

City of _____
for Inclusionary Below Market Rate Housing
Procedures and Guidelines

City of _____ Affordable Housing Program

Chapter 1: Introduction

Identify the applicable local ordinance, policies or programs, implementation of Housing Element or any other City action as background for this guide. Does this guide also apply to affordable housing projects financially assisted by the City?

Purpose of Guidelines

This manual, referred to as the City of _____ Procedures and Guidelines for Inclusionary Below Market Rate or “BMR” Housing (“Guidelines”), outlines the requirements for owners and renters of BMR housing in the City (“BMR Program”). It describes the specific regulatory requirements that apply to eligibility for renting or owning BMR properties and provides guidance through the application process.

The Guidelines outlines the policies and procedures used to implement the City’s Inclusionary Housing Policy, as adopted by ordinance and outlined in Section _____ of the City municipal code (“Ordinance”). These Guidelines cover the following topic areas:

- Inclusionary Housing and Density Bonus Requirements
- Entitlement and Permitting Processes and Requirements
- Marketing Plan and Resident Selection
- Determining Eligibility
- Rental Program Provisions
- Conversion of Rentals to Ownership Units
- Ownership Program Provisions

If these Guidelines do not provide specific guidance for a particular situation that arises in operation of the BMR Program, and there is more than one interpretation or application of the guiding principles, it is the intent of the BMR Program that Staff choose and follow the interpretation/application that places equal weight on the preservation of the affordable housing resource and the housing stability of the BMR Program participant.

The Guidelines are periodically revised and updated to accomplish the objectives of the City of _____, in addition to all other applicable State and County laws, ordinances, and regulations governing affordable housing and the leasing or sale of Affordable Units. Maximum Rents and Sales Prices are updated based on annual updates of the income limits by the State Department of Housing and Community Development (HCD). Utility allowances are updated annually by the Housing Authority of the County of San Mateo. The current San

Mateo County income limits are provided in Exhibit A to these Guidelines.

Conflict with Other Documents

Where the provisions of this manual conflict, or are inconsistent, with local ordinances or state or federal laws or regulations, or executed regulatory agreements with the City, the provisions of those ordinances, laws, regulations or agreements shall prevail. In developments where the City's deed restriction is subordinate to a deed restriction from an affordable housing lender or funder, those lenders and funders' policies and procedures shall also prevail.

Definitions

As used in these Guidelines, unless the context requires otherwise, the following words and terms have the meanings set forth below.

Affordable Housing Plan: The plan, included as part of the entitlement, which outlines how a development is meeting its Affordable Housing requirements.

Affordable Housing Agreement: a recorded contract between the City and the property owner describing the Affordable Units and income categories and explaining in detail how the units will be marketed and sold or rented.

Affordable Unit: a dwelling unit that is deed restricted as to an affordable rent ("Affordable Rental Unit") or sales price ("Affordable Ownership Unit").

Area Median Income (AMI): the median family income for San Mateo County, adjusted for actual household size, as determined annually by the California Department of Housing and Community Development (HCD) and based on data published by the U.S. Department of Housing and Urban Development.

Applicant/Co-Applicant: the household applying to rent or purchase an Affordable Unit. Applicant may be used herein to refer to the Applicant's entire Household and/or all adults in the Household, as the context requires. "Primary Applicant" refers to the first-named party on the application form. The Primary Applicant is the first listed Applicant on a Program application and must be the primary person on the lease or sales contract for the Affordable Unit. In addition, this person will be the primary point of contact. "Co-Applicants" are all other adult members of the Household aged 18 years or older.

BMR Owner- household that owns an Affordable Unit

BMR Renter – household that currently rents an Affordable Unit

City: the City of _____ or the third-party agency working on behalf of the City to implement these policies and procedures.

Developer: the person(s) or legal entity(ies), who also may be the property owner, who is seeking Residential Development project (*or non-residential development project*) permits or approvals from the City or developing a particular residential development project (*or non-residential development project*), in the City.

Domestic Partner: Domestic Partner is defined in Section 297 of the California Family Code. An individual is considered a Domestic Partner of the owner by presenting the Declaration of Domestic Partnership filed with the California Secretary of State.

Residential Development Project: any development that includes an application to the City for planning or building permits to create one or more dwelling units, to convert nonresidential uses to residential uses, or to convert residential units from rental to for-sale. As used in these Guidelines, “Residential Development” includes, without limitation, rental housing; for-sale housing; mixed-tenure housing; mixed-use residential; detached single-family dwellings; duplexes; triplexes; multiple-family dwelling structures; condominium or townhouse developments; condominium conversions; and land subdivisions intended to be sold or rented to the general public. However, accessory dwelling units and licensed care facilities are excluded from the definition of Residential Development.

Eligible Household: a Household eligible to participate in the BMR Program, as further defined herein.

Extremely Low-Income Household: households with incomes at or below the Extremely Low-Income limit published by HCD, which is set at approximately 30 percent of Area Median Income. See Exhibit A for current limits.

HCD: the California Department of Housing and Community Development.

Household: all persons who will be living together in the same housing unit, whether related or unrelated, over the age of 18, and dependents under the age of 18 who live with a member of the household 50% of the time or more.

Household Income: the combined gross annualized income of all adult household members (aged 18 or older), as further defined herein.

Housing Impact /In Lieu Fee: (*Describe if applicable*)

HUD: the United States Department of Housing and Urban Development.

Low-Income Household: households with incomes at or below the Low-Income limit published by HCD, which is set at approximately 80 percent of Area Median Income. See Exhibit A for current limits.

Marketing Plan: the document that describes marketing rental or ownerships Affordable Units and shall include, at a minimum, procedures and requirements for determining tenant eligibility, occupancy requirements, initial and ongoing marketing policies, application process, waitlist management, income verification requirements, annual recertification, rejection of ineligible applicants and eligibility termination.

Market Rate Unit: a dwelling unit where the rental rate or sales price is determined by the area's current rate of monthly rent or sale value.

Maximum Affordable Rent: the maximum monthly payment for an Affordable Rental Unit, as defined further herein, including the BMR Renter payment towards rent, the public rent subsidy (if any), and the utility allowance. "Maximum Affordable Rent" means the total monthly housing expenses for a rental affordable unit not exceeding the rents specified by Section 50053 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924, except that the City may permit alternative criteria, when necessary, to be consistent with pertinent state and federal statutes and regulations governing publicly assisted rental housing.

Maximum Affordable Sales Price: the sales price of a for-sale affordable unit resulting in projected average monthly housing payments, determined as of the acquisition date, including interest, principal, mortgage insurance, property taxes, homeowners insurance, homeowners' association dues, if any, and a reasonable allowance for utilities, property maintenance, and repairs, not exceeding the sales prices specified by Section 50052.5 of the California Health and Safety Code and California Code of Regulations Title 25, Sections 6910-6924.

Maximum Resale Price: the maximum sale price for resale of Affordable Ownership Units. The formula used to determine the price is outlined in each unit's deed restriction.

Moderate-Income Household: households with incomes at or below 120% of Area Median Income, as published by HCD. See Exhibit A for current limits.

Primary Residence: the residence where a household lives at least ten out of any given twelve months and is the household's permanent address for purposes of income taxes, the US Postal Service, driver's license, and voter registration.

Resale Restriction Documents: Set of documents the City executes with the buyers of Affordable Unit including the Resale Restriction with Option to Purchase, Deed of Trust, Promissory Note, Notice of Default, etc. that ensure compliance with the BMR Program requirements.

Utilities-means garbage collection, sewer, water, electricity, gas and other heating, cooling, cooking, and refrigeration fuels for a dwelling unit. Utilities do not include telephone, cable, or internet service.

Very Low-Income Household: households with incomes at or below the Very Low-Income limit published by HCD, which is set at approximately 50 percent of Area Median Income. See Exhibit A for current limits.

Programs Covered

These guidelines cover the below described programs, where the City has an affordable housing deed restriction on all or some of the units in a Residential Development, or where the City is a party to a deed restriction.

- **Inclusionary Below Market Rate Housing Program:** The City's BMR Program, as established in [Chapter] of the City municipal code, defines minimum affordability requirements for Residential Development projects. The resulting Affordable Units are governed by a deed restriction to the City.
- **Density Bonus Program:** Affordable Units may be created through the California State Density Bonus Program set forth at Government Code Section 65915 and incorporated by the City in [Chapter] of the City municipal code. Projects providing density bonus units must also meet the inclusionary zoning requirements. Units meeting the inclusionary zoning requirements may be counted towards the density bonus requirements. The Affordable Units created through Density Bonus are governed by the BMR Program and these Guidelines.
- **100% Affordable Developments:** *(Optional- if this guide applies to City assisted rentals as well as inclusionary units, change the term "BMR Renter" to Participant and insert this section). Where the City has a deed restriction on a 100% Affordable Development because of zoning requirements or where the City has provided funding, waived certain fees, or provided public land, these Guidelines apply. If there are other funding sources, the requirements and guidelines of these funding sources may supersede those of the City. For developments where the City has no financial assistance, but are deed restricted by other funding sources, only the entitlement and permitting process outlined in these Guidelines apply.*

Chapter 2: Inclusionary Housing and Density Bonus Requirements

Describe requirements of City Affordable Housing Ordinance or adopted policy:

Are both residential and nonresidential developments covered by policy?

Describe thresholds for applicability (size of project) and any exemptions, if any. Are there alternate requirements if project size does not meet the threshold? (such as a fee). How do you handle fractional units?

What are the affordability percentages and AMI requirements? Do they differ for rental vs ownership units? Do you allow alternate affordability mixes?

What are the alternatives to providing units onsite? If so, do you require more affordable units for offsite options?

Program Requirements:

SAMPLE LANGUAGE:

The Ordinance applies to residential and non-residential developments. This section outlines the requirements by development type and size:

Baseline Affordable Housing Requirements

Residential Projects

Less than 5 units

5-9 units

10 or more units

Requirement

Exempt

Housing In Lieu Fee

15% Affordable Units onsite

Non Residential Projects

Less than 5,000 net new square feet

5,000 or more net new square feet

Exempt

Housing Impact Fee or onsite Affordable Units

Residential Development Projects

All Residential Developments as defined in the Guidelines shall be subject to the provisions of the BMR Program. Residential Developments with ten or more units, including ownership, rental, mixed-use, and mixed-tenure developments, shall be required to provide Affordable Units on-site.

- *Residential Developments with five to ten units shall have the option of paying a fee in lieu of the affordable housing unit in accordance with the per unit fee schedule. (link to website)*
- *Residential Developments with less than ten units are exempt from any affordable housing requirement.*
- Residential rental developments with 10 or more net new units are required to construct

15% of the proposed total units as Affordable Units broken down into three affordability levels:

- Five percent (5%) of the proposed units in a rental Residential Development must be affordable to moderate income households;*
- Five percent (5%) of the proposed units must be affordable to low income households; and*
- Five percent (5%) of the proposed units must be affordable to very low income households.*

The affordable housing requirement is calculated using the project's base density. The base density is the number of units proposed in the development before applying any density bonus. Where the number of units results in a fractional unit, where the fraction is 0.5 or greater, an additional unit is required. Where the fraction is less than 0.5, an in-lieu fee payment may be made in accordance with per unit fee schedule (link to website).

Density Bonus Units

Residential Developments providing density bonus units must also meet the BMR Program requirements. Units meeting the BMR Program requirements may be counted towards the density bonus requirements.

To apply for a Density Bonus, the developer must submit a State Density Bonus Request Letter to the City together with its Affordable Housing Plan that demonstrates compliance with all applicable sections of State Density Bonus Law. These must both be submitted as part of its Planning application.

Nonresidential Projects

Nonresidential projects that include the new addition, or conversion of residential to commercial, of 5,000 of net new square feet, shall pay Housing Impact Fee or have the option of providing units onsite.

The following nonresidential projects are exempt for the Housing Impact Fee:

- Projects that add less than 5,000 square feet of net new nonresidential or conversion of residential to commercial space.*
- Schools, places of public assembly, recreational facilities, hospitals, cultural institutions, public administrative and service facilities, childcare facilities, nursing homes, rest homes, residential care facilities, and skilled nursing facilities.*
- Development projects located on property owned by the State of California, the United States of America, or any of its agencies and used exclusively for governmental or educational purposes.*
- Any structure proposed to repair or replace a building that was damaged or destroyed by fire or other calamity, so long as the square footage and use of the building remains the same, and construction of the replacement building begins within one year of the damage's occurrence.*
- Development projects on property eligible for the California Property Tax Welfare Exemption*

that is a) used exclusively for charitable purposes and b) owned or held in trust by a nonprofit corporation operating for charitable purposes with a current tax-exempt letter from the Internal Revenue Service or the Franchise Tax Board.

The Housing Impact fee is calculated on new construction and conversion of a residential use to a nonresidential use shall be calculated using the gross floor area of the new nonresidential space, excluding structured parking. The fee is based on type of nonresidential use for the following categories:

- Office/R&D/ Medical
- Retail/Restaurant /Services
- Hotel

The current fee per 100,000 net new square fee is (link to website)

As an alternative to paying the Housing Impact Fee the project has the option to provide affordable units onsite based on the following equivalencies:

**Required Affordable Units per 100,000 SF in
Nonresidential Project by Type**

	Low Income Units
Office/R&D/ Medical	8
Retail/Restaurant /Services	1
Hotel	3

Mixed Use Developments.

Mixed use developments must comply with the requirements for commercial developments in the commercial portion of the development and must comply with the requirements for Residential Developments for the residential portion of the development.

Alternative Means of Compliance

The applicant may satisfy the affordable housing requirement of a project using one or more alternatives in this section, subject to approval by the City Council.

Alternatives (in lieu fee, offsite construction, land donation, conversion of existing units, etc.)

Off-Site Affordable Units.

Developers may propose to provide Affordable units at a site other than the proposed development. These off-site units must be provided on or before completion of the proposed development and must provide the same number of units at below market rates to very low, low and moderate income households as required for on-site developments. Such units may be new or conversion of existing units to affordable.

The size, location, amenities and condition of the Affordable Units shall be among the factors considered by the City in evaluating the acceptability of the off-site Affordable Units. For existing units, the developer shall be responsible for correcting, at developer's expense, all deficiencies

revealed by detailed inspection of the premises by qualified inspectors, including a certified pest inspector.

Land Donation

Land donation to the City or to a qualified developer for the construction of affordable housing will be considered if the following requirements are met and documented.

- Applicant shall provide demonstration of site control
- The proposed location must be suitable for the proposed affordable housing, allow residential uses, accommodate the required affordable units, have adequate infrastructure and no unmitigated environmental hazards, and must be consistent with the Housing Element, general plan, and zoning and will not cause or exacerbate residential segregation;
- The value of the land is equal or greater than the applicable Impact or In Lieu Fee, if applicable.
- The applicant will donate and transfer the land no later than the date of the market rate project approval;
- The transferred land will have all of the permits and approvals, other than building permits, necessary for the development of the low income housing units on the transferred land, no later than the date of the market rate project approval;
- Provide a financing or a viable financing plan, which may include public funding sources, is in place for the proposed affordable housing units; and a qualified developer is identified to construct units .

In Lieu Fee

City Council may allow a fee in lieu of providing affordable units, if developer can demonstrate the benefit to the City. In lieu fees are published in City fee schedule at ([link website](#))

Other

A developer may propose an option not listed in the Ordinance as part of the Affordable Housing Plan. It may be approved by the City Council if it provides substantially the same or a greater level of affordability and the same number of units as required by the basic options. Alternatively, a developer may propose to provide fewer units with deeper affordability.

Replacement of Existing Dwelling Units

A Residential Development may be subject to one or more state or local laws regarding replacement housing and/or relocation. These include, but are not limited to, State Density Bonus Law (Government Code Section 65915 et.seq.), the Housing Crisis Act of 2019 (SB 330), and AB 1218. The Affordable Housing Plan must address all laws related to replacement and relocation and specify how the Residential Development will comply. Please consult with the Staff prior to submittal of the Planning application to confirm applicability of state law and ensure that these requirements will be met.

Affordability Term

The affordability term for restrictions on the Affordable Units is 55 years for both rental and ownership units. Affordable Units covered by recorded restrictions prior to 2024 may have different terms. In those cases, the terms of the executed documents shall prevail.

Chapter 3: Entitlement and Permitting Processes and Requirements

Describe how a developer submits a planning application and the inclusionary requirements to the jurisdiction. Is there a special form or checklist that developer needs to submit with the planning application package?

Do you allow any flexibility in the construction of Affordable Units? Different interior finishes? Flexibility in bedroom size or square footages? Consideration of smaller BMR units or duplexes for SF or projects with large units (2,000 +)?

How is allocation of parking spaces handled?

SAMPLE LANGUAGE:

Planning Application

Developer must submit an Affordable Housing Plan that demonstrates compliance with the BMR Program along with its development application to City Planning.

The Affordable Housing Plan is usually reviewed along with the required planning application and approved at the same time and by the same approval body that has authority to approve the planning application. For instance, if the Residential Development can be approved by the Planning Commission, the Affordable Housing Plan can also be approved by the Planning Commission. The Affordable Housing Plan will be approved if it conforms to the provisions of the Ordinance.

City Council approval is required if the applicant requests approval of any Alternative Means of Compliance including any of the following:

- *Offsite Units (New Construction or Conversion of Existing Units) Land Dedication*
- *Land Donation*
- *In Lieu Fee for residential projects*
- *Other*

The Affordable Housing Plan

An Affordable Housing Plan is finalized as part of the development review process and included as part of the first approval of the Residential Development. The Affordable Housing Plan shall include the following features.

- *A statement about affordability requirements for the development, whether it be the BMR Program, Density Bonus requirements, other affordability requirements outlined under state law, or as a 100% Affordable Housing development. Include the Density Bonus letter, if applicable.*
- *The number, location, number of bedrooms, and square footage of the proposed market rate and affordable housing units and the basis for calculating the number of affordable housing units.*

- *A site plan depicting the proposed location and size of the affordable housing units within a Residential Development.*
- *The income levels to which each affordable housing unit will be made affordable.*
- *Replacement Unit and/or Relocation requirements, if applicable*
- *For a phased Residential Development, a phasing plan that provides for the proportionate development of Affordable Units in each proposed phase of development.*
- *Parking Plan*
- *Provisions for the approval of a marketing plan prior to the issuance of the first full building permit for the project.*
- *Alternative Means of Compliance, if applicable. The applicant shall identify the standard affordable housing units required, regardless of a request to use an alternative to meet the affordable housing requirement and provide supporting documentation for the alternative selected.*

An Affordable Housing Plan is not required for nonresidential projects paying impact fee. The City staff will review the submission to ensure that the project is meeting the relevant affordability requirements and BMR Program requirements, and to approve the Affordable Unit locations.

Location and Quality of Units

All Affordable Units in a project or phase of a project shall be constructed concurrently with market rate units, shall be dispersed throughout the project, shall not be distinguished by interior or exterior design, amenities, construction or materials. With the approval of the Planning Director, similar but less expensive appliances or other interior finishes or features may be used in Affordable homeowner units.

The distribution of the Affordable Units by bedroom type shall be comparable to the distribution of all units in the project by bedroom type. Units shall also be generally comparable in size to the market rate units and shall be spread throughout the buildings and have access to all amenities. In projects where the Market Rate Units all exceed 2000 square feet, the Affordable Units may be up to 20% smaller than the Market Rate Units.

Residents of Affordable Units cannot be charged more than the Maximum Affordable Rent or Affordable Ownership Cost to include the use of these facilities or amenities.

Parking

Parking must be allocated to BMR Units using the same procedure and same ratio as those allocated to market rate units within a Residential Development.

Bundled Parking

In projects where 1:1 parking is available and where parking for the market rate units is leased or

sold as a part of the rent or sales price, parking spaces shall be provided to the Affordable Units within the Maximum Affordable Sales Price or Maximum Affordable Rent..

All parking spaces granted to BMR Owners shall be resold or released with the Affordable Unit upon resale.

Unbundled Parking

In projects where parking is less than 1:1 and sold or leased separately for market rate units in a Residential Development, parking spaces shall be made available to BMR Owners or BMR Renters at the same ratio of parking spaces to all of the units the project overall.

BMR Owners or BMR Renters must be offered the opportunity to purchase or lease parking at the lowest market rate price offered to any buyer in the Project.

Affordable Housing Regulatory Agreement

An Affordable Housing Regulatory Agreement must be approved by the City Council and executed and recorded in a senior lien position prior to approval of any final or parcel map or issuance of a building permit, whichever occurs first. The City may require the project proponent to submit a preliminary title report to determine the acceptable lien position. If necessary, the City will provide a form subordination agreement to ensure the lien priority of the recorded restriction.

Please note that an Agreement is not required if the developer is only paying the required Affordable Housing Impact Fee. Payment of the Affordable Housing Impact Fee is required prior to the issuance of the first building permit for the development.

Delivery of Units

Affordable Units shall be delivered at the same time, or before, the delivery of the market-rate units. Where the project is being completed in phases, the delivery of the affordable units shall be delivered proportionately and outlined in the affordable housing plan. The City or its designee has the right to inspect the units before being leased or sold to an eligible occupant.

Chapter 4: Marketing and Resident Selection Plan

Do you have local preferences? If so have you conducted a disparate impact study?

Marketing Plan

Developer must submit a Marketing Plan which includes the marketing procedures, efforts to market to special needs groups, selection process and bi-lingual procedures to the City for review and approval prior to the start of marketing. The Developer must submit the plan for approval no later than six (6) months after the start of construction or such other time as approved in writing as part of the Affordable Housing Agreement.

The BMR Marketing and Resident Selection Plan must include, at minimum:

- Timeline of estimated unit completion and resident selection steps.
- Description of property management or sales team and contact information including leasing/sales office location and hours.
- Process for complying with fair housing laws and affirmative marketing actions. All materials must be provided, at a minimum in both English and _____.
Marketing should also prioritize outreach to local organizations serving moderate and low income households and households with special needs, including seniors, people experiencing homelessness, people with developmental disabilities, and others.
- For rentals: The developer is required to post the available Affordable Units on the regional Doorway listing service at <https://housingbayarea.mtc.ca.gov/> or such other site as may be requested by the City.
- Income verification process and other requirements for determining tenant eligibility, including application of the City's local preference policy, *(if applicable)*.
- Application process, including accommodation for those who need assistance in applying.
- Description of selection process: lottery, first come first served, etc.
- Notification of ineligible applicants and appeal process.
- Waitlist management and for rentals: process to select applicants upon future vacancies.
- Process to fill unleased or sold units vacant after 180 days of issuance of certificate of occupancy. Note that the Affordable Housing Agreement may include defaults and remedies if Affordable Units are not timely occupied or remain vacant for prolonged periods of time.
- Parking management plan.
- Copy of proposed lease (including all lease riders, attachments, and policies) or purchase agreement.
- Coordination with City staff for required approvals.

Please note that the Affordable Housing Agreement may include defaults and remedies if

Affordable Units are not timely occupied or remain vacant for prolonged periods of time.

Housing discrimination guidance can be found at <https://calcivilrights.ca.gov/housing/>

Local Preference

The City of _____ has established the following preferences for Affordable Units:

[list preferences]

At the initial application for the Affordable Housing, the Applicant shall self-attest to any preferences. Preferences will be verified as part of the eligibility determination process.

During the initial lease-up or sale of an Affordable Unit, if at least one member of the Applicant household meets a local preference, the Applicant shall have a preference for the Affordable Unit.

SAMPLE LANGUAGE:

Residency shall be verified through submittal of third-party documentation (a bona fide lease, a current California driver's license or identification card showing street address (not a post office box) of such residence, current California vehicle registration card, or gas/electric/water bills showing street address and Applicant's name as customer). If the Applicant cannot provide items listed above, an affidavit of residence is required. There is no duration of residency required.

Unhoused Applicants may show local residency by providing evidence of their last permanent residence in _____ or through documentation from a case manager or homeless service provider demonstrating current residency in _____.

Work location, either within _____ or within [School District] is verified through an employment verification form. Self-employed Applicants shall provide evidence of their operation of a business located in _____, with local permits or licenses as required, at time of BMR Program application. To be considered for this preference, paid employment must be for at least 16 hours per week, and the position requires at least two days a week on site within _____. Working in _____ does not include volunteer or unpaid work, or self-employment consisting solely of operating a business entity established solely for the purposes of investment in a rental property.

Accessibility Preference

If an Affordable Unit has accessibility features related to mobility, hearing impairment, or sight impairment, Applicants who can demonstrate a need for the features receive a preference for those units. The need for the specific accessibility feature or features must be documented by a doctor or nurse practitioner, though this letter does not need to spell out the specific health condition.

Chapter 5: Determining Eligibility

Prospective renters or buyers of any Affordable Unit governed by these Guidelines must be certified eligible for the BMR Program by the City prior to occupying or buying any Affordable Unit and are subject to annual monitoring of eligibility for as long as they continue to rent or own an Affordable Unit. The eligibility criteria for the BMR Program are set forth below. Prospective tenants or owners shall complete an eligibility application form and submit the necessary documentation needed to determine eligibility to the property manager or marketing team marketing the Affordable Unit. Applications that are incomplete will be returned to the applicant with a checklist of missing items and will not be reviewed further until all required items are included and it is deemed complete.

After initial review, the owner and/or property owner of the Affordable Unit shall submit the application package to the City, who may request additional information from the Applicant. If the application is complete, the City will review and provide the applicant with an eligibility determination letter within 10 days of receiving the application and the applicable fee as shown in Exhibit B: Administrative Fees.

Eligibility Criteria

The following are the eligibility criteria for Affordable Units. Applicants/Households must:

- Intend to reside in the home as their primary residence;
- Meet the income eligibility requirements for the unit being applied for;
- Meet any asset eligibility requirements
- Meet the occupancy standards for the unit being applied for;
- Not have a conflict of interest;
- Not own residential real estate;
- The household is not made up entirely of full-time students; and
- Purchasers of an Affordable Ownership Unit must be first-time homebuyer .
- Purchasers of an Affordable Ownership Unit must complete a homebuyer education course.

Primary Residence

The Household must intend to reside in the home as their sole and primary residence. By signing the application, the Applicant promises to occupy the Unit as their Primary Resident, and residency will be monitored annually.

Occupancy Standards by Unit Size at Initial Occupancy

The minimum occupancy standard for Affordable Units is one person per bedroom. The household size for an Affordable Unit may not exceed two persons per bedroom, plus one. For example, in a two- bedroom

unit, the maximum household size that could occupy the unit would be five (5) persons. Note that the occupancy standard differs from the household size used to determine the Maximum Affordable Rent. While certain types of live-in care givers are not considered a part of the household for income eligibility purposes, they would be considered a part of the household for determining the number of bedrooms required for a household. To qualify as a live-in aide, the City must verify the need for the live-in aide by obtaining a letter from the person’s physician, psychiatrist, or other medical practitioner or health care provider.

Unit Size	Minimum Household Size	Maximum Household Size
Studio	1	2
One-Bedroom	1	3
Two-Bedroom	2	5
Three-Bedroom	3	7
Four-Bedroom	4	9

Some households may qualify for a range of unit sizes (e.g., a 3-person household may qualify for a 1-, 2- or 3-bedroom) and may choose among those for which they qualify, assuming they can afford the unit. The marketing or leasing agent will review household size and notify Applicants of the unit sizes for which they are eligible. Any question about eligibility for a particular unit size shall be brought to the City to resolve.

Conflict of Interest

The following persons are ineligible to rent or purchase an Affordable Unit:

- All employees and officials of the City who have, by the authority of their position, have policy-making authority or influence over _____ housing programs.
- The developer of the Affordable Unit to be purchased or rented.
- An employee of the owner or management company managing an Affordable Rental Unit.
- The immediate relatives, employees, and anyone gaining significant economic benefit from a direct business association with public employees, officials, developers, or owners who are not eligible to purchase or rent an Affordable Unit.

Employees of the City of _____ who are not otherwise deemed ineligible under the above provisions must complete a Conflict of Interest Affidavit, signed by the Applicant and the City Manager.

Ownership of Residential Real Estate

Applicants that own their primary residence or other residential property that produces income are ineligible to get an Affordable Unit. If the property is a vacation home or other real estate that does not produce income, the equity will be imputed and included in the asset calculation.

Student Status

A household in which all occupants are full-time students is not eligible for an Affordable Unit. The

following exceptions may be made, in alignment with low income housing tax credits policy:

- A student receives assistance under Title VI of the Social Security Act (the Temporary Assistance for Needy Families (TANF) program);
- A student who was previously in the foster care program;
- A student enrolled in a job training program and receiving assistance under the Job Training Partnership Act or under other federal, state, or local laws; or
- The Household comprises a single parent and their children. Such parents must not be a dependent of another individual and the children must not be dependents of another individual other than their parent. None the participants (parent or children) can be dependents of a third party.

This provision only applies to purchase or lease-up, not to annual recertification.

Income Eligibility

To participate in the BMR Program, an Applicant's household income must be no greater than the allowed household income for the unit being applied for, by household size, as provided in Exhibit A to these Guidelines, which are adjusted annually. The income limits differ between rental and homeownership developments, and there may be more than one income limit within the same development.

For Affordable Rental Units, property managers may also set a minimum household income. The City recommends but does not require a minimum income ratio of 2.5 (rent multiplied by 2.5, then multiplied by 12 to determine the annual income). The minimum income requirement shall be included in the Marketing Plan. For Applicants with Housing Choice Vouchers (Section 8) or a similar long-term rent subsidy, there shall be no minimum income requirement.

Determination and Verification of Household Size

The Household size is defined as the total number of residents who intend to live together in the Affordable Unit. The Applicant must provide documentation outlining the current residency of the household members, such as tax returns, birth certificates, marriage certificates, and school records. Where documentation is unavailable or an Applicant household will include members not already living together, a signed affidavit by all adult household members will be required. If it is found later that a person named in the affidavit is not living in the Affordable Unit, the Household will be considered out of compliance. A household consists of all persons living together in the same housing unit, whether related or unrelated, over the age of 18, and dependents under the age of 18 who live with a member of the household 50% of the time or more, as indicated on a valid court custody documents and current school registration documents, and/or must be listed as a dependent child on that party's tax returns.

Households may also include the following:

- Temporarily Absent Family Members. The income of temporarily absent family members is counted towards the household income, regardless of the amount the absent member contributes to the household.
- Adult Students Living Away from Home. If the adult student is counted as a member of the household in determining the household size (to compare against the HUD income limits), the first \$480 of the student's income must be counted in the family's income. Note, however, that the \$480 limit does not apply to a student who is the head of household or spouse (their full income must be counted),
- Permanently Absent Family Members. If a family member is permanently absent from the household (e.g., a spouse who is in a nursing home, or incarcerated), the head of household has the choice of either counting that person as a member of the household and including income attributable to that person as household income or specifying that the person is no longer a member of the household.
- Unborn/Adopted Child. An unborn child can be counted in the household size once there is medical confirmation of the pregnancy. A child in the adoption process can be counted with verification of the adoption process.

The following are not considered part of the household for the purpose of determining income eligibility:

- Live In Aide/Children of Live In Aide: A live-in aide is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who is determined to be essential to the care and well-being of the person(s), is not obligated for the support of the person(s) and would not be living in the unit except to provide the necessary supportive services. To qualify as a live-in aide, the City must verify the need for the live-in aide by obtaining a letter from the person's physician, psychiatrist, or other medical practitioner or health care provider. The City will not require Applicants to provide access to confidential medical records or to submit to a physical examination. Income of a live-in aide is excluded from the household income.
- Foster Children/Foster Adult: Documentation from the relevant foster care agency is required to confirm this relationship.

Determination and Verification of Household Income

A household's income is defined as the projected combined gross annual income of all household members aged 18 and over. The definition of income shall be the same as the federal definition found in 24 CFR Part 5 (commonly known as the "Section 8" definition). As specified in 24 CFR Part 5, the income derived from any assets shall be included in the income calculation.

Income determination is based on the "Technical Guide for Determining Income and Allowances for the HOME Program" as updated from time to time by 24 CFR 5.603 and 5.609.

If units are governed by another program such as Low-Income Tax Credits or other programs that include affordability restrictions that have different procedures to determine income, those regulations shall apply.

A “snapshot” of the household’s current circumstances will be used to project future income. An assumption should be made that today’s circumstances would continue for the next 12 months unless guaranteed evidence to the contrary.

Income Inclusions and Exclusions

The following is included in the calculation of gross annual household income:

Included in Income Calculation	Documentation
Wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services, before payroll deductions	3 most recent months of pay stubs Most recent year’s complete income tax return
Net income from the operation of a business or profession or from the rental of real or personal property (without deducting expenditures for business expansion or amortization of capital indebtedness).	Most recent year’s complete income tax return plus a Self-Employment Affidavit
Interest and dividends	3 most recent months of bank statements
Payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts	Documentation showing the amount received each month
Unemployment, disability compensation, and severance pay	Documentation showing the amount received each month
Payments received as public assistance	Documentation showing the amount received each month
Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the home	Interlocutory decree which indicates specified payment or proof of non-payment (lien filed)/documentation showing amount received each month

Included in Income Calculation	Documentation
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 household or spouse	Copies of the last 3 months' paychecks or other verification of employment and income
Full Time Students over the age of 18	Earnings up to \$480. Copies of last 3 months' paychecks. Transcript/school registration that shows full time enrollment.

Staff reserves the right to request more documentation if the above information is not sufficient to give an accurate determination. In that case, up to 12 preceding months may be requested to determine income. Depending on the situation, additional documentation such as letters or affidavits may be requested as needed.

A written statement from the administrator of another government program under which the family receives benefits, and that examines the annual (gross) income of the family each year may be used as documentation of income in lieu of collecting the documentation described above. The statement must indicate the family size and its total gross income.

Tax Returns

The prior year's tax return is required from each adult household member to assist with income verification as a reference point for reasonableness. Tax returns and tax transcripts must be signed and dated by the taxpayer.

Since income is projected forward, taxes are not used for calculating income, except for self-employment income in some cases. If a household member does not file taxes, the household member must complete a non-tax filer affidavit and Form 4506-T to obtain a transcript or statement of non-tax filing.

Transcripts may be requested by mail, telephone or online. If the household member cannot produce a transcript or statement using the mail, phone or online methods, property management staff can witness the request by having the Applicant call, mail, or go online from the property management office.

Use www.irs.gov or the IRS2Go app to access [Get Transcript by Mail](#); transcript will be delivered within 10 days to the tax filer's address of record, or Submit Form 4506-T or 4506T-EZ to have a transcript mailed to the tax filer at the tax filer's address of record with the IRS. Complete and print the form at <https://www.irs.gov/forms-pubs/about-form-4506-t>. Call 800-908-9946 for an automated Get Transcript by Mail feature.

If the household member is still unable to produce a transcript or taxes, and property management staff can attest to witnessing the transcript request, a sworn statement of non-tax filer status will suffice in the file, along with a clarification of verification.

The following include items that shall not be considered income:

- Casual, sporadic, or irregular gifts.
- Amounts specifically for, or in reimbursement of, medical expenses.
- Lump-sum additions to family assets, such as inheritances, insurance payments, capital gains, settlement for personal or property losses (these are considered assets-see below).
- Amounts of educational scholarships paid directly to the student or the educational institution, and amounts paid by the government to veterans for use in meeting the cost of tuition, fees, books, and equipment.
- Special pay to a serviceman head of household away from home and exposed to hostile fire.
- Relocation payments.
- Foster child or foster adult care payment.
- Medicaid payments or other government agency caregiver payments to enable disabled family member to reside in family home.
- Amounts specifically excluded by state or federal statute from consideration as income. (see HUD guidebook:(https://www.hud.gov/sites/documents/DOC_10010.PDF).
- Rent subsidies provided by government programs, such as a Housing Choice Voucher (Section 8), short term rental relief, and other sources, are excluded from income.
- Payments for certain Volunteer Programs under Action Agency (VISTA, SCORE, etc.).
- Amounts received under training programs funded by HUD.
- Earnings in excess of \$480 for full-time students over age of 18.
- Income from employment of children under the age of eighteen.
- Income from live-in aide.
- Income and distributions from qualified tuition savings plans (ex. 529 accounts).

- Interest or dividends generated from IRS approved retirement funds.

Method of Calculating Income

Annual Income shall be calculated as follows:

Pay Stub Averaging. Determine the basis on which employees are paid (hourly, weekly, or monthly, and with or without overtime). Calculate the total of 3 months' worth of pay stubs and multiply by 4 to get an annual figure. Be careful of those who get paid "twice a month" which may be paid either twice a month (24 times a year) or every two weeks (26 times a year). An annual salary is counted as annual income regardless of the payment schedule. For example, if a teacher's annual salary is \$30,000, this is the annual income regardless of whether the teacher is paid over a nine- or 12-month period.

Year to Date Annualization. Irregular income such as tips, commissions, bonuses, overtime are annualized by taking total year to date and divide by how many weeks the total spans to calculate weekly average and multiply by 52 for annual amount. Alternatively, applicants can also provide documentation from the employer that describes frequency and amount of irregular income.

Variations in pay. For those whose annual employment is less stable or does not conform to a twelve-month schedule (e.g., seasonal laborers, construction workers), examine income documentation that covers the entire previous twelve-month period.

Self-Employment. Use the net income from the operation of a business or profession including self-employment income. Self-employment also includes contract work and “gig” work. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis. Those with self-employment income must supply the most recent year’s tax return and complete a Self-Employment Affidavit. The Self-Employment Affidavit shall be used to document projected net self-employment business income for the following 12 months. Additional documentation, such as business bank statements, may be requested to clarify income.

In addition to net income, owners must count any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, except when the withdrawal is a reimbursement of cash or assets invested in the business.

When calculating net income, owners must not deduct principal payments on loans, interest on loans for business expansion or capital improvements, other expenses for business expansion, or outlays for capital improvements.

If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.

Commercial Property Income. The net income or rent received from any commercial property or land owned by any applicant shall be calculated using the most recent year’s tax return.

Unemployment. Unemployed applicants submit an affidavit in place of pay stubs. Unemployment payments are considered income and should be annualized.

Interest and Dividends. Average 3 months of account statements. Additional information may be requested about any unusual deposits.

Regular Monthly Payments. Use stub or award letter to determine monthly payments such as Social Security, disability, pension, child support, etc., and multiply by 12. Count the total income before any deductions.

Calculating Income from Assets

Assets are defined as cash or non-cash items that can be converted to cash.

Assets have both a market value and a cash value. The market value of an asset is simply its dollar value on the open market. For example, the market value of a share of stock is the price quoted on the stock exchange on a particular day. A property’s market value is the amount it would sell for on the open market. This may be determined by comparing the property with similar, recently sold properties.

An asset's cash value is the market value less reasonable expenses required to convert the asset to cash, including penalties or fees for converting financial holdings. Any penalties, fees, or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value (e.g., penalties charged for premature withdrawal of a certificate of deposit, the transaction fee for converting mutual funds to cash or broker fees for converting stocks to cash), In the case of real estate, the cash value is the equity based on the market value less the unpaid balance of all loans and liens and all reasonable costs incurred to sell the unit.

Only the cash value (rather than the market value) of an item is counted as an asset. If more than one person owns an asset, the value of the asset should be prorated according to the applicant's percentage of ownership.

Assets include:

- Cash in accounts (checking and savings accounts, safe deposit boxes, and elsewhere)
- Cash value of stocks (including options), bonds, treasury bills, certificates of deposit, mutual funds, money market accounts, and revocable trusts
- Cash value of life insurance policy available to the individual before death
- Equity in real property or cooperatives
- Personal property held as an investment such as gems, jewelry, coin and art collections, antiques, and vintage and/or luxury cars
- Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements, gifts, and other amounts not intended as periodic payments
- Mortgages or deeds of trust held by the individual

The following Assets are included in the calculation of gross annual household income:

Type of Asset	Documentation
Checking Account	Copies of three most recent statements showing all deposits, interest earned and balances.
Savings Account, Mutual Fund/ Money Market Fund, Certificates of Deposit	Copy of statement(s) of current value
Stocks, including Options	Copy of statement(s) of current value; stock prices attach a copy of recent dated newspaper or online source that shows the value of each company's stocks
Bonds, including Savings Bonds	Copies of each and value
Life Insurance	Copy of policy and two most recent statements
Gift	Notarized gift letter
Personal Loan	Letter or loan agreement
Other	Third party documentation to verify the amount of the asset

Assets can generate income, and for the purpose of determining an applicant's income, the actual income generated by the asset (e.g., interest on a savings or checking account) is what counts, not the value of the asset.

Assets do not include:

- Company pension and retirement plans
- Dedicated education funds/savings accounts, such as 529 plan college savings accounts
- Funds dedicated to federally recognized retirement programs such as 401(k)s, 403(b)s, and IRAs or future/potential pension benefits or insurance proceeds held in accounts not currently owned and controlled by the applicant.
- Any assets not effectively owned by the applicant, i.e., when assets held in individual's name, but assets and any income they earn accrue to the benefit of someone else who is not a member of the household, and that other person is responsible for income taxes incurred on income generated by the asset
- Assets that are part of active business (not rental property).
- Necessary personal property including cars, furniture etc.

Imputed Income from Assets

When the total value of net household assets is \$50,000 or more (as adjusted by HUD annually) and the actual income from an asset cannot be calculated, the income can be imputed by applying the HUD passbook savings rate to the asset. (.045% starting January 2025). If the actual income from an asset cannot be determined and the total net household assets is less than \$50,000, do not impute the income of the assets.

Maximum Assets

Applicants that own their primary residence or residential real estate that produces income are ineligible for the BMR Program. If the property is a vacation home, or other non-income producing real estate, the equity will be imputed and included in asset calculation

For Affordable Units deed restricted exclusively by the City of _____, the following are the maximum asset limits:

- BMR Rental Units \$100,000
- BMR Ownership Units 50% of the Maximum Affordable Sales Price

The assets to be included or excluded are the same as used to calculate income from assets in the income eligibility section, above.

Eligibility Forms

Exhibit C lists the typical application forms used to document income and eligibility for BMR Program Applicants.

Dates on Forms

Forms prepared and/or signed after the effective date of certification shall be signed with the current date and include the following statement “True and Correct as of (insert effective date). The statement must be initialed by the Applicant(s). Backdating of forms is not permitted.

Application Changes after Submission

Changes to an application after submission are only allowed in the following limited circumstances:

- Removal of an applicant in the case of divorce or dissolution of marriage or domestic partnership;
- Addition of an applicant’s Spouse or Domestic Partner, a newborn child, or a new Household member in the case of a legal adoption or new legal guardianship (including foster children);
- Update of income qualifications, such as a new job or a job that has ended; and/or
- Correction of technical errors, such as current phone number or other non-qualifying information.

Applicants must ensure the completeness and accuracy of their application before submission. The City has sole discretion to approve any changes.

Applicant Appeals

Appeals of staff determinations based on these Guidelines must be in the form of a written request by the appellant. Appeal requests must be made in writing and must clearly state the basis for the applicant’s belief that an error was made in disqualifying the application or other decision. To ensure it is received in time, it is best to send an appeal request electronically, but it can also be sent through the US Postal Service. The appeal request must include supporting documentation that corrects the error. The request should be addressed to the Community Development Director. The City will work to respond to an appeal for reconsideration within five (5) business days from the date of receipt of the appeal request. If the appellant chooses to appeal the staff recommendation, the appeal will be forwarded to the City Council within forty-five (45) days for a final ruling. All City Council rulings on the appeal are final. The City may establish cost recovery fees for appeals.

Chapter 6: Rental Units Provisions

Pricing of Units

The Maximum Affordable Rent for a unit is based on the income limit and unit size and is set by the _____ and published each year. The current maximum rental payments are provided in Exhibit A and are updated annually. The Affordable Rents for the initial lease-up of Affordable Units must be approved by the City prior to marketing the Affordable Units. It is the responsibility of the developer and/or property manager to ensure that the Affordable Rents for the Affordable Units adhere to the project's Affordable Housing Agreement on an ongoing basis

The Affordable Rent amount includes rent, utilities, and any mandatory fees, as applicable. It is generally calculated as 30% of the income limit, adjusted for unit size, for the applicable income category. The Ordinance uses the Affordable Rent definition and calculation methodology set forth in State Health & Safety Code Section 50053 ("Health & Safety Code Rent"). However, the City may permit alternative Affordable Rent definitions and calculations to be consistent with pertinent State and Federal statutes and regulations.

Health & Safety Code Rents

Health & Safety Code Rents are calculated as follows:

- Extremely Low Income: 30% multiplied by 30% of Area Median Income (AMI) adjusted for appropriate household size, divided by 12
- Very Low Income: 30% multiplied by 50% of AMI adjusted for the household size, divided by 12
- Low Income: 30% multiplied by 60% of AMI adjusted for the household size, divided by 12
- Moderate Income: 30% multiplied by 110% of AMI adjusted for the household size, divided by 12

The utility allowance is the sum total of all values for utilities that are paid for by BMR Renters in addition to their rent as listed on the Utility Allowance Schedule issued annually by the County of San Mateo at <https://www.smcgov.org/housing/utility-allowance-schedules>. The utility allowance also must include other non-optional, mandatory fees, such as renter's insurance, garbage and sewer fees, required use of a computer application to pay rent, regular pest control charges, that are charged to all units in the complex. This also includes charges from the Ratio Utility Billing System (RUBS), in which a property uses a main meter but sub-charges individual units on the property for utility use. The actual costs shall be included in the Utility Allowance for the property.

Non-essential utilities are not included in the Utility Allowance. These include landline telephones, cable television, cell phones, internet, and any appliances not shown in the Utility Allowance Schedule published by the County of San Mateo.

Optional Fees

Optional services and fees are not included in the Maximum Affordable Rent, but these fees must be the same, or less than, the fees charged to BMR Renters in market-rate units. Such fees include

optional parking fees and pet rent. For projects that have unbundled parking where each unit is not guaranteed a parking spot, the Affordable Units must have equitable access to parking spaces and may be charged a parking fee in addition to the Maximum Affordable Rent. If all units in the project are offered parking spaces but are charged separate from the rent, the cost of the parking fee must be included in the utility allowance

Example: Maximum Affordable Rent Calculation

The following example shows a Health & Safety Code Rent calculation using the 2024 AMI for a Low Income, two bedroom unit. Assume tenant pays electricity for an all-electric unit, water, and renter insurance as required by landlord. Assume garbage and sewer are included in the rent.

Example: 2024 Low Income 2 Bedroom Apartment

Line	Calculation/Explanation		Amount
A	Assumed Household Size	# of bedrooms plus one	3
B	2024 Median Income	Based on Assumed Household Size	\$167,950
C	Annual Income used for calculating Monthly Housing Cost	60% of Area Median Income for a Household of 3	\$100,770
D	Annual Income Available for Housing	30% of Annual Income Line C	\$30,231
E	<i>Monthly Gross Income for Housing</i>	<i>Divide Annual Income Line D by 12</i>	<i>\$2,519</i>
F	Utility Allowance	Housing Authority of County of San Mateo Utility Schedule	
	Electric Heat		\$32
	Electric Cooking		\$13
	Other Electric		\$44
	Electric Water Heating		\$31
	Water		\$80
	Renter's Insurance		\$18
G	<i>Total Utilities</i>		<i>\$218</i>
H	Maximum Affordable Rent	Gross Income Line E less Utilities Line G	\$2,301

The property manager must submit the annual rents to the City for approval and must provide BMR Renters with 30 days' notice of any rent increase. Utility allowances should be calculated consistently from year to year unless there is a change in how utilities are paid or charged to BMR Renters. An explanation of any change from one year to the next must be documented by the property manager and submitted to the City.

Where a BMR Renter with a mobile rental voucher is housed in an Inclusionary or Density Bonus Unit, the maximum rental payment set by the City still applies, even if the maximum rent allowed for the housing voucher is higher.

Lease and Occupancy

Each BMR Renter shall be offered the opportunity to enter into a lease, which has a minimum term of one (1) year. If the tenant rejects the offer, such rejection must be in writing. The lease must list all members of the household. The lease must include a Lease Addendum signed by all adult household members and the agent for the Property that explains the requirements of the BMR Program, including:

- The affordability designation for the unit.
- The Affordable Unit must be the BMR Renter's Primary Residence, and they may not be sublet the unit as either a short-term or long-term rental.
- Annual recertification of household size and income requirements.
- The requirements for the Tenant's annual recertification including required documents and deadline for submitting completed forms and documents each year .
- A statement explaining what happens if the Tenant's income is over the limit for their unit.
- Terms of noncompliance which allow eviction if tenant does not submit all requested and complete recertification forms documents by the deadline, provides inaccurate, false or misleading documentation or information, or withholds information. Other defaults may include violation of occupancy restrictions and not following house rules.

OCCUPANCY RESTRICTIONS

Units shall only be occupied by the original eligible Applicant and household members. Subleasing or subletting shall not be permitted.

Ongoing Compliance

Procedures For Rental Of Existing Units

When an existing rental Affordable Unit is vacated, the owner shall rent to another eligible household following the procedures outlined in the Marketing Plan. Units shall be listed with Doorways, but in the event that service is not available the owner should select first from any existing waiting list of qualified applicants when making offers. If no one on the waiting list qualifies or is interested in the unit, then the owner must use the established marketing plan to solicit qualified applicants.

Recertification

The property manager shall annually re-certify each household for continued eligibility for the Affordable Rental Unit no later than the BMR Renter's recertification deadline (generally the first day of the anniversary of the month the BMR Renter moved in). Methods used to calculate annual income shall follow the methodology as set forth in these Guidelines unless superseded by another program due to funding, grant, affordability restrictions, or other regulation or agreement. The property manager is responsible for obtaining all required documentation when recertifying tenants and for maintaining these records. The City may request to inspect these records at any time. The property manager must retain records of all tenants of Affordable Units for a minimum of

3 years after the tenant has vacated the unit.

Annual Rent Increases

The setting of rent increases may be adjusted only once on an annual basis at lease renewal as spelled out in the Affordable Housing Agreement. Annual rent increases for Affordable Units are limited to the lower of the Maximum Affordable Rent by income level or 5%, unless otherwise limited by statute at the local, state, or federal level or as required by the financing entity for a property. Annual Rent increases must be reviewed and approved by jurisdiction

If a property owner rents an Affordable Unit during the 55- year affordability term at a rent higher than the Maximum Affordable Rent in violation of the Ordinance, the City will be entitled to receive from the owner the difference between the Maximum Affordable Rent and the actual rental amount of the Affordable Unit.

Notwithstanding anything to the contrary in the Ordinance, no Affordable Unit shall be rented for an amount which exceeds 90 percent of the actual rent charged for a comparable market-rate unit in the same Residential Development, if any.

Notice to BMR Renters

First notice: the first notice of annual recertification shall be sent at least ninety (90) days prior to the recertification deadline.

Second notice: if the BMR Renter does not respond to the first notice or has not completed submittal of all required documents and forms, the second reminder notice shall be sent at least sixty (60) days prior to the recertification deadline.

Third and final notice: if the BMR Renter does not respond to the second reminder notice or has not completed submittal of all required documents and forms, a third and final reminder notice of recertification shall be sent at least thirty (30) days prior to the recertification deadline.

Notice of non-compliance: if the BMR Renter has not responded to the three notices or has not submitted the required documentation or forms, a notice of non-compliance shall be sent on the day of or after the recertification deadline.

Each reminder notice must list the recertification deadline, the deadline for submitting all completed forms and documents, the forms and documents required, how to submit forms and documents, and property manager contact information, including email, telephone number, and office hours of the property manager. It is highly recommended that the property manager schedule an in-person appointment with the household members to collect forms and documentation and provide the BMR Renter with the opportunity to reschedule the appointment to another day and time during business hours.

Failure to Produce Income Documentation

If the income certification cannot be completed due to non-cooperation from the BMR Renter, incomplete, or inaccurate information, or the inability to verify information, the BMR Renter shall be deemed non-compliant. Absent procedures in the property's affordable housing restriction, the

BMR Renter shall be in-eligible for the Affordable Rental Unit, and the BMR Renter's lease on the Affordable Unit shall not be renewed, and if needed, the Owner may proceed with eviction proceedings.

Over Income BMR Renters

- If the tenant's household income exceeds the maximum allowed for the Affordable Unit by 10% or less, the tenant shall not be considered over-income and may remain in the unit at the same Affordable Rent.
- If the tenant's household income exceeds the maximum allowed for an extremely low, very low, or low income Affordable Unit by more than 10%, the tenant may remain in the Affordable Unit and be "graduated" to the next-highest income level provided on the property for which they are qualified. If their income exceeds 10% above the highest income level in the complex, the tenant may remain in the unit at a rental rate comparable to that of similar market-rate units at the property, and the unit shall no longer be considered an Affordable Unit. In either situation, owner shall designate the next available similarly sized unit as an Affordable Unit to bring the property back into compliance with the required number and affordability level of Affordable Units. This is referred to as the "floating unit" method.
- In each instance, the rent shall be adjusted six months after the recertification date. During this time, the Affordable Unit shall be considered in temporary noncompliance.

Under Income BMR Renters

If, at income recertification, the BMR Renter has fallen below the minimum income threshold set for initial rental of the Unit, they shall be allowed to stay in the Unit if they can continue to pay the rent. If there is another Affordable Rental Unit less expensive and appropriate for the household in size and income limits, the property manager should move the BMR Renter to that unit or place the BMR Renter on the waitlist for that Unit.

Change in Household Composition

Over time, it is normal for the members of a Household to change. BMR Renters must update their property manager of any changes in the Household. The process may be regulated by their lease as well as the Affordable Housing Agreement. If there is a departure from the Household that results in a Household size that is considered too small for the Unit, the Property Owner shall require the BMR Renter to move to a smaller affordable unit that is suitable for the Household when one becomes available.

If the change results in a larger Household, the property manager will need to recertify the income of the Household to assure that they continue to meet the income eligibility requirements. If the change in Household size is due to the addition of a child under the age of 18, no income recertification is required until the annual recertification. If the new household size is too large for the Unit, the property manager can move the BMR Renter to a more appropriately sized unit, when one becomes available.

Internal Transfers

Upon request of a BMR Renter, a property manager may transfer a BMR Renter from one Affordable Unit to another Affordable Unit. The BMR Renter, however, will need to be eligible for that unit if there is a change in the type of unit, either in bedroom size or in income limit. If the transfer is to a unit of the same bedroom type and income limit, the BMR Renter will not need to recertify their eligibility until their annual recertification.

Occupancy Violations

If the property manager can document that the BMR Renter is subleasing either short- or long-term or has allowed someone to live in the Unit without notifying the property manager, the BMR Renters shall be considered non-compliant. After notifying the City, the property manager can initiate eviction proceedings.

Notifications of Non-Compliance

The property manager of the Affordable Rental Unit shall copy the City on any notices of non-compliance sent to a BMR Renter. The property manager shall also notify the City of any evictions or non-lease renewals that result due to non-compliance.

Other Lease Violations

Where there is a lease violation not related to BMR Program eligibility, such as non-payment of rent, the property manager may initiate eviction proceedings as they would with a tenant in a market-rate unit and does not require prior authorization of the City. The property manager should notify the City of the intent to evict, however.

Changes In Management Or Ownership

The City shall be notified of any changes in management or Ownership within 30 days of change. These Guidelines shall be provided to any new management staff.

Annual Reporting

The property manager shall provide, by March 30th of each year, an annual report (in a form approved by the City) to the City containing the following information about the current BMR Renters in the Affordable Rental Units:

- Total Number of Affordable Units that are Occupied
- Total Number of Affordable Units that are Vacant
- For each Unit:
 - Unit Number
 - Bedroom Count
 - Income Limit of the Unit (AMI)
 - Current Income Limit of the Unit (\$)

- Name of the Head of Household
- Current Gross Rent
- Current Utility Allowance
- Current BMR Renter Payment
- Current Subsidy Payment (if any)
- Date of Most Recent Eligibility Certification
- Annual Household Income at Most Recent Eligibility Certification
- Household Size at Most Recent Eligibility Certification
- Date of Next Lease Renewal

Income certification and recertification files for each BMR Renter shall be include the following unless required otherwise for low income tax credits, bond, or other programs.

- BMR Renter Income Certification Form
- Income calculation worksheet(s), income and rent limits, and Utility Allowance Schedule for the household.
- Income forms and documents
- Asset forms and documents
- Child support forms and documents
- Student status forms and documents

These records must be maintained for a minimum of five (5) years.

MONITORING

The City may, at any time, request to review the records to verify compliance with BMR Program requirements and/or inspect the property or records associated with Tenant files or the BMR Program. City audits may be conducted at the property if requested by the City.

While the property manager does not need to supply the back-up documentation for the BMR Renter annual recertifications with the annual report, the City has the right to audit the files of the property manager to ensure that proper documentation is being maintained, and correct procedures are being followed. In addition, the City reserves the right to inspect affordable units to ensure they are properly maintained.

Annual Monitoring Fees

The City charges fees for implementation of the Affordable Housing Ordinance. For rental Affordable Units, the Annual Compliance Review and Monitoring Fee includes the review of annual reports and staff onsite inspections. Fee amounts may be changed from time to time by resolution of the City Council. The full list of up-to-date fees can be found on the City's Master Fee Schedule.

Expiration of Affordability Covenants

In addition to any requirements outlined in the Affordable Housing Agreement, state law sets out notification requirements for owners of properties where an affordability restriction is expiring. While these requirements do not apply to all properties, where they do apply, the City and BMR Renters are to be notified three years, one year, and six months before the expiration of affordability. The full text for Affordable Housing Preservation Laws are covered in Government Code sections [65863.10](#), [65863.11](#), and 65863.13 and additional information can be found from the State of California at <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>.

Chapter 7: Conversion of an Affordable Rental Unit to a Homeownership Unit

Notice to City

Once an Affordable Rental project is completed and occupied, a conversion from Affordable Rental Unit to an Affordable Ownership Unit must be done in accordance with state and local law. The owner of Residential Development shall inform the City no less than one year before the legal conversion of the unit is to take place.

The Affordable Unit must be in good physical condition as evidenced by a home inspection paid for by the owner and performed by a state-licensed and independent third party. The inspection should identify and describe physical deficiencies that could affect the health and safety, soundness, or structural integrity of the unit or inhabitants. All reported deficiencies that pose health and safety hazard or are the direct result of deferred maintenance must be corrected by the owner prior to final approval of the conversion.

Renter Right to Purchase

Unit owners must offer the opportunity to purchase the Affordable Rental Unit to the existing tenant before it is marketed for sale.

Existing tenants have at least one year from the time of official notice from the owner to exercise the right to purchase. The sales price for the existing tenant will be set the affordable housing cost for the maximum income allowed under the Affordable Housing Agreement. The existing tenant must be an eligible buyer as outlined in these guidelines. The gross annual household income of the tenant at the time of purchase shall not exceed the units' designated income maximum.

Sale to Other Qualified BMR applicant

If the existing tenant decides not to purchase the Affordable Ownership Unit, it will be priced in accordance with these guidelines, as set out for new Affordable Ownership Units. The owner and the City shall sign a new marketing plan, adhering to the marketing and lottery requirements outlined here. The prospective purchaser must meet all of the requirements of a the eligible applicant described in these guidelines.

Relocation Allowance

If the existing tenant decides not to purchase the Affordable Ownership Unit, the rental owner shall provide a relocation allowance to the current tenant that complies with relocation allowances required under the City's Condominium Conversion Ordinance even if a subdivision map was already approved at the time of construction.

Chapter 8: Home Ownership Provisions

Does jurisdiction have a preference or requirement that ownership units are sold to first time buyers?

General Requirements

First-Time Homebuyer (Optional)

Applicants must be a "First time Homebuyer" which means a person who has not owned a residential property during the three-year period before the purchase of a Affordable Unit regardless of whether the individual's interest in such property results in a financial gain, such property is in another state or country, or the whether the property was used as the primary residence.

Exceptions include:

- *An individual who owned a home with a former spouse or Domestic Partner during their prior marriage or partnership.*
- *An individual who has owned a principal residence that was not permanently affixed to a permanent foundation, according to applicable regulations.*
- *An individual who has owned a property that was not in compliance with state or local building codes, and which cannot be brought back into compliance for less than the cost of constructing a permanent structure.*
- *Timeshares.*
- *Loan co-signers from previous real estate transactions if the applicant was not on title and there was no financial gain to the applicant*
- *Acting solely as a trustee with no beneficiary interest for a trust that includes a residential property, subject to verification of income and assets from the trust.*
- *Being a named beneficiary of a trust that includes a residential property, but only if the trustor is living at the time.*
- *Ownership of shares in a not-for-profit limited equity co-op (rental income, if any, will be included when determining eligibility).*

Resale Restriction Documents.

BMR Owners must execute the City's Resale Restriction Documents which include the Resale Restriction with Option to Purchase, Deed of Trust, Promissory Note, Notice of Default, or other documents requested by the City. The Resale Restriction Documents include the BMR Program requirements including owner occupancy, prohibition of renting unit, maintaining unit and the procedures to sell the unit, refinance, transfer title and monitoring and compliance measures.

Owner Occupancy

The Affordable Unit shall be the owner's principal place of residence. To be considered as a principal place of residency, the owner shall live in the unit for at least 10 months out of each calendar year. In emergency or hardship situations, a temporary waiver may be granted on a case by case basis for a short period of time (generally a maximum of one year) by the City. The owner must submit a letter to the City requesting permission to rent their unit, the reason for the request with appropriate documentation and length of time requested. All rentals or leases must be pre-approved by the City. The unit shall be rented to a qualified tenant household at the same affordability level as specified in the BMR Owners Resale Restriction Documents. The City reserves the right to contact Homeowner Associations to discuss the

owner-occupancy status of BMR Renters. The City reserves the right to monitor and inspect the Affordable Unit for evidence of owner occupancy and require documentation as deemed necessary by the City.

Insurance

The owner must obtain and maintain a standard homeowner’s insurance policy, with the City named as an additional insured for the Affordable Unit. The owner must ensure that the City receives a copy of evidence of insurance on at least an annual basis.

Homeowner’s Exemption

The owner must continuously claim a homeowner's exemption for property taxes for the Affordable Unit.

Maintenance Of Home

The BMR Owner shall not destroy or damage the Affordable Unit and shall maintain the Affordable Unit in compliance with all applicable laws, ordinances and regulations and in a good and clean condition and all appliances shall be in good and working order.

Pricing Units

Initial Maximum Affordable Sales Price

The maximum initial sales price of the Affordable Unit shall be calculated by City staff and finalized when the affordable housing agreement between the developer and City is executed, using the assumptions outlined below. The following chart shows how the total monthly affordable housing cost is calculated by income category:

Income Category	Maximum Income (Percent of AMI)	Percent of AMI Used for Calculating Affordable Housing Cost	Percent of Income Used to Calculate Affordable Housing Cost
Very Low-Income	50%	50%	30% of Income
Low-Income	80%	70%	30% of Income
Moderate-Income	120%	110%	35% of Income

Assumptions

Once the total monthly affordable housing cost allowance from above is calculated, the following assumptions are used to determine the components of the monthly housing costs and establish the initial sales price.

- **Household Size:** The income for household size shall be the number of bedrooms plus one person, meaning one person for a studio, two persons for a one-bedroom unit, three persons for a two-bedroom unit, four persons for a three-bedroom unit, and five persons for a four-bedroom unit.
- **Downpayment:** Five percent.
- **Mortgage Term:** 30 years, amortized
- **Mortgage Interest Rate:** Two-year average, Freddie Mac Primary Mortgage Market Survey (<https://www.freddiemac.com/pmms>).

- Property Taxes: 1.1% of sales price divided by 12.
- Hazard Insurance: \$75
- Mortgage Insurance Premium (MIP): 0.55% of loan amount divided by 12. (- see *FHA calculator* https://www.fha.com/fha_requirements_mortgage_insurance)
- Maintenance: \$50
- HOA/Condo Dues: The estimated or actual dues proposed for the unit from developer.
- Utility Allowance: Schedule issued annually by the County of San Mateo at <https://www.smcgov.org/housing/utility-allowance-schedules>. Where the developer can provide estimates of actual utility costs, these estimates may be used. Adjust utilities as needed if construction includes significant energy efficiency features that decrease utility usage.

These may be updated by staff from time to time. See example below to show the methodology for calculating the Maximum Affordable Sales Price.

Example: Maximum Affordable Sales Price Calculation

The following example shows a Health & Safety Code Rent calculation using the 2024 AMI for a Moderate Income, two bedroom unit using the assumptions listed above.

Example: 2024 Moderate Income 2 Bedroom Condominium

Line	Income Available for Housing	Calculation/Explanation	Amount
A	Assumed Household Size	# of bedrooms plus one	3
B	2024 Median Income	Based on Assumed Household Size	\$167,950
C	Annual Income used for calculating Monthly Housing Cost	110% of Area Median Income for a Household of 3	\$184,745
D	Annual Income Available for Housing	35% of Annual Income line C	\$64,661
E	Monthly Income Available for Housing	Divide Annual Income line D by 12	\$5,388

Line	Monthly Housing Costs	Calculation/Explanation	Amount
F	Utility Allowance	San Mateo County Housing Authority Utility Schedule	\$325
G	Homeowner Association (HOA) Dues	Based on estimated or actual HOA fees	\$400
H	Property Maintenance Reserve	Estimate in addition to HOA dues	\$50
I	Property Insurance	Assume Condo Policy HO6	\$70
J	Property Taxes	1.2% of sales price	\$593
K	Mortgage Insurance Premium (MIP)	FHA rate based on LTV and loan amount (.55% of loan amt)	\$261
L	<i>Monthly Housing Cost (Before Mortgage Payment) Subtotal</i>		<i>\$1,699</i>
M	Income Available for Mortgage Payment	Monthly Housing Income less Monthly Housing Costs: Subtract Line L from Line E	\$3,689

Line	Mortgage and Sales Price	Calculation/Explanation	Amount
N	Interest Rate	Freddie Mac 24 month fixed-rate average	6.7%
O	Term (Years)	Industry standard	30
P	Loan Amount	Based on Monthly Income Available for Mortgage, Interest Rate and Term	\$569,994
Q	Down Payment	5% of Sales Price (rounded)	\$30,000
R	Maximum Affordable Sales Price	Downpayment plus Loan Amount (rounded)	\$600,000

Maximum Affordable Sales Price Upon Resale

NOTE: Determine how to calculate resale price based on policy and regulatory docs. Some programs use the same formula as the initial price. Others use an index such as increase in median income or CPI to apply to original sales price. The advantage of index is it is simpler to explain and is easier to understand by buyers.

Choose Option 1 or 2 below.

The City will calculate Maximum Resale Price for the Affordable Unit.

Option 1. The Maximum Resale Price shall be the lower of 1) Fair Market value, or 2) the price at which the owner purchased the Affordable Unit adjusted by the percentage increase or decrease in the area median income at 100 percent for a family of four in San Mateo County as established by HCD.

Option 2. The calculation of the Maximum Resale Price for the Affordable Unit will follow the same methodology as the calculation for the initial sales price. The City reserves the right to adjust the price so that the seller is not required to sell their unit for less than they purchased it.

Adjustments to Maximum Resale Price

This Maximum Resale Price shall include adjustments by the market value of any documented, permanent capital improvements (as defined below) to the Affordable Unit approved by the City. As a condition of obtaining City approval of such an adjustment, the owner shall present to the City written documentation of all expenditures made by the owner for which an adjustment is sought.

The Maximum Resale Price shall also include adjustments by the cost of Items necessary to put a Property into sellable condition shall be determined by the City or its designee, and may include cleaning, painting, and making needed structural, mechanical, electrical, plumbing, and fixed appliance repairs and other deferred maintenance repairs. The amount of the downward adjustment due to deferred maintenance shall be based on a pest control report, inspection report, or other reasonable estimate of repair costs.

Capital Improvements

The Maximum Resale Price may be adjusted to account for the depreciated value of eligible capital improvements made by the Owner to the unit.

To be eligible for the Maximum Resale Price adjustment, the capital improvements must be constructed with a building permit and be pre-approved by the City as an eligible capital expense. BMR Owners must submit capital improvement documentation to City within 6 months of the completion of the project. Upon receipt of a complete capital improvements claim, staff may arrange a site visit to inspect the completed project. Once the improvements have been verified, the City will send a written response to approve or deny the submitted capital improvements within 60 days of the original receipt. This information will be placed in the property file for use when the property is being sold.

- Eligible capital improvements are defined as substantial structural or permanent fixed improvements which cannot be removed without substantial damage to the residence or substantial or total loss of value of the improvements. The initial cost of the improvement must be at least \$2,000.
- Ineligible costs include cosmetic enhancements (such as paint, wallpaper, mirrors), installations with limited useful life spans (such as paint and flooring) and non-permanent fixtures (such as window treatments, shelving, portable appliances, lighting fixtures). Homeowners may undertake these projects at their discretion; however, they will not be given capital improvements credit.
 - The exception to this definition applies to kitchen and bathroom renovations. In those cases, flooring, paint and total cost of renovation will be considered and the depreciation schedule will be based on the entire project.
- The amount of such adjustment shall be based on the depreciated value of the improvements based on the cost and date of installation of the improvements and the type of improvement.
 - Depreciation shall be computed as shown by the Marshall Valuation Service (Marshall and Swift LP) or based on any other reasonable source as determined by the City.
 - The adjustments are calculated assuming items are in “good” condition. If at the time of sale these items show damages more than normal wear, they could be downgraded to low or average. “Excellent” will be considered upon inspection if the items are less than 5 years old.

Special Assessments

Special assessments initiated by a Homeowner’s Association that are for capital improvements, as defined above, will be added to the resale price of the home at the full amount of the special assessment paid by the BMR Owner. If the special assessment also includes non-capital improvements, the special assessment shall be prorated to only cover the capital improvement portion of the assessment. In order to receive credit for special assessments, homeowners must submit the following documentation within 6 months of payment:

- An invoice for the special assessment; and
- Itemization of the capital improvements included in the special assessment; and
- Proof of payment, such as a cancelled check, bank account statement or credit card bill.

Loan Requirements

Does city have its own specific requirements for underwriting (loan ratios, credit scores, etc?)

Loan Terms

The first mortgage used by the applicant(s) must be for no more than a 30-year term. Loans must also be fixed rate and fully amortizing. Balloon payments, negative amortization, adjustable and/or non-prime interest rate loans, prepayment penalties, and stated-income loans are prohibited. The City, in its sole discretion, may identify other prohibited loan characteristics.

Down Payment

The applicant must be able to make at least a 3 percent down payment from the borrower's own funds. The applicant's down payment funds must be held in an account in the applicant's name for at least six months prior to submitting this application. Funds used for the 3 percent down payment may not be used toward closing costs. The buyer is responsible for paying any applicable closing costs however, gift funds may be used for closing costs.

The maximum down payment shall be 50% of the Maximum Affordable Sales Price.

Gift Funds

The applicant may use gift funds that do not exceed 20 percent of the purchase price. Gift funds may not be used for the 3 percent down payment requirement. All gifts must be clearly identified in a gift letter which must be submitted with the application that includes the following:

- The amount of money being provided.
- The relationship of the gifter to the applicant.
- Statement, under penalty of perjury, that the applicant is not required nor expected to repay the funds, nor is the gifter to hold title for the property, in whole or in part, upon the close of escrow or in the future.
- Attached to the letter, the applicant must provide documentation of the funds to be gifted (e.g., most current account statements).

Title/Ownership

Affordable Units may be vested in any form as long as all adult members of the household are titleholders and appear on title as a fee owner for the Affordable Unit.

The City may grant exemptions at its discretion if warranted. Examples of reasons for an exception might be:

- A disabled person or elderly adult who is not capable of making major decisions for themselves. Another member of the household must have power of attorney for this individual.
- Legal dependents of titleholders as claimed on the most recent federal income tax return. Spouses or Domestic Partners are not considered dependents.
- Household members younger than the age of 24 who are the natural or adopted child of a titleholder, will reside in the Affordable Unit as their primary residence, regardless of being named as a dependent on the federal tax form of the titleholder.
- Recent immigrants with insufficient credit history as defined as a person who has been in the United States for 2 years or less as supported by entrance documentation or a sworn statement and lender documentation

Co-signing for a loan for Affordable Units by a non BMR household member is not allowed.

Home Buyer Education

Completion of a first-time homebuyer education course is required within 12 months prior to closing the purchase of an Affordable Unit. This course may be completed by one of the mortgage applicants. Approved courses can be found in Exhibit D “Approved Homebuyer Education Courses”.

Refinance, Subordination, Junior Liens

NOTE: Do you allow cash out as long as underwriting criteria is followed? Who prepares the Subordination Agreement? Also remember to file a new Request for Notice of Default for the new loan.

Refinance/Subordination

The City will agree to subordinate its lien to allow a refinance of the first lender deed of trust if the following conditions are met:

- The total principal amount of all secured loans against the property does not exceed the greater of:
 - ninety percent (90%) of the Restricted Resale Price calculated as of the date the request was made, or
 - the remaining balance of the original first deed of trust as of the date the request was made.
- If the remaining balance of the original deed of trust exceeds ninety percent (90%) of the Restricted Resale Price, then the refinanced first deed of trust must reduce the owner’s principal and interest payments.
- The refinanced first deed of trust is fully amortized with a fixed interest rate for a minimum of a five (5) year period, allows no negative amortization and requires no balloon payment.
- The total new housing cost to the owner after the refinance does not exceed the owner’s ability to pay and remains affordable to the owner.
- Payment of \$_____ for a subordination processing fee to the City.

The owner shall submit the subordination request using the form, Exhibit E “Owner Request for City Subordination to Refinanced First Lender Loan” along with a processing fee of \$_____. The applicant shall provide the City with sufficient time to collect and review the required documentation. City staff will process refinancing requests as quickly as possible but will not be liable for any loss to the owner as a result of any delay.

Junior Loans And Equity Lines Of Credit

Mortgage loans or equity lines of credit junior in lien priority to the City’s Resale Documents are not permitted, unless approved by the City in writing ahead of time. The City will only approve junior mortgage loans or equity lines of credit where the total of all debt secured by the home does not exceed ninety percent (90%) of the Restricted Resale Price calculated at the time of the owner’s request to refinance. The City will not approve any mortgage loan or equity line of credit which includes negative amortization.

Permitted Transfers

NOTE: This section needs to reflect the language in Resale Documents. Inheritance provisions vary widely.

Owners who wish to make changes to the title must first notify the City in writing prior to any changes to the title on the property. The homeowner must provide the City with notice of these permitted transfers at least fifteen days before they occur, except that if a transfer occurs due to inheritance or to the death of an owner, the City must be notified within 90 days. No permission from the City is required for the following transfers, but all owners of the Affordable Unit remain bound by the Resale Restriction Documents.

Transfer To Spouse, Domestic Partner, Or Co-Owner

- A transfer by an owner who marries or enters into a domestic partnership where the spouse or Domestic Partner becomes the co-owner of the property. An owner intending to add a spouse or Domestic Partner must submit their marriage certificate or Domestic Partner registration to the City for review. Adding a person as owner to the title, other than a new spouse or domestic partner, is prohibited unless permission is granted in writing by the City.
- A transfer between spouses as part of a dissolution proceeding, or between Domestic Partners as part of the dissolution of a domestic partnership. Owners must submit their dissolution documents to the City for review
- Upon the death of a co-owner, the City may require such co-owner to execute an addendum to City documents related to the BMR for-sale unit by which the co-owner shall assume the same rights and responsibilities with respect to those documents as the Owner

Transfer To A Trust

If owner want to place the home into a trust, a copy of the trust must be submitted to City for approval. No provisions of the trust may conflict with the provisions of the Resale Restriction Documents. City staff reserves the right to revise and request revisions to the provisions of any trust agreement before approving the transfer to a trust. If a trust is not approved by the City, it will be considered an ineligible transfer and considered a default of the Resale Restriction Documents.

Sample trust language: " The settlors real property commonly known as _____ (address) which is transferred to the trust, is subject to the terms and provisions of the _____ (title of Resale Document) dated _____ and recorded on _____ between City of _____ and _____ (owners), which is hereby attached and made part of ."

Transfer By Inheritance

If the owner dies and there is no surviving co-owner, an heir must provide written notice to City within 90 days of death and if the heir wishes to own and live in the unit, they must submit income documentation. If the heir is verified as income and asset eligible, they shall execute a new set of Resale Restriction Documents for a new 55 year term. If the heir is not income eligible, has assets that exceed the maximum allowed, or decides to sell the property, it must be sold to another eligible buyer in accordance with the provisions of the Resale Restriction Documents.

In the case of an heir who is a current household member at the time of the death of a titleholder, that heir shall be allowed one (1) year to live in the Affordable Unit before either qualifying to inherit it as a qualified income eligible purchaser household or resell it under the procedures. The heir shall only be entitled to receive the BMR owner's proceeds from said transfer.

Resale Process

Describe process to resell Affordable Units. Who markets/selects the new buyer- the City or a third party consultant, or does the homeowner? Is there a waiting list? This section needs to match the Resale Documents.

Sample language below assumes homeowner is responsible to select a realtor and market the Affordable Unit. This also assumes jurisdiction has the first right to purchase.

SAMPLE:

Owners of Affordable Ownership Units must notify the City of their intent to sell or transfer the unit before marketing (if any) occurs. The BMR Owner is responsible for the resale or transfer process. The City has the right to inspect the property and will determine the maximum resale price and will provide a maximum resale price certificate to the Owner, good for six months. The maximum resale price is dependent on the formula outlined in the property's resale restriction. Please note, that the Owner may not be able to achieve the Maximum Affordable Sales Price if no buyer is willing to pay that price, or there are adjustments to the price given the condition of the property. It is expected that the Owner will sell the unit to an eligible household, in habitable condition. Eligibility will be certified by the City, using the guidelines provided herein.

Notice of Intent to Transfer or Sell

- *Owner decides to sell and notifies City via a Notice of Intent to Transfer (NOIT).*
- *Within 30 days of submitting the NOIT, the owner:*
 - *Obtains and submits a pest inspection report to the City.*
 - *Allows the City to inspect the Affordable Unit to determine its physical condition. If requested by the City, this is followed by a home inspection report prepared by a licensed home inspector.*
 - *If the inspection reports identify a need for repairs, the owner is responsible for completing those repairs within 60 days of submitting the NOIT (or 2 weeks prior to close of escrow, whichever is sooner). Owner is responsible to ensure home is in good repair, free of code violations, and clean. All appliances, finishes and fixtures must be fully operable and free of defects or damage.*
- *Once all of the above information is provided, the City responds within 15 business days (City Response Letter). The City Response Letter will include the following:*
 - *The maximum qualifying income for an eligible buyer;*
 - *The certifications required of an eligible buyer; and*
 - *The Maximum Affordable Sales Price for the home.*
 - *Alternatively, the City has the first option to purchase the home, at a restricted price, and may elect to choose this option. The City will inform the owner if it will exercise its first option in the City Response Letter.*
- *Within seven (7) days of receipt of the City Response Letter, the owner acknowledges receipt in a form provided by the City.*
- *The owner shall retain a California licensed realtor after receiving the City Response Letter. The realtor will assist with marketing and buyer selection. The owner has 240 days from the date of the City Response Letter to market the Affordable Unit and find an eligible buyer. The realtor is required to make a good faith effort to market and sell the BMR for-sale unit. A good faith effort includes the following minimum:*
 - *Include the following information in advertisements for the home on MLS and other internet real estate listings:*

- *Notice that the home is a BMR for-sale unit*
 - *The maximum income limits for the buyer*
 - *The Maximum Resale Price*
 - *The date that a lottery will be held*
- *The owner and Listing Agent must make the home available to prospective buyers through open houses and individual showings.*
- *Direct interested buyers and their selling agents to the BMR Program Guidelines on City website*
- *The Listing Agent must keep the following records to be provided at the City's request:*
 - *A copy of the open house advertisement.*
 - *A screen shot or PDF of the MLS listing*
- *The owner must provide potential buyers with eligible buyer requirements and the City's form of disclosure statement summarizing the terms of the buyer's Resale Restriction Agreement that the buyer will have to execute. The owner must comply with the local preference requirements applicable to potential buyers, to the extent permitted by applicable law, including Fair Housing laws.*
- *If the owner receives applications from multiple eligible buyers meeting the local preference requirements, names shall be selected by lottery to develop a list. If the first potential buyer on the list does not purchase the unit for any reason, the owner shall go to the next name from the lottery list and continue down the list until a buyer is approved and closes escrow.*
- *The owner refers the potential buyer to the City or its designee for an eligibility determination. The potential buyer must meet all the eligibility criteria as outlined in the Resale Restriction Agreement. If, despite bona fide good faith marketing efforts, the owner is unable to identify an eligible buyer, the owner shall provide written notice to the City and follow the steps provided in the Resale Restriction Agreement.*
- *The owner submits the required information and documents to the City for review and approval, including:*
 - *Proposed sales contract and related documents that set forth the terms of the resale of the Affordable Unit*
 - *Financial information required of the buyer to determine income eligibility*
 - *Resale Restriction Agreement executed by the buyer*
 - *Title and escrow information*
 - *Other information requested by the City*
- *The City delivers a written acknowledgment to the owner and buyer indicating its approval of the resale of the Affordable Unit to the buyer.*

- *The City finalizes the documents required for the transaction. These documents will be provided to the title company for the buyer to sign at the close of escrow, along with the other documents associated with the transaction.*
- *Upon the close of the sale, owner and buyer provide the City certified copies of the recorded Resale Restriction Agreement, a copy of the final sales contract, settlement statement, escrow instructions, and any other documents that the City may request.*

If the owner does not follow the procedures outlined above or sells the Affordable Unit at an unrestricted (market) price, the owner shall pay the excess sales proceeds of the sale to the City, as provided in the Resale Restriction Agreement.

Monitoring

This section needs to reflect the terms of the Resale Restriction Documents

Participation in the BMR Program has the following requirements and restrictions, which are spelled out in the affordability covenants.

- The Affordable Unit must be the BMR Owner’s primary residence (owner-occupied) and remain occupied by the BMR Owner for the term of the deed restriction and may not be rented out or sublet.
- The BMR Owner is required to maintain adequate property insurance on the Unit.
- The BMR Owner will submit an annual certification, evidencing primary residency and insurance coverage

The City will annually mail owners a letter requesting documentation to show compliance with the requirements of the BMR Program. The letter from the City will include a list of the types of documentation required at that time, which will include a self-certification of occupancy and document(s) verifying owner occupancy which may include insurance statements, DMV vehicle license and registration documents, personal income tax forms, and utility or property bills, showing the BMR Owner’s name and the home address.

If the Owner or successor(s) fails to perform an annual certification within 90 days of receiving their annual letter, they may be fined \$1,000. The City shall continue to fine the owner or successor(s) an additional \$1,000 for every 30-day period that passes without resolution or response to the City’s requests. If unpaid by the owner, the City shall take steps to assess these fines as a special assessment against Affordable Unit.

Non Compliance

NOTE: This section needs to reflect the language in Resale Restriction Documents, which may vary by jurisdiction.

Default

If an owner violates the terms of the Resale Restriction Documents, the owner can be found to be in default of the agreement. The most common reasons for default include:

- Failure to occupy the property as the principal residence of the owner or renting the property without the City's permission.
- Non-permitted transfer of the property without notification to the City.
- Foreclosure on another deed of trust or mortgage.
- Bankruptcy.
- Misrepresentation when acquiring the Affordable Unit
- Placing an additional encumbrance on the property without City approval.

If any portion of the Affordable Unit is rented out, sold or otherwise transferred in full or part without prior City approval, the City may use all available legal remedies to bring the home into compliance, and/or impose any criminal or civil penalties allowed by law, including possible sale of the property and/or requiring Home owner(s) to reimburse the City for all rent that was collected in violation of BMR Program requirements, or the amount of any presumed rent, based upon prevailing market-rate rents for a comparable rental unit, or for any excess sale proceeds if the Affordable Unit is sold for a higher price than the Maximum Rate Price as explained further in the Resale Documents,

The City may institute any appropriate legal actions or proceedings necessary to ensure compliance with the BMR Program, including but not limited to curing of the default, forcing the sale of the unit and/or imposing any criminal or civil penalties, or City penalties or fees that apply. In the event the City must institute legal action to enforce the provisions of the resale documents, the City shall be entitled to recover its administrative costs, including reasonable attorneys' fees, in addition to any other remedy provided by the court.

Sample procedure: Generally, efforts will be made to cure the default before taking any legal action. Examples include, but are not limited to the following:

Example 1: The BMR Owner is found to not be occupying the unit as their primary residence: the City may 1) encourage the BMR Owner to re-occupy the Unit within 60 days, or 2) encourage the BMR Owner to sell the Unit to an Eligible Household.

Example 2: The BMR Owner leased the unit out for five months, more than the two-month allowance: the City will seek payment for the three months of collected rent, as a penalty, as allowed under the Deed of Trust and the Note.

The City shall notify the BMR Owner with a Notice of Non-Compliance, and remedies and deadlines for correcting non-compliance issues. BMR Owners who wish to appeal a notice of non-compliance must submit a request for appeal in writing to the City within ten (10) business days of receipt of the Notice of Non-Compliance. Appeals will be considered by the [Director], in coordination with the City Attorney. In the event of a denial the BMR Owner shall have the time specified in the decision to remedy the non-compliance specific to the circumstance.

BMR Owners that remain in a state of non-compliance for more than ninety (90) days after the date of a Notice of Non-Compliance or Denial of an Appeal of Non-Compliance or are notified by the City of non-compliance may be subject to fines or legal action.

Foreclosure

If the Affordable Unit goes into foreclosure, the City (pursuant to a subordination agreement with the first mortgage lender) shall have the same rights as the owner to cure the defaults and prevent foreclosure of the home.

Upon receipt of a Notice of Default from a mortgage holder on a Unit, the City will contact the BMR Owner and the lender to attempt to preserve the BMR Owner's ownership of the Unit. If the BMR Owner is unable to resolve the mortgage default, the City will work with the foreclosing lender to assure that the Unit is sold to an Eligible Household.

Exhibits can include sample forms, sample legal documents and/or program checklists.

Exhibit A

San Mateo County Income and Rent Limits, 2024

Maximum Income Limits						
Income Category (Percent of AMI)	Family Size 1	Family Size 2	Family Size 3	Family Size 4	Family Size 5	Family Size 6
Extremely Low Income (30%)	\$41,150	\$47,000	\$52,900	\$58,750	\$63,450	\$68,150
Very Low Income (50%)	\$68,550	\$78,350	\$88,150	\$97,900	\$105,750	\$113,600
Low Income (80%)	\$109,700	\$125,350	\$141,000	\$156,650	\$169,200	\$181,750
Median Income (100%)	\$130,600	\$149,300	\$167,950	\$186,600	\$201,550	\$216,450
Moderate Income (120%)	\$156,750	\$179,100	\$201,500	\$223,900	\$241,800	\$259,700

Income limits are adjusted annually by the U.S. Department of Housing and Urban Development.

Maximum Affordable Rent Payment					
Income Category (Percent of AMI)	Studio	One- Bedroom	Two- Bedroom	Three- Bedroom	Four- Bedroom
Extremely Low Income (30%)	\$1,028	\$1,101	\$1,322	\$1,527	\$1,704
Very Low Income (50%)	\$1,713	\$1,836	\$2,203	\$2,545	\$2,840
Low Income (80%)	\$2,742	\$2,938	\$3,526	\$4,073	\$4,544
Median Income (100%)	\$3,426	\$3,672	\$4,406	\$5,090	\$5,680
Moderate Income (120%)	\$4,111	\$4,406	\$5,287	\$6,108	\$6,816

Please note that these are maximum affordable rents including utility allowance for BMR Renter paid utilities. The utilities allowance is deducted from this rent schedule to calculate the actual rent charged to the tenant. Landlords may choose to rent at a lower rate. The City follows the County of San Mateo Utility Allowance Schedule, which can be found at

<https://www.smcgov.org/housing/utility-allowance-schedules>.

Exhibit B

Administrative and Monitoring Fees

All Fees Are Non-Refundable once paid, regardless of whether application or contemplated transaction is approved or denied.

Fee	Purpose	Amount

Note: Program fees may be adjusted annually upon adoption of the City's Fee Schedule. The most current fees are listed in the Fee Schedule, and are available online at the City website below, or upon request by calling the Housing Division at _____.

Exhibit C

Eligibility Forms

Staff shall use the most current forms available from the California Tax Credit Allocation Committee (CTCAC), as provided below, or substantially similar forms created by the City. CTCAC forms are available on the CTCAC website at <https://www.treasurer.ca.gov/ctcac/compliance.asp>. In addition, the application package shall include a calculation worksheet for each household showing how income was calculated for each household member.

Forms required for Income Certification of Applicants are listed below. Unless otherwise noted, one form is required for each adult household member. Forms marked by an asterisk are available on the CTCAC website at <https://www.treasurer.ca.gov/ctcac/compliance.asp>.

- Applicant Income Certification Form (one per household)
- Income Calculation Worksheet
- Applicant Income Questionnaire

The following forms are only needed where applicable to a specific household's circumstances:

- Self-Employment Affidavit (SEA)
- Family Contribution Affidavit*--
- Non-Employment Form* --
- Zero Income Certification Form*
- Non-Tax Filer Affidavit
- IRS Form 4506-T, <https://www.irs.gov/forms-pubs/about-form-4506-t>
- Under \$5,000 in Asset Certification Form, required if value of assets is < \$5000*
- Substantial Deposits form, (required if bank statements show multiple deposits over \$100 that are not disclosed on Income Questionnaire)
- Child or Spousal Support Affidavit*
- Live-In Aide Verification Form*
- Clarification Form
- Asset Verification Clarification Form

Dates on Forms: Forms prepared and/or signed after the effective date of certification shall be signed with the current date and include the following statement "True and Correct as of (insert effective date). The statement must be initialed by the Applicant(s). Backdating of forms is not permitted.

Application Changes after Submission: Changes to an application after submission are only allowed in the following limited circumstances:

- Removal of an applicant in the case of divorce or dissolution of marriage or domestic

partnership;

- Addition of an applicant's Spouse or Domestic Partner, a newborn child, or a new Household member in the case of a legal adoption or new legal guardianship (including foster children);
- Update of income qualifications, such as a new job or a job that has ended; and/or
- Correction of technical errors, such as current phone number or other non-qualifying information.

Applicants must ensure the completeness and accuracy of their application before submission. The City has sole discretion to approve any changes, and, except as mentioned in these Guidelines, will not permit any changes that affect the Household size, income or assets for qualifying purposes.

Requesting Additional Information Required for Eligibility: Additional information and documentation not listed in these Guidelines may be required to review an Applicant's eligibility to participate in the BMR Program.

Exhibit D

Approved Homebuyer Classes

Applicants are responsible for paying any required fees for attending the homebuyer class of their choice.

IN-PERSON OR ONLINE:

Project Sentinel

Located in Milpitas. Call (800) 339-6043 for updates on in-person classes. Classes currently available online: <https://www.housing.org/first-time-homebuyer-education>.

ONLINE CLASSES

Online Classes are available from the following non-profit housing counseling agencies, often in various languages:

<https://www.balancepro.org/workshops/>

<https://www.hometrek.org/>

<https://www.knowdebt.org/services/homebuyer-education-course/>

Other providers may also be available. If you have found a class you prefer from another provider, check with Housing staff to determine if it is HUD-approved and meets the BMR Program requirements.

Exhibit E

Subordination Request

Owner Request for City Subordination to Refinanced First Lender Loan

To: City
From: _____
Property Address: _____
Date: _____

The Owner hereby requests the Agency to approve the Owner's refinance of the existing first mortgage on the Property. The Owner provides the following information which it certifies to be true and correct:

1. Preliminary Title Report.
2. Signed Loan Application for New Loan.
3. Preliminary Loan Approval Document from New Lender that Describes New Loan Terms and Conditions.
4. Estimated HUD-1 Settlement Statement.
5. Prepared Subordination Agreement (to be executed by City upon approval).
6. Prepared Request for Notice of Default (to be executed by City upon approval).
7. Letter from owner to describe the reasons for refinance.
8. Copy of the current Homeowners Insurance Policy showing valid insurance dates and amounts and Listing the City of San Mateo as an Additional Loss Payee
9. The charge for the process and execution of the Subordination Agreement is \$_____ payable to the _____.

The Owner hereby certifies the above information is true and correct and this Owner Request is executed under penalty of perjury on _____(date).

By: _____

Owner

Exhibit F
City Contacts

BMR Program Requirements:

Development Review and Program Requirements: