City of Foster City
Below Market Rate Housing Program
Administrative Procedures and Guidelines for Property Managers

The following document contains the procedures and guidelines that apply to the Below Market Rate (BMR) Rental Housing Program of the City of Foster City (City). These procedures and guidelines, and other relevant information, including income limits and rents, may also be amended and updated from time to time.

1) Determining Eligibility

a) Income Limits

1) The City uses the income limits as established by the California Department of Housing and Community Development (HCD), except as provided below. These income limits are issued in the spring of each year, with the actual issuance date varying from approximately February to June. The income limits apply to various categories, including Extremely Low-Income, Very Low-Income, Low-Income and Moderate-Income. The income limits, and an explanation of the methodology used to develop them, are available at:
https://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml
(see the "Official State Income Limits").

2) The HCD income limits may be different than the income limits required by other programs that may affect a property, such as tax credits or bonds. The coordination of these requirements shall be as established by mutual agreement for each affected development and the City.

    (a) For the Marlin Cove and Miramar developments, the City and the owners have agreed that:
        (i) Initial occupancy shall be governed by the HCD income limits;
        (ii) Recertifications shall utilize the HUD HERA income limits.

b) Assets

1) Fosters Landing is the only property with a formally established asset limit. "…applicants under age 60 with assets over $80,000 are automatically ineligible for the program and applicants over the age of 60 with assets over $180,000 are automatically ineligible. For those applicants that do qualify, either 10% of the total value of an applicant's assets or the annual income derived from those assets, whichever is larger, will be added to the applicant's annual income." (Staff Report to the Community Development Agency, 2/7/94, pp. 1-2)

2) All other properties should calculate gross income in accordance with the requirements set forth in Title 25 CCR section 6914, including rules applicable to the applicant's net family assets (i.e. where applicant has net family assets in excess of $5,000, income shall include 10% of the total value of an applicant's assets or the annual income derived from those

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assets, whichever is larger – or – as required by the specific funding program for the property, such as tax credit or bonds.

c) Preference Categories

    1) Waiting lists, except as noted below, shall be sorted by Preference Category, as established by the City Council in Resolution 2020-24 (see Attachment B) to prioritize applicants as follows:

    1a. Persons who are currently living in a Below Market Rate deed restricted unit in Foster City, and have been so for at least twelve (12) months, whose unit is subject to termination of affordability restrictions within three (3) years;

    1b. Persons who live <u>and</u> work in Foster City;

    2. Persons who live in Foster City;

    3. Employees of the City of Foster City;

    4. Classroom teachers who are employees of the San Mateo-Foster City School District, the San Mateo Union High School District and the San Mateo County Community College District;

    5. Persons who work in Foster City; and

    6. All others who are income qualified.

    2) The Metro Senior Apartments development pre-dated the adoption of the Preference Categories and therefore they do not apply to the waiting list in that development. City staff will work with Bridge Housing at the time any amendments to their Agreement are considered to incorporate the Preference Categories into additions to the waiting list.

    3) The Fosters Landing development pre-dated the adoption of the Preference Categories but the "Second Amendment to Affordable Housing Agreement," adopted in 2009, requires that additions to the waiting list after October 5, 2009 shall be sorted by Preference Category as provided in Resolution 2000-123.

    4) Existing Unit Purchase Program uses the Preference Categories as provided in Resolution 2020-24 but also prioritize Very Low-Income and Low-Income applicants (see Attachment C).

    5) The City-owned 22 Workforce Housing Units uses the Workforce Preference Categories as established with the development.

**2) BMR Waiting List**

a) Application to the Waiting List

    i) At a minimum, the application shall include at least the information needed to determine income, the preference category, household size and contact information. The required data items are contained in the sample format for the waiting list (see Attachment D). The application may include additional information to conduct an initial eligibility screening. The application shall

include a statement that it is the applicant's responsibility to inform the Property Manager of any changes in address, phone number or email. The application shall include a statement that if the applicant provides false or misleading information, they may be considered ineligible. Several sample applications are provided which vary from including only basic information to the complete set of information that is required for a thorough eligibility review, including applicable requirements for other funding programs (see Attachment E). The Property Manager may have a preliminary application that contains only the basic information required to complete the waiting list or they may have a more detailed application if they want to conduct a more thorough screening at the time of application to the waiting list. It is strongly recommended that online portals are NOT used to make additions to the Waiting List in order to prevent duplicate entries and to allow the verification of Preference Categories.

    ii)   New applicants to the waiting list shall be placed into the appropriate preference category by their date of application.

    iii)   The burden shall be on the applicant to inform the property manager of any changes in status, such as household size, residence or employment location, contact information or other information. The property manager shall adjust the preference category if the applicant provides the appropriate documentation.

    b) **Format of the Waiting List**

        i)   A required format for the waiting list is attached (see Attachment D). The waiting list shall be kept in this format in an electronic spreadsheet. It includes the information that will be necessary in order to sort the waiting list by Preference Category. The Sort feature can be utilized to create a custom order list by Preference Categories: 1a, 1, 2, 3, 4, 5, and 6.

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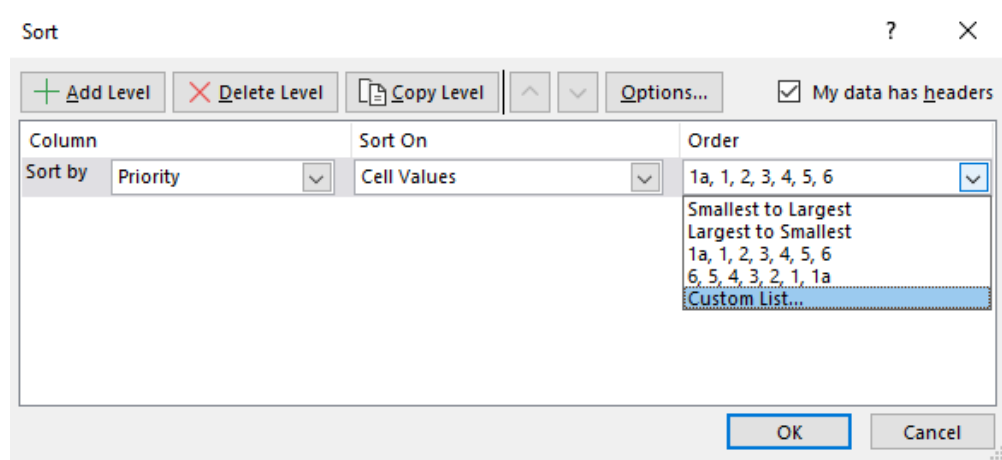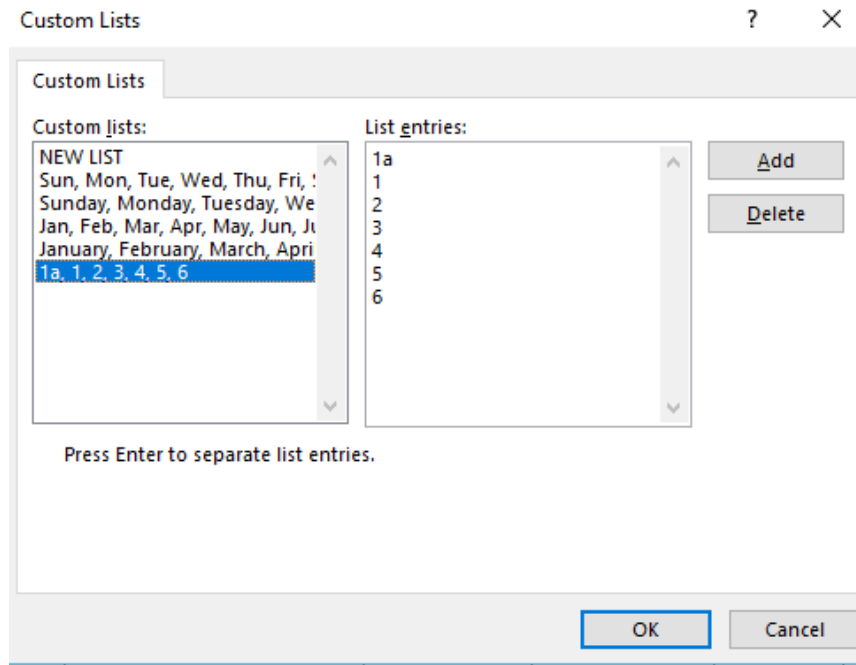
A filter may be applied for viewing the list or finding a specific applicant. A filter can be applied to hide the inactive applicants, while retaining their information in the event they later question why they were changed to inactive status. An electronic version of the waiting list in spreadsheet format is available from the Community Development Department. Property Managers may add columns for additional data items for any special program requirements or other uses if they wish. For example, Fosters Landing will add a column to note whether households include an elderly tenant in order to report the number of elderly households per their program requirements.

ii) Notes shall be kept in the waiting list spreadsheet to document all contacts and communications with the applicants, including the complete date and initials of the staff member. It is important to maintain these notes in order to verify and document appropriate use of the waiting list to fill vacancies and changes to an applicant's status.

iii) The waiting list shall be sorted by:
   1) Preference category
   2) Lottery number (if applicable)
3) Application date
c) Closing the Waiting List.
   i) The Property Manager shall discuss with City staff and obtain City staff approval to close the waiting list to new applicants. Waiting lists may not be open for some categories and closed for others.
   ii) The Property Manager shall discuss with City staff any plan to reopen a closed waiting list and obtain City staff approval for a marketing plan.

d) **Determining Preference Category**
   1) **Verifying residence in Foster City**
      (a) Property Managers are supplied with a map of Foster City that shows the City limits. Note that parts of the 94404 zip code are within the City of San Mateo. Property Managers should contact the Community Development Department with any questions about whether a property is within Foster City.

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(b) In order to be assigned a Preference Category as a resident of Foster City, at least one member of the household must be currently living in Foster City. There is no requirement for the duration of residence except that persons claiming Preference Category 1a which requires a minimum 12 months. Residency shall be verified by at least one of the following:

    (i) Two current utility bills (PG&E, water, phone, cable or garbage). If the applicant has recently moved and does not yet have utility bills, a lease agreement will be accepted.

    (ii) If the applicant cannot provide items listed in (i) above, then an Affidavit of Residence is required (see Attachment F).

2) Verifying work location in Foster City

(a) Property Managers are supplied with a map of Foster City that shows the City limits. Note that parts of the 94404 zip code are within the City of San Mateo. Property Managers should contact the Community Development Department with any questions about whether a property is within Foster City.

(b) At least one half of one household member's income shall be from employment within Foster City in order to qualify for the "works in Foster City" Preference Category and that paid employment shall be at least 16 hours per week. If the employment is a home occupation, the home address shall be a Foster City residence and the household member must also have a Foster City business license.

(c) Employment in Foster City must be based at a fixed address, not an itinerant type of occupation or temporary work assignment.

ii) Verifying employment with the City of Foster City

If an applicant states that they are an employee of the City of Foster City, the Property Manager shall contact the Community Development Department for verification.

e) Verifying self-employment income

A Self-Employment Affidavit (see samples in Attachment G) shall be used to document self-employment income, together with tax returns and other documentation. The Self-Employment Affidavit shall include a statement that providing false or misleading information may result in disqualification and be subject to prosecution. The City does not require that the form be notarized, but this may be required by other funding programs. The Property Manager should create a Self-Employment Affidavit for their property based on one of the samples provided, which may be submitted to the City for review.

f) Determining Household Eligibility for Units According to Number of Bedrooms

The minimum household size for occupancy of various size units varies somewhat based on the requirements of the applicable Affordable Housing Covenant. (See Attachment H summarizing Minimum/Maximum Occupancy Requirements.)

g) Annual Re-Application for Eligibility to Remain on Waiting List

Annually, the Property Manager is encouraged send a "purge letter" to ascertain whether the people on the waiting list want to remain on the list (see Attachment I). The letter shall state that no response will result in removal from the list. Applicants shall be given a minimum of 3 weeks to respond. If email is used as a

substitute for a mailed letter, a copy of the email shall be kept. If someone notifies the Property Manager via telephone that they wish to be removed from the waiting list, a follow-up letter shall be mailed to the applicant confirming their decision to be removed from the waiting list.

3) Renting a BMR Unit
a) Procedures for Notifying Applicants on Waiting List
1) When a unit becomes available, the Property Manager shall notify a group of applicants from the top of the waiting list and allow them not less than 7 days to respond. At the end of the 7-day response period, the respondent with the highest priority on the list shall move forward through the qualification process. If the #1a applicant wants the unit or if all the applicants ahead of someone have declined, there is no need to wait the 7 days.
2) The Property Manager may establish a policy to make an applicant inactive if they decline the offer of a unit three times. Any such policy shall be applied equally to all applicants.
3) The notification of applicants shall restart at the top of the list when a new vacancy occurs, except for applicants that have been notified within the past 30 days.

b) Documenting Tenant's Eligibility
1) Additional Information
Additional information and documentation may be required in order to review a tenant's eligibility to rent a unit.

2) Second-party vs. Third-party Verifications
The City does not currently require third-party verifications of income or other eligibility criteria. Third-party verification may be required by tax credit and/or bond programs or the property management. The City may choose to require third-party verifications for the units owned by the City.

3) Citizenship/Resident Alien Status Verification
Although at one time, the Agency required use of a Citizenship Verification Form, due to changes in the law, the City does not currently require verification of citizenship or resident alien status. No public assistance should knowingly be provided to unqualified citizens or aliens, however, for federally subsidized projects, citizenship verification should still be followed consistent with the federal requirements.

c) Determining Rents/Utility Allowances
The City's requirements for determining the maximum allowable rent are as follows:
1) Foster's Landing: rent shall be 30% of the household's gross income, with an allowance for utilities, but shall not fall below the rent minimums.
2) Existing Unit Purchase Program: rent shall be 30% of the household's gross income, with an allowance for utilities, but shall not fall below the rent minimums.
3) Marlin Cove, Miramar, Metro Senior Apartments and Pilgrim-Triton: maximum allowable rent shall be 30% of the income limit for the applicable income category as established by HCD, with an allowance for utilities. For a one-bedroom unit, a household size of 2 shall be assumed; for a 2-bedroom unit, a household size of 3 shall be assumed, and for a 3-bedroom unit, a household size of 4 shall be assumed (see attached sample calculations for Miramar and Marlin Cove).

4) Workforce Housing:For the very low-, low- and moderate-income units, the calculations are the same as for the developments in #3 above. An additional category of "workforce" is included with rents calculated at 30% of 130% of AMI, but these may need to be set lower to be lower than market rate.

5) Utility allowances shall be as established by HUD for San Mateo County, as amended from time to time (see Attachment J).

   (a) Copies of the utility allowances for San Mateo County are available online at http://housing.smcgov.org/utility-allowance-schedules.

   (b) If renters insurance is required to be purchased by the tenant, then an appropriate allowance for this shall be provided.

   (c) Copies of the utility allowance worksheets showing how the allowances were calculated should be stored in the "Files" section for each property.

   (d) There are no restrictions in the California Housing regulations on the timing of adjustments to utilities allowances. BMR Managers therefore have the following options to implement new allowances when they are issued: (1) begin using the new allowances and recalculate rents immediately, (2) make adjustments as tenants are recertified and leases are renewed, or (3) make adjustments later in the year when the new HCD income limits are published and rents are reset.

6) For properties with multiple regulatory agreements setting forth different methods to calculate maximum allowable rent, the lowest rent of the applicable calculation methods shall be used as the maximum allowable rent.

7) Property Managers may charge less than the maximum allowable rent.

4) Annual Re-Certification
The Property Manager shall annually re-certify each household for continued eligibility in the program.

a) **Documentation for Re-Certification**
   Once a tenant submits their documentation for recertification, they may not amend it.

b) **Changes in Occupancy**
   A change in the number of occupants in the household may change the size of the unit for which the household is qualified. If the household no longer qualifies for the size unit they are renting, they shall be given at least a 60-day warning at the time of recertification that when an appropriate sized unit becomes available, they will be given a 30-day notice to move into such appropriate sized unit. Until an appropriately sized unit becomes available, they may stay in their current unit. If the tenant's household exceeds the maximum size limit for their unit and no appropriately sized larger unit exists in the development, the tenant shall be given a 90-day notice to vacate unless City determines that allowing additional time to comply is warranted.

c) **Changes in Income/Assets**
   1) The tenant's income and assets shall be reviewed annually during recertification to verify that they continue to qualify for the program. For Foster's Landing and City-owned units, a change in income will result in a re-calculation of the rent.

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2) For the City-owned units, tenants who have an income that exceeds the Low Income limit will be given a 60-day notice to vacate. At the discretion of the City, an additional thirty (30) day extension may be granted.

3) For very low- and low-income units, if a tenant's income exceeds the income limit, they will be "graduated" to the next higher affordability level provided on the property for which they are qualified. The next available similarly sized unit will be utilized to bring the development back into compliance with the required number and affordability level of units.

4) If a tenant's income falls below the income limit for a lower affordability category, they may go on the waiting list in the appropriate preference category and application date for a unit of a lower affordability level.

5) For all other units, to the extent allowed by applicable law, including Section 42 of the Internal Revenue Code and TCAC regulations, if a tenant's income exceeds the Moderate Income limit, they will be "graduated" from the BMR program and charged market rent. The next available similarly sized unit will be utilized to bring the development back into compliance with the required number and affordability level of units.

d) **Changes in Income Limits**
In cases where the income limit established by HCD is lower than the prior year, and the tenant's income would continue to qualify under the prior year's income limit, the tenant will be deemed to comply with the income requirements.

e) **Changes in Rent**
Any changes in rent shall take effect upon recertification at the time the tenant's lease is renewed or January 1, at the discretion of the Property Manager. The rent established at the time of recertification or each January 1 shall be calculated as provided in Section 3(c) above.

5) **Annual Reports**
a) **Use of Housing Compliance Software**
Property Managers shall use the Housing Compliance software to file their reports with the City. Instructions for uploading a report are attached (see Attachment L).

b) **Submission of Waiting List to City**
At the same time as the Property Manager submits a report to the City, an up-to-date version of the waiting list shall also be submitted by email in an electronic spreadsheet format.

c) Submission of Utility Allowance Worksheets to City.
At the same time as the Property Manager submits a report to the City, a current Utility Allowance Worksheet shall be submitted.

6) **Property Manager Administration**
a) **Retention of Records**
Owners must maintain records for at least 7 years that document the compliance of their BMR rental properties with the City's requirements. These records must also support the accuracy of the reports that Property Managers submit to the City. Required records include documentation related to tenant income verifications, unit rents, and affirmative marketing.

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    b) City Audits and Monitoring
The City may, at any time, request to review the records to verify compliance with program requirements and/or inspect the property. City audits may be conducted at the property if so requested by the City.

    c) Changes in Management and/or Ownership
The City shall be notified of any changes in management or ownership. These Guidelines shall be provided to any new management staff.

    d) Expiration of Program Restrictions – Tenant Notification
At least two years prior to the expiration of program restrictions, the Property Manager shall begin a discussion with the City regarding procedures for tenant notification.

7) Use of HUD Guidelines for Items Not Covered in City's BMR Guidelines
For items not covered in these Guidelines, the HUD regulations/guidelines for below market rate housing management shall be considered a reasonable best practice. These are contained in the U.S. Code of Federal Regulations and provided on the website of the U.S. Department of Housing and Urban Development at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/4350.3

8) Attachments/Sample Forms
A. Sample Report: HUD Income & Rent Limits
B. Preference Categories - Resolution 2020-24
C. Preference Categories for City-owned units
D. Sample waiting list
E. Sample Applications
F. Affidavit of Residence
G. Sample Self-Employment Affidavits (2)
H. Summary of Minimum/Maximum Occupancy Requirements
I. Sample Purge Letter
J. Sample Rent Calculations (2)
K. HUD Utility Allowances: available at http://housing.smcgov.org/utility-allowance-schedules
    a. Apartment/Condo/Duplex
    b. Detached House
L. Instructions for Housing Compliance software: https://www.housingcompliance.org/faq-help/