this CLT will be used as a mechanism for anti-displacement, for recruiting and for retaining people with a historic legacy in the community or accommodating and integrating emerging communities in need were used in forming this CLT.

State which activities of this CLT will be used as a mechanism to generate or preserve wealth for households with low- or moderate- incomes.

### Governance & Operations

State the qualifications of board members, staff, and how they are recruited. Attach the bylaws and charter or articles of incorporation.

Anticipated growth of the portfolio

### Financial

Submit your business/strategic plan as an attachment in pdf form.

During initial application and redesignation, each CLT must submit the following information that will assist NHSD in evaluating the impact of all CLTs operating in the City of San Antonio:

- Origin statement (how was this CLT organized/formed and why)
  - For re-designation – add any changes to format or structure of the organization;
- Definition of “Community” in the Community Land Trust;
- Defined service area, with the geographic boundaries;
- Number of units placed in CLT annually since inception;
- Number of units anticipated to be placed in the CLT annually over the next three years;
- Number of households served since inception;

- AMIs of households in homes on CLT-owned land at time of sale or transfer;
- Total acreage of property in CLT designated by land use type (single family, commercial, multi family, etc.);
- Market Value Assessment (MVA) category or other document that shows market realities and how ground lease or deed restriction responds to market conditions; and
- List of services provided to households through the CLT such as: maintenance programs, legal services, financial empowerment, specialized financial products, emergency home repair, etc.

## Optional City Tax Exemption

The City of San Antonio may provide a 50% city tax exemption for a CLT organization that receives a designation, provided the Applicant submits an annual full financial audit prepared by an independent auditor as required by the state of Texas. The audit must include a detailed written report describing the CLT's sources and uses of funds. City staff will review the audit and make a recommendation regarding the tax exemption to Council. To receive the tax exemption year over year, an audit will need to be submitted annually. An audit is not required if the Applicant is seeking only a designation.

## Redesignation Process

To maintain designation as a CLT and any applicable tax exemption, a CLT must submit a yearly redesignation application to NHSD. The Director of the NHSD, or their designee, may redesignate the CLT.

The CLT must:

- meet the criteria set forth in this policy;
- certify that the information in the CLT's initial application is still true and correct and that the CLT continues to comply with all local, state and federal regulations OR acknowledge that information in the CLT's initial application has changed and attach updated information;
- submit its annual audit or audit review within 180 days of the end of their Fiscal Year if seeking a tax exemption;
- submit all required evaluation and reporting metrics; and
- submit additional information as required by NHSD.

If the Director or designee determines the criteria is not met for a redesignation, the CLT's designation will terminate. A CLT which previously had a designation, but subsequently lost their designation must submit a new application and receive a new designation through City Council action.

## Redesignation Application

All redesignation application materials will be publicly available at [www.sa.gov/nhds](http://www.sa.gov/nhds). Applicants should ensure they are using the most recent redesignation application published on NHSD's webpage.

NHSD staff will evaluate the CLT's redesignation application, in addition to the requirements under this policy, based on the CLT's initial application or application from previous year's redesignation for significant changes in business model, performance to deliver and continued community support.

- The CLT must write a letter certifying that the information in the CLT's initial application is still true and correct and that the CLT continues to comply with all local, state, and federal regulations OR acknowledge that information in the CLT's initial application or previous years redesignation has changed and attach updated information.
- Regardless of if the CLT's information has changed substantially, additional information must be provided to NHSD as part of the re-designation process. This information will help NHSD track the program's performance and help understand how the program has contributed to the success of the SHIP. Examples of additional information to be included in the redesignation application include:
  - Detail on performance of production and rehabilitation of units;
  - Changes in Board of Directors;
  - Changes in Staff or consultants;
  - Changes in proformas or other financial information, being sure to note all public funding or grants received;
  - Number of units placed in CLT annually since inception;
    - Comment on if this yearly number is less or more than anticipated and state the reasons why;
  - Number of units anticipated to be placed in the CLT annually over the next three years;
  - Number of households served since inception;
  - AMI of households in homes on CLT-owned land at time of sale or transfer;
  - Total acreage of property in CLT designated by land use type (single family, commercial, multi family, etc.);
  - If the ground lease or deed restrictions have changed from initial designation, include an updated Market Value Assessment (MVA) or other document that shows market realities and how ground lease or deed restriction responds to market conditions;
  - List of services or programming provided to families residing in the CLT such as: maintenance program, legal services, financial education, emergency home repair, etc.;
  - Submit additional information as requested by NHSD.

## Disqualifying Criteria

The intent of the CLT program is to ensure long term affordability and good stewardship of San Antonio communities. If a CLT is not operating to ensure this, then the CLT may not be eligible for initial designation or may lose its designation. Examples of this may include, but are not limited to, ground leases or deed restrictions that do not reflect long term affordability protections, mortgage products that may be predatory in nature, ethics infractions or litigation against staff or the organizations, the City receiving community complaints about this CLT management practices, not allowing housing choice vouchers, or not meeting the requirements of income eligibility of clients.

An applicant with significant code compliance issues, such as active DART cases, enrollment in the Proactive Apartment Inspection Program, or other life and safety threatening code concerns, must demonstrate action to resolve these concerns promptly and to the satisfaction of the City of San Antonio.

An applicant whose business/strategic plan would include permanent displacement of households from a given site is ineligible for designation. If the board agrees that rehabilitation work is part of their mission, the rehabilitation or improvements will not permanently displace current residents without an adequate relocation assistance plan. A rehabilitation project that temporarily displaces residents must provide a satisfactory plan to the City's Neighborhood and Housing Services Department (NHSD). A satisfactory plan will include, at minimum:

- Certification that impacted residents will be informed of the temporary displacement and anticipated timeline for relocation at least 90 days before it begins.
- A budget including any necessary storage, moving, and boarding costs.
- A reasonable attempt to cause minimal disruption to residents including considering distance from current household
- The timeline for relocation.
- Certification that no affordable units will be lost as a result of the rehabilitation.