

Inclusionary Affordable Housing Program Monitoring and Procedures Manual

CITY AND COUNTY OF SAN FRANCISCO

MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT



One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
(415) 701-5500
www.sfmohcd.org

Effective Date: October 11, 2018

Table of Contents

- I. INTRODUCTION 1
 - A. What is the Inclusionary Housing Program? 1
 - B. How is the Affordable Housing Fee Calculated? 1
 - C. What is the Purpose of this Manual? 2
 - D. How Does this Manual Relate to Other Documents? 2
 - E. What if the Requirements in These Documents Conflict? 2
 - F. What are the consequences of not following the policies and procedures in this Manual? 3
 - G. Is there a limitation to information I have to provide to MOHCD? 3
 - H. Will my information be shared with outside agencies? 3
 - I. Where can I find the definitions of some of the terms used in this Manual? 3
- II. DETERMINING PROGRAM PARTICIPANT HOUSEHOLD SIZE AND ELIGIBILITY 4
 - A. Definition of Household 4
 - B. Minimum and Maximum Household Size 4
 - C. Non-homeowner/First-time Homebuyer Requirement 5
 - D. Non-Student Household Requirement 5
 - E. Immigration Status 6
- III. DETERMINING INCOME AND ASSETS 7
 - A. Income Sources 7
 - 1. Income Inclusions 7
 - 2. Income Exclusions 8
 - 3. General Income Information and Regulations 8
 - B. Calculating Baseline Household Income 11
 - 1. Method #1: Calculating Current Total Annual Income 11
 - 2. Method #2: Calculating Last Year’s Income 14
 - 3. Income Increase Tolerance and Re-Calculation Criteria 15
 - C. Determining Assets 15
 - 1. Liquid Assets 15
 - 2. Gifts 15
 - 3. Retirement Accounts 16

| | | |
|-----|---|----|
| 4. | Annuities | 16 |
| 5. | Lump Sum Receipts..... | 17 |
| D. | Asset Test (Income Calculated from Assets)..... | 17 |
| 1. | Standard Asset Test | 17 |
| 2. | Asset Exemption for Seniors | 18 |
| E. | Total Qualification Income..... | 18 |
| IV. | BELOW MARKET RATE (BMR) OWNERSHIP PROGRAM | 19 |
| A. | Qualifying to Purchase a BMR Unit..... | 19 |
| 1. | Income Requirements..... | 19 |
| 2. | Title Requirements..... | 20 |
| 3. | Mortgage Readiness | 21 |
| B. | Applying for a BMR Ownership Unit | 21 |
| 1. | Before Applying for a BMR Unit..... | 21 |
| 2. | Lottery Application..... | 22 |
| 3. | Housing Lottery..... | 22 |
| 4. | Submission of a Full BMR Application..... | 23 |
| 5. | Application Changes after Submission..... | 23 |
| 6. | Inability to Find an Eligible Household..... | 24 |
| 7. | Inability to Obtain Financing..... | 24 |
| 8. | Sales Contract and First Mortgage Financing | 25 |
| 9. | MOHCD Final Approval | 29 |
| 10. | Closing the Sale | 29 |
| 11. | Documents that Enforce Program Restrictions | 30 |
| 12. | Post-Purchase Education | 31 |
| C. | Requirements of Owning a BMR Unit..... | 32 |
| 1. | Owner Occupancy..... | 32 |
| 2. | No Renting | 32 |
| 3. | Maintenance | 33 |
| 4. | Insurance..... | 33 |
| 5. | Annual Monitoring..... | 33 |
| 6. | Title Changes..... | 33 |

| | | |
|-----|--|----|
| 7. | Refinancing a BMR Unit | 35 |
| 8. | Default and Foreclosure..... | 36 |
| D. | Reselling a BMR Unit..... | 36 |
| 1. | Notice of Intent to Sell | 36 |
| 2. | Maximum Resale Price..... | 37 |
| 3. | Cost Reimbursement (Capital Improvements) in Resale Price | 37 |
| 4. | Marketing at Resale | 39 |
| 5. | Lottery Process..... | 40 |
| 6. | Closing..... | 40 |
| V. | BELOW MARKET RATE (BMR) RENTAL PROGRAM..... | 41 |
| A. | Rent and Income Levels | 41 |
| B. | Permissible Reasons for Project Owners to Deny BMR Renter Applicants | 42 |
| 1. | Inability to Pay Rent | 42 |
| 2. | Credit..... | 42 |
| C. | Application Process for BMR Rental Units | 43 |
| 1. | Application, Marketing, and Lottery | 44 |
| 2. | Full BMR Rental Program Application..... | 44 |
| 3. | Fees for Applying..... | 45 |
| 4. | Alternative Contact | 45 |
| 5. | Changing an Application after Submission | 45 |
| 6. | Affordable Rents | 46 |
| 7. | Rent Subsidies | 47 |
| 8. | Additional Fees or Rent Required of Renters | 48 |
| 9. | Application Approval and Disqualification..... | 48 |
| 10. | Applicant Appeals | 48 |
| D. | Restrictions on BMR Rental Units and Renters..... | 48 |
| 1. | Occupancy..... | 49 |
| 2. | No Subletting | 49 |
| 3. | Household Size | 49 |
| 4. | Household Changes..... | 49 |
| 5. | Transferring BMR Rental Units | 49 |

| | | |
|-----|--|----|
| 6. | Rental Unit Maintenance | 50 |
| 7. | Annual Recertification..... | 50 |
| E. | Lease Requirements for BMR Rental Units..... | 50 |
| 1. | Unit Selection..... | 50 |
| 2. | Lease | 50 |
| 3. | Lease Execution and Commencement..... | 50 |
| 4. | Minimum Term and Early Lease Termination..... | 50 |
| 5. | Household Members on the Lease | 50 |
| 6. | Deposit Requirement..... | 51 |
| 7. | Late Payment Fees | 51 |
| 8. | Third Party Notice | 51 |
| F. | Annual Monitoring and Recertification of BMR Rental Units..... | 51 |
| 1. | Annual Renter Household Recertification | 52 |
| 2. | Allowable Income Increases upon Recertification..... | 52 |
| 3. | Permissible Rent Increases for BMR Rental Units | 52 |
| G. | Eviction or Non-renewal of Lease for BMR Rental Units | 52 |
| 1. | Non-renewal of Leases..... | 52 |
| 2. | General Procedures for Non-renewal of Lease..... | 53 |
| 3. | Eviction Procedures | 53 |
| H. | Renovation of BMR Rental Units | 53 |
| VI. | DEVELOPER REQUIREMENTS | 54 |
| A. | Developer Project Approval Process..... | 55 |
| B. | Requirements for both On-Site and Off-Site Units | 56 |
| 1. | Size of BMR Units..... | 56 |
| 2. | Marketing and Lotteries..... | 56 |
| 3. | Preferences | 56 |
| 4. | Timing..... | 56 |
| 5. | Document Retention Policy | 57 |
| C. | Additional Requirements for Developing On-Site BMR Units | 57 |
| 1. | Equivalency of Units..... | 57 |
| 2. | Public Subsidies..... | 57 |

| | | |
|----|---|----|
| 3. | Local Density Bonus (HOME-SF)..... | 58 |
| 4. | State Density Bonus | 58 |
| D. | Additional Requirements for Developing Off-Site Units..... | 58 |
| 1. | MOHCD and Planning Pre-Approval | 58 |
| 2. | Location..... | 58 |
| 3. | Delivery of BMR Units | 58 |
| 4. | Equivalency of Units..... | 58 |
| 5. | Public Subsidies..... | 59 |
| E. | Quality Standards for Off-Site Inclusionary Housing | 59 |
| 1. | Square Footage | 59 |
| 2. | Unit Mix..... | 59 |
| 3. | Room Sizes | 59 |
| 4. | Minimum Required Kitchen Amenities..... | 59 |
| 5. | Minimum Required Bath Amenities | 60 |
| 6. | Closet Requirements..... | 60 |
| 7. | Laundry Requirements..... | 60 |
| 8. | Zoning Administrator Discretion..... | 60 |
| F. | Compliance Through Land Dedication In Eastern Neighborhoods | 61 |
| 1. | Initial Planning Department Review of Project..... | 61 |
| 2. | MOHCD Review and Recommendation | 61 |
| 3. | Required Materials..... | 62 |
| 4. | Approval Letter and Conditions | 63 |
| G. | Pricing New BMR Units | 65 |
| 1. | Pricing and Maximum Income Levels | 65 |
| 2. | Income Table..... | 65 |
| 3. | Pricing Request Process | 65 |
| 4. | Pricing BMR Ownership Units | 66 |
| 5. | Unit Upgrades for BMR Ownership Units | 66 |
| 6. | Establishing Initial Rent Levels for BMR Rental Units | 67 |
| H. | Parking for BMR Ownership and Rental Units | 67 |
| 1. | Number of Parking Spaces | 67 |

| | | |
|-------|---|----|
| 2. | Price of Parking Spaces | 67 |
| 3. | Parking Selection..... | 69 |
| 4. | Bike Parking..... | 69 |
| I. | Marketing New BMR Units | 69 |
| 1. | Goal of Marketing and Outreach Requirements | 69 |
| 2. | Minimum Qualifications for Marketing Firms..... | 70 |
| 3. | Marketing Timeline | 70 |
| 4. | Marketing Meetings & Trainings..... | 71 |
| 5. | Advertising and Community Outreach | 71 |
| 6. | Fair Chance Ordinance | 72 |
| 7. | Marketing Plan Content..... | 72 |
| J. | Conversion of BMR Rental Units to Ownership Units..... | 73 |
| 1. | BMR Renter Right to Purchase..... | 73 |
| 2. | Sale to Other Qualified BMR applicant | 74 |
| 3. | Relocation Allowance..... | 74 |
| VII. | CHANGES IN PROPERTY MANAGEMENT OR OWNERSHIP OF BMR UNITS..... | 75 |
| VIII. | OTHER PROGRAMS AND UNITS GOVERNED BY THIS MANUAL | 76 |
| A. | Density Bonus Programs | 76 |
| 1. | State Density Bonus | 76 |
| 2. | HOME SF | 76 |
| B. | Planning Code Section 124(f) Middle Income Housing units..... | 77 |
| 1. | Eligible Projects..... | 77 |
| 2. | Restricted Income Units..... | 77 |
| 3. | Income Tiers/Income Mix | 77 |
| 4. | Affordability Period..... | 77 |
| 5. | Combination with Other Density Bonus Programs..... | 77 |
| C. | Condo Conversion Below Market Rate Program Units..... | 78 |
| D. | Replacement Units..... | 78 |
| IX. | DEFINITIONS..... | 79 |

I. INTRODUCTION

A. What is the Inclusionary Housing Program?

There is a need for housing in San Francisco that is affordable to low, moderate and middle-income Households, as those terms are defined in the San Francisco Planning Code (“Planning Code”). To meet this need, the City and County of San Francisco (“City”) has adopted the Inclusionary Housing Program (“Program”) as set forth in Sections 415 through 415.11 of the Planning Code.¹ The Program requires all developers of market rate housing (Project Sponsor or Project Owner) to create housing (referred to as “Below Market-Rate Units,” or “BMR Units”) that is affordable to qualifying Households by:

- Paying an Affordable Housing Fee (Section 415.5); or
- Building BMR Units “on-site” within the market-rate development (Section 415.6); or
- Building BMR Units “off-site” at another location in the City (Section 415.7); or
- In some neighborhoods, dedicating land to the City for affordable housing development (Section 415.5(a)(2)); or
- Paying a fee for the Small Sites program established by the Mayor’s Office of Housing and Community Development (“MOHCD”) (Section 415.7-1); or
- A combination of these options.

Several other sections of the Planning Code contain additional affordable housing requirements, including:

- The Market and Octavia Area Plan (Section 416)
- The Eastern Neighborhoods Area Plan (Section 417)
- The Eastern Neighborhoods UMU districts (Section 419)
- The Mission NCT district (Section 419)
- The SOMA Youth and Family Special Use district (Section 249.40A)
- The Rincon Hill Downtown Residential district (Section 827)

B. How is the Affordable Housing Fee Calculated?

Project Sponsors who pay the Affordable Housing Fee to satisfy the Program requirements are charged on a per-unit size basis under a fee schedule that is updated annually and posted on the San Francisco Planning Department website. The Affordable Housing Fee is based on the affordable housing percentage requirements that are in Section 415.5 and is calculated by multiplying the gross square footage of the development by the applicable percentage requirement. Please visit <http://sf-planning.org/inclusionary-affordable-housing-program> for specific requirements and information on the methodology for calculating, indexing, and applying the Affordable Housing Fee.

¹ Unless otherwise noted, all Section references are to the San Francisco Planning Code, as amended from time to time.

C. What is the Purpose of this Manual?

Section 415 requires MOHCD and the San Francisco Planning Department (“Planning Department”) to periodically publish a Procedures Manual (this “Manual”) containing procedures for monitoring and enforcing the policies and procedures for implementation of the Program. This Manual must be made available on the Planning Department's web site. This Manual is meant to provide compliance guidance to all Program users – including buyers and renters, Project Sponsors, Project Owners, and property managers, MOHCD-Approved Lenders, MOHCD-Approved First-Time Homebuyer Education Provider, and City staff.

Participants in some other programs are also required to comply with this Manual. These programs include, but are not limited to, (1) the Condo Conversion Below Market Rate Program² (visit <http://sfmohcd.org/bmr-condo-conversion-program> for more information), (2) programs that allow the development of “density bonus” units, such as those described in Sections 206 and 124(f), and (3) new affordable units that are required to replace affordable units that have been demolished.

Additionally, in some cases, the City may enter into Development Agreements with Project Sponsors that include affordable housing requirements or developers of housing units that voluntarily agree to record affordability restrictions on certain units. These Agreements are often governed in whole or in part by this Manual.

D. How Does this Manual Relate to Other Documents?

This Manual implements the Planning Code and must be read together with several other important documents that impose unique restrictions on individual projects or BMR Units. For example:

- Sections of the Planning Code
- Planning Department Conditions of Approval
- A Notice of Special Restrictions (NSR)
- Declaration of Restrictions

E. What if the Requirements in These Documents Conflict?

While every effort has been made to align the information in this Manual with the requirements of the Planning Code, if a conflict exists:

- The terms of the Planning Code prevail over the Manual
- The terms of an individual project’s or unit’s recorded BMR Use Restrictions prevail over any general requirements in this Manual or the Planning Code.

Program participants may request an interpretation of the applicable provisions of the Planning Code by contacting the City’s Zoning Administrator (<http://sf-planning.org/zoning-administrator>).

² San Francisco Subdivision Code Sections 1341, 1344 and 1385, as amended from time to time.

Users of this Manual are encouraged to seek legal advice from their own counsel to aid in understanding of the requirements of their specific Program. Users may call MOHCD at (415) 701-5500, or visit its website at www.sfmohcd.org, for answers to general questions regarding this Manual.

F. What are the consequences of not following the policies and procedures in this Manual?

The Planning Code includes penalties for failure to comply with the requirements of Section 415, any project Use Restrictions, or this Manual. The City may exercise any available right or remedy at law or in equity to enforce Program rules and all of the City’s rights and remedies are cumulative. Section 174 provides that every condition, stipulation, special restriction, and other limitation under the Planning Code must be complied with in the development and use of land and structures. Failure to comply with any Planning Code provision, including failure to comply with any condition of project approval, constitutes a violation of the Planning Code and is subject to an enforcement process under Code Section 176.

G. Is there a limitation to information I have to provide to MOHCD?

MOHCD reserves the right to request additional documentation from developers, applicants, tenants, owners, etc. to confirm applicant and/or Household eligibility and compliance with Section 415, Use Restrictions, and this Manual.

H. Will my information be shared with outside agencies?

Program users – including buyers and renters, Project Sponsors and property managers – should be aware that under certain circumstances information provided in connection with the Program may be considered to be public records and subject to disclosure in accordance with the California Public Records Act and the San Francisco Sunshine Ordinance³. However, MOHCD does not give, share, sell or transfer any personal identifying information to any third party that is not affiliated with an application for housing. For more information on MOHCD’s Privacy Policy, please visit <https://housing.sfgov.org/privacy>.

I. Where can I find the definitions of some of the terms used in this Manual?

Capitalized terms used in this Manual and not otherwise defined are defined in Section IX of this Manual.

³ San Francisco Administrative Code, Chapter 67.

II. DETERMINING PROGRAM PARTICIPANT HOUSEHOLD SIZE AND ELIGIBILITY

A. Definition of Household

Any group of people can apply for a BMR Unit, regardless of family relations, marital status or previous living arrangement. Individuals may jointly apply to rent or purchase a BMR Unit so long as:

- All applicants will live in the BMR Unit.
- All Household members appear on the Lottery and Program application.
- All Household members report their income and other qualifying information.

All Household members are counted toward “Household size” and the number is used to determine the size of the BMR Unit for which an applicant’s Household is eligible.

Exceptions or special circumstances to the rules above include:

- Long-term live-in assistants, as verified by MOHCD, must appear on the Lottery and Program application and may be counted toward Household size to determine the number of bedrooms for which applicants are eligible, but their incomes are not counted for purposes of determining income eligibility, and they are not added to title on a BMR Ownership Unit or added to the lease on a BMR Rental Unit. Additionally, long-term live-in assistants do not have the right to continue living in a BMR rental Unit after the BMR Renter/leaseholder has vacated the Unit. MOHCD may require documentation to verify the need for a long-term live-in assistant on an annual basis at the time of recertification.
- Foster children, as verified through legal documentation, must appear on the Lottery and Program application and may be counted toward Household size to determine the number of bedrooms for which applicants are eligible, and income received to care for foster children is counted toward total Household income.
- A fiancé, Spouse or Domestic Partner or any other person who has any combined finances with the applicant or a member of the applicant’s Household is considered a Household member.
- Children not claimed as dependents on an applicant’s federal tax return may be considered part of the Household if there is a court ordered custody agreement allowing the child’s time with the applicant to be 30% or more.
- Unborn children are not counted into Household size.
- Children under the age of six (6) will not be counted towards maximum Household size.

B. Minimum and Maximum Household Size

The size of a Household must be compatible with the size of the BMR Unit. Households must have at least one person per bedroom (e.g., no less than two people can live in a 2-bedroom unit). In addition:

- Regardless of size, BMR Units priced for middle-income Households at 110% of AMI for BMR Rental Units or 130% of AMI for BMR Ownership Units must consist of no fewer than two people in the Household.

- Any maximum Household size requirement enforced by the Project Owner must comply with this Manual and be applied fairly and evenly to all residents in the building. Maximum Household size requirements must also adhere to maximum occupancy requirements of the San Francisco Building Code.

C. Non-homeowner/First-time Homebuyer Requirement

In the three years prior to the date of application, no member of an applicant Household may own any interest in any residential property, as that term is defined in the Planning Code, regardless of:

- Whether or not that residential property produces a financial gain; or
- Where the residential property is located ; or
- Whether the residential property was ever used as the Primary Residence.

The following exceptions may apply:

- 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 MOHCD 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)
- An individual who was divorced or legally separated in the past 3 years and had no ownership in any residential property, other than the marital residence that was awarded to the spouse through a legal marital settlement.

D. Non-Student Household Requirement

100% student Households are ineligible for BMR Rental or Ownership Units. A full-time student is defined as a person who attends an educational institution with regular facilities including enrollment in on-line classes, other than a correspondence or night school, during at least five months of the calendar year during the BMR application and eligibility review. Certain exceptions apply and student Households should note the exceptions carefully.

Households with full-time students may be BMR-eligible if one or more of the following applies:

- Any member of the Household is married or in a Domestic Partnership and either filing or is entitled to file a joint tax return.
- The Household consists of a single parent and his or her minor children, and neither the parent nor children are a dependent of a third party.

- At least one member of the Household receives assistance under Title IV of the Social Security Act such as AFDC, TANF, CalWORKs, etc. (SSA or SSI do not qualify).
- At least one member is enrolled in a job training program receiving assistance under the federal Workforce Innovation and Opportunity Act, or similar federal, state or local laws.
- The Household consists of a member who recently exited the Foster Care system who is no older than 24 years old.
- The Household consists of one or more United States Veterans.

E. Immigration Status

MOHCD does not require proof of citizenship, legal residency or immigration status as criteria for qualifying for a BMR Unit. Moreover, California Civil Code 1940.3(b) prohibits Project Owners from discriminating against applicants based on immigration status and from making inquiries into the immigration status of an applicant or requiring applicants to provide proof of legal residency.

However, all applicants for BMR Ownership Units must qualify for first mortgage financing from a MOHCD-Approved Lender and many lenders are unable to approve applicants without proof of legal immigration status.

With respect to BMR Rental Units, Project Owners who require Social Security Numbers from applicants in order to run a credit and/or criminal background check are advised to accept alternatives to traditional credit such as payment histories from utilities, rent, tuition, etc. Those requiring proof of identity must accept any government-issued identification, including the San Francisco City Identification Card.

III. DETERMINING INCOME AND ASSETS

Each year, the City sets the income limits for BMR Units based on San Francisco's Area Median Income ("AMI"). AMI is the median income; half of San Franciscan Household incomes earn above the median and half are below. MOHCD sets the income limits determined by the United States Department of Housing and Urban Development ("HUD") for the local area (San Francisco, Marin, and San Mateo Counties combined). Incomes are adjusted solely for Household size and not for high housing cost area. MOHCD lists incomes by Household size at <http://sfmohcd.org/income-limit-rent-limit-and-price-level-information-mohcd-programs>.

Calculating total Household income is key to determining whether the applicant Household is income and assets-eligible for the BMR Program. Total Household income consists of all sources of income of ALL Household members age 18 or older that will occupy the BMR Unit, regardless of dependency status.

A. Income Sources

1. Income Inclusions

Income includes, but is not limited to, the following sources:

- Gross compensation for services, including all wages and salaries, overtime pay, commissions, fees, tips, bonuses, and similar items;
- The full, gross amount of periodic payments received from social security, annuities, insurance policies, IRA distributions, retirement funds, pensions, disability or death benefits, CalWORKs, TANF, unemployment and other similar types of periodic receipt including a lump sum payment for the delayed start of a periodic payment; include amounts received by adults on behalf of minors, or by minors intended for their own support;
- Payments received from the care of foster children or adults, or adoption assistance;
- Payments in lieu of earnings, such as unemployment and disability compensation, and worker's compensation;
- Welfare/public assistance income (excluding food stamps);
- Alimony/maintenance and child support payments;
- All regular pay, special pay, and allowances of a member of the Armed Forces;
- Income from salaries, and other amounts derived from operation of a business or profession;
- Income from the use, lease or sale of assets;
- Income from an interest in an estate or trust;
- Interest; dividends; Capital Gains; Rents and Royalties;
- Lottery/gambling winnings paid in periodic payments;
- Allowances paid by a non-Household member for housing, auto, food, etc.; and,
- Recurring contributions or gifts regularly received from entities or from persons not residing in the dwelling.

2. Income Exclusions

The following sources of income shall be excluded from the total Household income, but may be included when calculating total assets (see Section III (D) (*Asset Test -Income Calculated from Assets*) of this Manual for additional guidance):

- Income from the employment of any Household members under the age of 18 unless such income producing Household member is a borrower on the loan;
- Lump sum additions to family assets (e.g., inheritances, capital gains, insurance policy, death benefit payment, stock options payout);
- Medical expense reimbursement received specifically for the medical expense of a Household member;
- Income of a live-in assistant; and
- Amounts of educational scholarships paid directly to a student or an educational institution, and the amount paid by the government to a veteran for use in meeting the cost of tuition, fees, books, and equipment.

3. General Income Information and Regulations

a) Wages and Salary

MOHCD will use the most current paystubs for applicants to determine income for the current year. The paystub must be dated no earlier than thirty (30) days prior to the application date and it must include all year-to-date (“YTD”) earnings. Additional documentation, such as verification of employment on a form approved by MOHCD from the applicant’s employer, may be required.

b) Overtime, Tips, Bonuses and Commission

When calculating income based on paystubs, overtime pay, tips, bonuses and commission will be annualized unless the applicant can provide documentation from the employer verifying that such income was a one-time occurrence. In this case, the amount will be removed from the annualization of the income and added in one time to the total annual income that is determined.

c) Seasonal Workers

Income for Household members employed as seasonal workers who provide a verification of employment from their employer(s) verifying that the work does not occur year-round, will not be annualized.

d) Child Support

Income from Child Support may be excluded with evidence that the child support is scheduled to be terminated within 3 months of the date of application.

e) *Government Income*

For applicants receiving income from a governmental entity of any type, the income is derived by annualizing a regular monthly statement or by referring to an award letter. Government income includes, but is not limited to, government paid retirement, annuity or pension income.

f) *Self-employed or Income from Business*

All self-employed applicants must submit a Self-Employed Declaration provided by MOHCD in addition to the income documentation required for all applicants. The Self-Employed Declaration must be submitted along with a Profit and Loss (“P&L”) statement from any period of time not covered by the most recently filed federal income tax returns. The P&L statement must be formatted and contains the information set forth in Internal Revenue Service (“IRS”) form 1040, Schedule C, and must be dated within sixty (60) days of the application date. Negative business losses are not counted and will not be deducted from income. MOHCD can provide a template P&L statement as needed.

If a self-employed applicant started a business after the last tax filing year, and therefore does not have tax return(s) to document business income, MOHCD, in its sole discretion, may require copies of all invoices and payments made to or provided by the applicant to confirm the information provided on the applicant’s P&L statement.

A self-employed applicant receiving income other than from a sole proprietorship is required to provide copies of the three (3) most recent years of business federal income tax returns. Positive business cash flow will be added to the applicant’s income for qualification.

All income from self-employment at any point over the 12-month period prior to application will be considered, even if an applicant has subsequently sold or closed a business.

g) *Income from Capital Gains, Dividends and Interests*

MOHCD will apply the income calculation standards to the income from capital gains, dividends and interests and add it to the Household’s total annual income. Negative losses are not counted and will not be deducted from income.

h) *Other Income*

Any source of regular income, whether in cash or recurring deposits to a bank account over the 12-month period prior to application, will be treated as income, and may be annualized.

In the case of an applicant who is paid in cash for employment, MOHCD will consider the applicant to be self-employed. Please see *Self-employed or Income from Business* (clause f above) for additional guidelines.

i) *Unemployed Applicants*

Unemployed applicants who are receiving no income at all will submit an Unemployed Declaration as provided by MOHCD in place of income statements as well as a State of California Employment Development Department Authorization for Release of Records or the equivalent

form from another state. Applicants receiving unemployment benefits do not need to complete the Unemployed Declaration as unemployment benefits are considered income.

j) *Income from Commercial Property or Land Owned*

The annual income or net profits from any commercial property or land owned by any applicant shall be counted toward the annual Household income.

k) *Public Assistance Income*

When qualifying for a BMR Ownership Unit, public assistance income will be counted toward the Household's total annual income. MOHCD will require documentation to show the Household's receipt of public assistance income with letters or exhibits from the paying agency that state the amount, frequency and duration of the benefit payments. Public assistance income includes, but is not limited to, Section 8 vouchers and similar local, state or federal assistance programs.

l) *Verification of Employment*

At MOHCD's discretion, an official verification of employment on a form approved by MOHCD that is signed by both the applicant and the applicant's employer may be used as documentation of an applicant's income.

m) *Employment Offers or Contracts*

If the applicant is scheduled to begin employment, MOHCD may use the applicant's offer letter or contract as documentation for income qualification. However, the applicant must begin employment no later than thirty (30) days of Program qualification. If the start date specified on the applicant's offer or contract occurs outside of the 30-day window, the application may be disqualified for insufficient income documentation.

n) *Wage Reductions*

Applicants whose income from employment has declined over the 12-month period prior to application must provide documentation that verifies that the applicant did not quit a job or choose to reduce hours in order to qualify.

The following are exempt from the voluntary quit provisions:

- Reducing hours in one job while working more hours in another job;
- Quitting a job and subsequently beginning a new job with similar or better rate of pay;
or
- Seasonal employment.

o) *Discontinuance of Non-Employment Income*

Applicants whose income from non-employment sources (such as trust income, annuity income, capital gains, dividends and interests, etc.) has declined or discontinued over the 12-month period prior to application must provide sufficient documentation that verifies the discontinuance of the income and demonstrates that the income is unlikely to re-occur for the foreseeable future.

p) Non-Taxable Income Adjustments

MOHCD may give special consideration to regular sources of income that may be nontaxable, such as child support payments, Social Security benefits, workers' compensation benefits, certain types of public assistance payments.

MOHCD must verify that the particular source of income is nontaxable. Documentation that can be used for this verification includes tax returns, award letters, policy agreements, account statements, or any other documents that address the nontaxable status of the income.

If MOHCD verifies that the income is verified to be nontaxable, and the income and its tax-exempt status are likely to continue, MOHCD may add an amount equivalent to 25% of the nontaxable income to the applicant's income for qualifying purpose.

q) Student Income

If a full-time student aged twenty-four (24) years or younger is a dependent, only \$480 of the full-time student's income will be counted toward total Household annual income if all of the following criteria are met:

- Student cannot be Head of Household, Co-head, or Spouse of Household;
- The student's full-time status must be 3rd party verified by their school/college; and
- Student must be claimed as a dependent, or on student's tax filings s/he must show that s/he is a dependent.

B. Calculating Baseline Household Income

The following are the two methods adopted by MOHCD to calculate baseline Household income. MOHCD will use the greater of:

- Current total annual income from all sources projected 12 months forward; or
- Total Gross Annual Income from all sources earned in the immediate past tax year

Baseline Household income is generally determined by one or both of the above methods. If documents provided by an applicant demonstrate that there has been a decrease in income by more than 20% from the last year (e.g. 2017) to the year before last year (e.g. 2016), MOHCD may require additional documentation to analyze the income change and may average the income reflected on the immediate past 2 years (e.g. 2016 and 2017) of tax returns.

The total Household income for program qualification will be determined by the baseline Household income (described in this section) and the income calculated from assets (described in Sections III (C) and (D) below). See Section III (E) (*Total Qualification Income*) of this Manual for more details.

1. Method #1: Calculating Current Total Annual Income

This section describes the procedures and requirements for determining a Household's current total gross annual income based on different sources of income.

a) **Income from Paystubs**

To calculate income from paystubs, MOHCD will use one of the following two methods as appropriate and use the greater of the two to determine the Household's current annual income.

Year-to-Date Method

From the most current paystub, divide the year-to-date Gross Income by the current number of pay periods to get the average Gross Income per pay period. Then multiply the average pay period Gross Income by the total number of pay periods in one year.

In cases where an employer-paid health insurance costs are included within the Gross Income on a paystub, the employer-paid insurance costs may be excluded from total income.

Example: Calculating Income with Paystubs Using Year-To-Date Method:

YTD Gross Income as stated on the most recent paystub = \$20,000

Current number of pay periods on most recent paystub = Pay period #10 (aka the 10th paycheck of the year)

Average Gross Income per pay period = \$2,000 (\$20,000 divided by 10)

Total number of pay periods in one year = 24

Annualized Gross Income = \$48,000 (\$2,000 x 24)

Straight Pay Method:

From the most current paystub, calculate the income based upon the rate of pay and frequency of pay indicated on paystubs as shown on the table below.

| Frequency of Pay | Determining Annual Income |
|---|---|
| Annually –paid one time per year | Annual gross income |
| Monthly –paid one time per month | Monthly gross income x 12 |
| Semi-Monthly –paid two times per month (receives 24 pay periods a year) | Semi-Monthly gross income x 24 |
| Biweekly –paid every two weeks (receives 26 pay periods a year) | Biweekly gross income x 26 |
| Weekly –paid every week | Weekly gross income x 52 |
| Hourly –paid based on an hourly wage (the number of hours paid per week can vary) | Hourly gross income x average # of hours worked per week x 52 |

Example: Calculating Income with Paystubs Using Straight Pay Method:

Hourly rate of pay as stated on the most recent paystub = \$22

Total number of hours per pay period = 87.5

Total number of pay periods in one year = 24

Annual Gross Income = \$46,200 ($\$22 \times 87.5 \times 24$)

In the above examples, the income calculated from year-to-date method is greater than the straight pay method, and therefore will be used to determine the applicant Household's income eligibility.

b) *Income from a Sole Proprietorship (for Self-employed)*

MOHCD will use a P&L statement for a self-employed applicant to determine an applicant's business income for the current year.

MOHCD will use the following steps to calculate an applicant's Income from a P&L statement:

Step 1: Use the YTD net profit shown on the P&L statement, adding back any of the allowable adjustments used in analyzing the tax returns for the business, such as non-recurring loss and expenses, depreciation, depletion, and amortization and casualty loss (the result of step 1 is the YTD adjusted Gross Income).

Step 2: Divide the adjusted Income by the number of months on the P&L statement to get the average monthly income. Multiply this number by 12 to annualize.

Example: Calculating Income with P&L Statement:

YTD net profit as stated on P&L statement = \$20,000

Allowable adjustments = \$10,000

YTD adjusted Gross Income = \$30,000 ($\$20,000 + \$10,000$)

Number of months = 10

Average monthly income = \$3,000 ($\$30,000$ divided by 10)

Annualized income = \$36,000 ($\$3,000 \times 12$)

c) *Income from Non-Employment*

Non-employment income, such as trust income, pension and retirement income, unemployment, dividends/interest, etc., is calculated from the most current monthly or quarterly official statement of such income. If no official statement or proof of current income documentation is available for the current year, MOHCD will use the immediate past year's income to project current year income. Generally, the last year income documentation for non-employment income should include annual statements or IRS 1099 forms.

Example: Calculating Non-Employment Income with a Monthly Statement:

Monthly income as stated on the most recent statement = \$500

Total number of pay periods in one year = 12

Annual income = \$6,000 (\$500 x 12)

d) Income from All Sources

Once all sources of income from each adult Household member are verified and calculated, MOHCD will calculate the current total Household income.

Example: Adding all income to arrive at the current total income:

As shown in the above examples, a Household of 4 applying for a BMR Ownership Unit receives a salary income of \$48,000 (paystub on year-to-date method), self-employed income of \$36,000 (P&L statement), and non-employment income of \$6,000 (official statement).

Method #1 Result: The Household's current total income = \$90,000 (\$48,000 + \$36,000 + \$6,000).

2. Method #2: Calculating Last Year's Income

This section describes an alternate procedure for determining a Household's total annual income earned in the last tax year.

Step 1: Use the total income from the immediate past year's federal income tax return (line 22 of IRS form 1040, or line 4 of IRS form 1040EZ, or line 15 of IRS form 1040A);

Step 2: If applicable, add back any losses and tax-exempt income from the tax return such as tax-deferred deductions, social security benefits, interest, and etc., or unreported income on the tax return such as child support payments set forth on the immediate past year's federal income tax return. Step 3: Add back any of the allowable adjustments for a business or self-employment, such as non-recurring income and expenses, depreciation, depletion, and amortization and casualty loss. If there is no self-employment income for a sole proprietorship reported on line 12 of IRS form 1040, skip this step.

Example: Calculating Last Year's Total Annual Income:

Total Income (line 22 of IRS Form 1040): \$80,000

Capital loss (line 13 of IRS form 1040): -\$5,000 (negative losses)

Depreciation on Schedule C: \$3,000 (allowable adjustments)

Method #2 Result: The Household's last year's total income: \$88,000 (\$80,000+\$5,000+\$3,000)

3. Income Increase Tolerance and Re-Calculation Criteria

Any change in Household income during application review must be reported to MOHCD. Non-disclosure of any material fact or misrepresentation of information will result in disqualification. If an applicant Household's income has been determined and verified by MOHCD, the verified income calculation is valid for a maximum of six (6) months. However, during the 6-month period, income will be recalculated if there is an increase in Household income of more than five percent (5%). In addition, income will be recalculated if the BMR purchase transaction has not been closed within the 6-month period.

C. Determining Assets

1. Liquid Assets

When calculating a Household's assets, all Household liquid assets must be considered and documented with statements dated no earlier than forty-five (45) days from the application date. Household liquid assets include, but are not limited to, the following: savings accounts, checking accounts, Certificates of Deposit, the total balance of any joint accounts, money market or mutual fund accounts, trust accounts (only the amount accessible with or without penalty), stocks or bonds, gifts, cash on hand, amount used or borrowed from a life insurance policy, IRA or retirement accounts, and other investments held by any member of an applicant's Household. Custodial accounts owned by a guardian for minors will also be included as Household liquid assets. Evidence that liquid assets have been transferred to another individual or into an unavailable asset account, or have been spent to avoid use in the purchase may result in denial of the applicant's application.

Assets in business accounts may be considered liquid assets if one of the following criteria is met:

- Assets in business accounts are used as a source of funds for the down payment, closing costs or financial reserves; or
- The applicant is 100% owner of the business, such as a sole proprietor; or
- Assets in business accounts are comingled with personal accounts.

MOHCD may require additional documentation regarding business accounts to determine an applicant's assets.

The following assets will be excluded from the calculation of liquid assets: the cash surrender value of a life insurance policy, the value of an IRA account, the value of retirement accounts (including but not limited to 401K and 403B accounts), and the value of a 529 college savings may be excluded from an applicant's liquid assets.

2. Gifts

If applicable, funds for use as down payment, closing costs or financial reserves to purchase a BMR Unit can be provided by a relative (defined as an individual who is related by blood, adoption or legal guardianship and who is not part of the Household). In the case of purchase of a BMR Ownership Unit,

there is a minimum down payment requirement of 3% of the purchase price (see Section IV (B)(8) (*Sales Contract and First Mortgage Financing*) for more details). If necessary, the entire 3% can come from gifts.

3. Retirement Accounts

a) Using Retirement Assets as Reserves

At escrow closing for the purchase of a BMR Ownership Unit, applicants must have funds for a reserve equal to at least three (3) months of housing expenses available. Funds from retirement accounts can be used to meet this reserve requirement. Retirement accounts do not have to be liquidated. The applicant must provide a complete copy of the most current quarterly, or three consecutive monthly, retirement account statement(s) identifying the applicant's vested amount and the terms of the retirement plan that permits the applicant to make withdrawals. Funds in a retirement account will not be considered as reserves when the retirement account only allows withdrawals in connection with the applicant's employment termination, retirement, or death.

If applicable, to account for income taxes and any early withdrawal penalties, MOHCD will count only sixty percent (60%) of retirement account funds towards reserves.

b) Borrowing from Retirement Accounts

When an applicant borrows against their retirement account, there may be a monthly repayment amount. MOHCD will include this monthly payment as part of the applicant's recurring monthly debt obligations when determining the applicant's total Debt-to-Income ratio.

c) Withdrawal from Retirement Accounts

Withdrawal of funds from unrestricted retirement accounts toward down payment and closing costs is generally allowed with proof of liquidation. If an applicant uses a portion of the retirement account toward the purchase of the BMR Unit, then that portion of the retirement account withdrawn or liquidated will be counted as an asset. The applicant should consider all options before using a retirement account, and consult a tax advisor to fully understand the potential tax consequences of a withdrawal in addition to any applicable early withdrawal penalty.

4. Annuities

In the case of annuities, if an applicant has begun receiving annuity payments, then these payments are counted as income. If the applicant has the option of withdrawing all funds from an annuity, either with or without penalty, the annuity will be treated like any other liquid asset account. To account for income taxes and any early withdrawal penalties, sixty percent (60%) of the full value of the annuity will be counted as the cash value of the annuity and applied toward the liquid asset income calculation.

5. Lump Sum Receipts

Lump sum payments will be counted toward assets. Example of lump sum payments include: inheritances, capital gains, lottery winnings paid in one payment, cash from the sale of assets; insurance settlements; and any other amounts that are received as one-time lump sum payments.

D. Asset Test (Income Calculated from Assets)

1. Standard Asset Test

MOHCD adjusts actual Household income based on the level of savings, investments and other assets.

BMR Rental Units

Up to a cap of \$30,000 of Household liquid assets will not be counted toward Household income. Ten percent (10%) of the value of Household liquid assets that exceeds \$30,000 will be added to the total Household income.

Example: Asset adjustments to Baseline Household Income:

Household of 4 earns \$50,000 a year

Total Household assets = \$40,000

First \$30,000 of assets is excluded: $\$40,000 - \$30,000 = \$10,000$ remaining

10% of remaining \$10,000 is added to income: $\$10,000 \times 10\% = \$1,000$

Total amount added to income = \$1,000

New total Household income: $\$50,000 + 1,000 = \$51,000$

BMR Ownership Units

If a Household contributes twenty percent (20%) or more of a BMR Ownership Unit purchase price, the greater of the following amounts will be excluded from the liquid asset test calculation: 1) up to twenty percent (20%) of a Household's contribution of the BMR Ownership Unit purchase price towards the down payment, or 2) the first \$60,000. Any remaining liquid assets will be multiplied by ten percent (10%) and the product will be added to the total Household income.

If a Household contributes less than twenty percent (20%) of a BMR Ownership Unit purchase price, only the first \$60,000 of liquid assets will be excluded from the asset test calculations. Any remaining liquid assets will be multiplied by ten percent (10%) and the product will be added to the total Household income.

Example: Asset adjustment to Baseline Household Income with 20% down payment:

BMR purchase price = \$450,000

Household contributes 20% towards the down payment = \$90,000 ($\$450,000 \times 20\%$)

Total Household assets = \$140,000

First \$90,000 of liquid assets is excluded: $\$140,000 - \$90,000 = \$50,000$ remaining

10% of remaining \$50,000 is added to income: $\$50,000 \times 10\% = \$5,000$

Total amount added to income = \$5,000

2. Asset Exemption for Seniors

For any senior aged sixty-two (62) or older who is a single household or a Head of Household, the first \$150,000 of total liquid assets will be disregarded prior to calculating income from assets. For married seniors (or in a domestic partnership) where (i) both are the only applicants for the BMR Unit, (ii) both are aged 62 or older, and (iii) at least one of them has been nonworking, MOHCD will disregard the first \$250,000 of total liquid assets (rather than 2x the single rate) prior to calculating income from liquid assets. Balances held in retirement accounts are counted as liquid assets if the money is accessible to the Household member without a withdrawal penalty.

E. Total Qualification Income

Once the baseline Household income (see Section B above) and income calculated from liquid assets (see Section D above) are verified and calculated, MOHCD will total them to arrive at the total qualification income.

Example: Adding baseline household income and asset income to yield total qualification income:

Using the same examples provided above, a Household of 4 applying for a BMR Ownership Unit shows a total annual Income of \$90,000 [Method #1: Calculating Current Total Annual Income], last year's income of \$88,000 [Method #2: Calculating Last Year's Income], and imputed asset income of \$5,000 [Asset Test – Income Calculated from Assets].

Result: The Household's total qualification income = \$95,000 ($\$90,000 + \$5,000$).

IV. BELOW MARKET RATE (BMR) OWNERSHIP PROGRAM

The BMR Ownership Program creates homeownership opportunities for Low Income, Moderate Income and Middle Income Households in San Francisco. This section explains the rules for:

- Qualifying for a BMR Unit
- Applying for a BMR Unit
- Purchasing a BMR Unit
- Owning and Occupying a BMR Unit
- Reselling a BMR Unit

A. Qualifying to Purchase a BMR Unit

In addition to Household size and income requirements listed in Sections II and III of this Manual, the following are qualification requirements for a BMR Ownership Unit.

1. Income Requirements

For every BMR Unit:

- A BMR sales price is determined according to Section 415 and/or the Project's or BMR Unit's Use Restrictions.
- BMR sales prices are calculated using AMI (see Section III of this Manual).
- A "Maximum Allowable Income" will apply for eligible Households, which means that some Households might earn **too much** to qualify for a BMR Unit.
- BMR applicants must also have enough income to qualify for a first mortgage with a bank approved by MOHCD, which means that some Households might earn **too little** to qualify for a BMR Unit.

Due to changes to the Planning Code over time, many older BMR Ownership Units are available to Households at one income level, while newer BMR Units (that contain 25 or more BMR Units) are available to Households ranging in income. For projects governed by this Manual, the following table applies to Projects where a completed Environmental Evaluation Application (EEA) was accepted by the Planning Department on or after January 12, 2016, and explains the most common pricing and qualifying AMI levels for BMR Units.

Pricing and Income Levels for BMR Ownership Units

| <u>Pricing Levels</u> | <u>Allowable Household Income Range</u> |
|-----------------------|---|
| 80% of AMI | up to 100% of AMI |
| 105% of AMI | 95% to 120% of AMI |

130% of AMI

120% and 150% of AMI

Households earning up to 100% of AMI are eligible to apply for low-income BMR Ownership Units with an affordable purchase price set at 80% of AMI or less. Households earning from 95% to 120% of AMI eligible to apply for moderate-income BMR Ownership Units with an affordable purchase price set at 105% of AMI or less. Households earning from 120% to 150% of AMI are eligible to apply for middle-income BMR Ownership Units with an affordable purchase price set at 130% of AMI or less. For any affordable BMR Units with purchase prices set at 130% of AMI, the BMR Units shall have a minimum occupancy of two persons.

Example:

A project has 6 BMR Ownership Units for sale:

- 2 priced at 80% AMI
- 2 priced at 105% AMI
- 2 priced at 130% AMI

Scenario 1: My Household income is 121% of AMI. My Household only qualifies for the 130% AMI BMR Units.

Scenario 2: My Household income is 70% AMI. My Household only qualifies for the 80% AMI BMR Units.

To see all AMI levels with Household size, please visit <http://sfmohcd.org/income-limits-and-sales-price-levels-mohcd-homeownership-programs>.

Each year, MOHCD publishes a new AMI chart showing income limits for the most common income categories. Project Sponsors that have begun marketing BMR Units under an AMI chart from a previous year must continue that AMI chart regardless of whether a new AMI chart is published in the middle of a marketing period.

2. Title Requirements

All Household members aged 18 and older must appear on the title for a BMR Ownership Unit and be co-borrowers on the mortgage for the Unit. The following exceptions apply:

- Legal dependents of titleholders as claimed on the two (2) most recent federal income tax returns (spouses and domestic partners are not considered dependents).
- A Household member younger than age twenty-four (24) who is the child of a titleholder and will reside in the BMR Unit as their Primary Residence, regardless of being named as a dependent on the federal tax form.
- Household members that do not count toward the BMR Unit size and whose income does not change the applicant's Household income eligibility. Household members falling into this category are usually those who do not intend to live in the BMR Unit as their Primary Residence for the entire duration of ownership of the Unit.

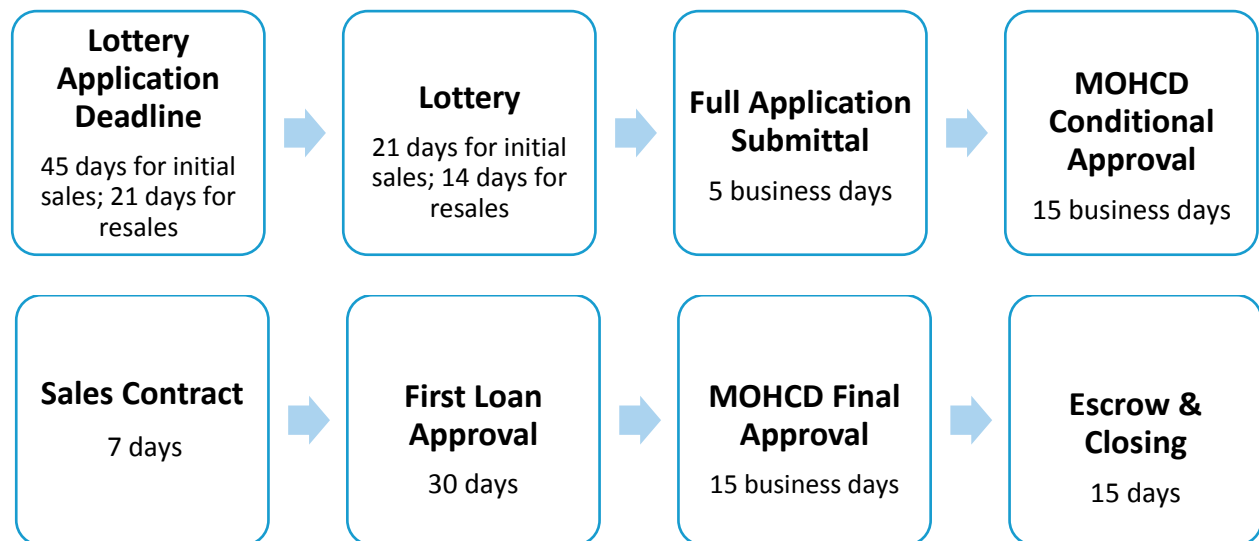
3. Mortgage Readiness

All applicants for BMR Units that will be on title must complete homebuyer education and counseling from a MOHCD-approved and HUD certified housing counseling agency (See Section B.1 below) and must establish that they are likely to qualify for first mortgage financing by submitting a Loan Pre-approval Letter from a MOHCD-Approved Lender.

Applicants who are selected by lottery to purchase will have a limited period of time to obtain full loan approval from a MOHCD-Approved Lender.

B. Applying for a BMR Ownership Unit

Below is an estimate timeline for the purchase of a BMR Ownership Unit. The entire process takes about 5-6 months from the day the Project Sponsor announces newly constructed BMR Units and about 4-5 months from the day a BMR Owner offers their home for sale. All times listed are approximate; the processing times can vary depending on many reasons including first mortgage loan approval, construction delays and additional information required to determine an applicant's eligibility.



1. Before Applying for a BMR Unit

a) *First-time Homebuyer Education Requirement*

Each Household member aged 18 and older who is an applicant and will appear on title of the BMR Ownership Unit must attend 8 hours of a combination of group workshops and one-on-one homebuyer education counseling sessions, available in multiple languages, through a HUD and MOHCD-Approved First-Time Homebuyer Education Provider and demonstrate that they are mortgage-ready before submitting a lottery application. A list of the education providers is available on MOHCD's website at www.sfmohcd.org. When all required members of an applicant Household have completed the Homebuyer Education requirement, their education provider issues a Verification of Homebuyer Education form to be submitted with a lottery

application for a BMR Unit. The form must be issued within 12 months from the date of the lottery application. The education provider may renew the form for an additional year if necessary. When an applicant has entered into a contract to purchase, both the first mortgage lender and MOHCD require a valid Certificate of Completion of Homebuyer Education from the MOHCD-Approved First-Time Homebuyer Education Provider. The Certificate must be dated within 12 months of the MOHCD final approval.

b) *Mortgage Pre-Approval*

Applicants must submit a loan pre-approval Letter as part of their lottery application submittal. The pre-approval letter must:

- Be issued by a MOHCD-Approved Lender listed at www.sfmohcd.org.
- Name all adults aged 18 and older in the applicant's Household unless qualified for the exceptions as described in Section IV (A)(2) (*Title Requirements*) of this Manual.
- Be dated within 120 days of the applicant's application.
- Contain a maximum loan amount.
- Include an estimated monthly Homeowners Association (HOA) dues and maximum sales price that meets or exceeds the actual HOA Dues and sales price of the BMR Unit.

2. *Lottery Application*

New BMR Ownership Units have an application period lasting at least 45 days and resale BMR Ownership Units have an application period lasting at least 21 days. Applicants must submit a MOHCD application by a specific deadline for each BMR Unit, either through the Project Owner's sales agent, DAHLIA San Francisco Housing Portal (<https://housing.sfgov.org/>), or by mail through MOHCD's Post Office Box as listed on the DAHLIA San Francisco Housing Portal.

3. *Housing Lottery*

The Project Owner and MOHCD will hold a public lottery for each Project and/or BMR Ownership Unit. Every applicant that submits a complete lottery application for a BMR Unit will receive a lottery ticket number. Applicants do not need to attend the lottery.

While every applicant must meet the City's basic eligibility requirements, San Francisco law gives some Households a lottery preference that increase the chance that they will be offered a BMR Unit. The specific preferences available may change from one Project to another. The property listing in DAHLIA San Francisco Housing Portal or on the City's website www.sfmohcd.org will indicate which preferences are applicable to a particular Project. Applicants may need to submit proof of eligibility for any available preferences when applying for the housing lottery.

The MOHCD Housing Preferences and Lottery Procedures Manual, available at <https://sfmohcd.org/lottery-preference-programs>, as revised from time to time, contains detailed procedures for application tracking, lottery preference qualifications, application review guidelines and appeals.

4. Submission of a Full BMR Application

After the lottery, the Project Owner will contact applicants in lottery rank order and invite them to submit a full application within 5 business days. Typically, a Project Owner contacts several Households for every available Unit. It is important to note that being asked to submit a full application is not a guarantee that an applicant will be given the opportunity to purchase a BMR Unit, because higher-ranked applicants may be offered and accept all available BMR Units before a particular applicant's application is considered.

Project Owners must notify applicants by phone, mail, text, and by email to request a complete application and documentation.

BMR applicants should be prepared to provide the full application by the date of the lottery to ensure their ability to meet the short turnaround time. BMR applicants who want assistance from their housing counselor or another third party during the sales process can list an additional person on their application to receive notices from the Project Owner and assist in submitting the full application.

All members of the applicant's Household that are 18 years or older must supply the following documentation to the Project Owner within 5 business days:

- Past 3 years Federal income tax returns with all schedules;
- Past 3 years W-2 and/or 1099 forms;
- 3 current and consecutive pay stubs, or if self-employed, a year-to-date P&L statement;
- 3 current and consecutive bank or assets statements from all bank or liquid asset accounts;
- California Driver's License, State or City and County of San Francisco City ID or other Government issued photo ID;
- Completed Gift Letter and evidence of donor availability of funds (if applicable); and
- Any other documents listed on the application.

Incomplete applications, or applications with known false, misleading or inaccurate information, will be disqualified from consideration.

5. 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. MOHCD has sole discretion to approve any changes, and, except as mentioned in this Manual, will not permit any changes that affect the Household size, income or assets for qualifying purposes.

6. Inability to Find an Eligible Household

If no applications are received for a lottery during the marketing period or if all applicants have been considered after a lottery is conducted but one or more BMR Units remain vacant, MOHCD will take the following steps:

- a) Review the Project Owner or BMR Owner's marketing performance to ensure all aspects of the required marketing plan have been carried out. If MOHCD determines that a Project Owner or BMR Owner has not adequately followed the marketing plan, the application period will be extended to the original marketing period timeline to allow for adequate marketing.
- b) Extend the application deadline for eligible buyers and accept applications through MOHCD on a first-come-first-served basis. Applications will be considered strictly in the order that they are received.
- c) Allow the Project Owner or BMR Owner to market the BMR Unit again for a minimum of 14 business days at a reduced price set by the Project Owner or BMR Owner.

For Project Owners: If, after following all of the steps above, the Project Owner is still unable to find an eligible buyer, the purchase price must be further reduced until the BMR Unit is sold.

For BMR Owners: If, after following all of the steps above, the BMR Owner is still unable to find an eligible buyer, and the purchase price has been reduced to the BMR Owner's original purchase price, MOHCD may allow an increase of the permissible income levels for prospective BMR buyers up to 20% above the actual maximum income level for the BMR Unit, but not to exceed 120% AMI at any time, on a one-time basis only, but must not allow any further increase for future sales of that BMR Ownership Unit. The BMR Owner must inform prospective BMR buyers of the one-time nature of the qualifying income increase. The BMR Unit must be in a good physical condition prior to resale or the resale price of the BMR Unit may be further reduced from the BMR Owner's original purchase price in the event of excessive wear and tear or insufficient maintenance by the BMR Owner, as discussed in Section IV (C)(3) (*Maintenance Requirements of Owning a BMR Unit*) of this Manual.

7. Inability to Obtain Financing

Under extenuating circumstances, MOHCD may, in its sole discretion, consider a request from a BMR Owner or a Project Owner to accept an all-cash offer, alternative financing, or waive certain eligibility requirements for a BMR applicant. Such circumstances may include a Project with pending litigation, or a Project not conforming to lending standards. In order to consider such a request, MOHCD must have sufficient documentation to prove that:

- Financing through any MOHCD-Approved Lenders is not available;

- The extenuating circumstances are expected to last for a minimum of 6 months;
- Any further reduction of sales price will not improve the BMR applicant’s ability to obtain financing.

8. Sales Contract and First Mortgage Financing

Eligible applicants will receive a conditional approval letter from MOHCD which starts the purchasing and finance process. During this process, applicants should contact their housing counselor before making any large purchases or increasing regular income. Changes to liquid assets, employment status or levels of income could impact the ability to qualify for a first mortgage loan and the applicant’s eligibility for the BMR purchase.

a) Sales Contract

An applicant has seven (7) calendar days from the date of the MOHCD conditional approval letter to enter into a purchase contract with the seller of a BMR Unit. The purchase contract must include:

- at least a 45-day financing contingency period; and
- at least a 60-day close of escrow period.

It is important to note that BMR sales transactions are sometimes extended beyond the 60-day period to accommodate both the buyer and the seller. Applicants must remain income-qualified throughout the escrow period.

BMR applicants of newly constructed BMR Units have the opportunity to choose among appropriate BMR Units in lottery rank order.

The MOHCD Housing Preferences and Lottery Procedures Manual (see <https://sfmohcd.org/lottery-preference-programs>) contains detailed procedures for application tracking, lottery preference qualifications, application review guidelines, appeals and Unit selection.

b) Realtor Representation

All realtors in a BMR transaction must:

- Be licensed by the California Bureau of Real Estate;
- Represent a BMR buyer in all aspects of the transaction; and
- Be compensated by the Project Sponsor at the same rate as fees paid to realtors of market rate units in the Project.

Instead of compensating a BMR buyer’s realtor, the Project Sponsor may choose to enter into a contract with a MOHCD-approved community-agency to assist with additional homebuyer education, timely application submittals and outreach activities. In such case, the Project Sponsor’s realtor, with proper disclosure and authorization, shall act as the dual agent and represent all parties in the transaction.

c) **Financing**

Once an applicant is in contract, the MOHCD-Approved Lender will prepare and submit a mortgage loan commitment and provide ALL of the following documentation to MOHCD:

- Completed MOHCD Lender Checklist
- Sales Contract
- Lender Loan Application and Underwriting Transmittal Summary (mortgage forms 1003 and 1008)
- Final Fair Market Appraisal
- General Home Inspection Report (not required for newly constructed BMR Units)
- Preliminary Title Report
- Mortgage Loan Commitment Letter
- Loan Estimate
- Copy of applicant's most recent Credit Report
- Certificate of Completion of Homebuyer Education
- Federal Income Tax Transcripts
- Estimated Combined Settlement Statement
- All other documents listed on MOHCD Lender Checklist

All loans in a BMR transaction must meet the following financing criteria:

- **LTV/CLTV Ratio**
 - Minimum Loan to Value Ratio 50%
 - Maximum Combined Loan to Value Ratio 97%
- **Debt Ratios**
 - Front-end or housing ratio: no lower than 28% and no higher than 40%
 - The front-end ratio includes: principal and interest payments on the first mortgage, principal and interest payments on subordinate, non-deferred loan (if any), private mortgage insurance premium (if applicable), property taxes, hazard insurance, and monthly Homeowner's Association Dues.
 - MOHCD may consider a maximum front-end ratio up to 43% if two or more of the following indicators are present: (i) proven ability to devote a larger amount of income to housing expenses. The applicant has successfully demonstrated an ability to make rental payments for twelve (12) consecutive months that are equal to or greater than the proposed monthly payments for the housing being purchased; (ii) at least twelve (12) months of housing expenses in reserves through non-liquid assets and retirement accounts; (iii) FICO score greater than 700; and (iv) the proposed housing expenses will not increase more than five (5) percent over previous housing expenses.
 - Back-end ratio or total debt-to-income (DTI) ratio: no higher than 45%

- **Down Payment Requirement**
 - Minimum 3% down payment
 - The entire down payment and closing costs can come from gift funds
- **Reserves Requirement**
 - 3 month's housing payments (principal, interest, property taxes, hazard insurance and homeowners association dues) in reserves after purchase
 - Funds from BMR Buyer's retirement accounts can be used to meet the reserve requirement (see Section III (C)(3)(a) for additional guidelines)
- **First Mortgage Loan Term**
 - 30-year loan term
 - Fixed interest rate with fully amortizing mortgage payments
- **Loan Originator**
 - BMR Buyers must obtain financing from MOHCD-Approved Lenders listed at www.sfmohcd.org/lender-list
- **Interest Rates and Fees**
 - First mortgage interest rate and other fees associated with the transaction must be usual, customary and reasonable
 - No upfront fees (except third party credit reporting, appraisal and inspection fees)
- **FICO Score**
 - MOHCD does not establish a minimum FICO score for BMR Buyers
 - Lenders determine the minimum FICO score according to their own guidelines and loan products
- **Co-Signing**
 - Co-signing is not allowed
- **Third Party Credits and Contributions**
 - Credits and contributions from a third party, such as seller, realtor, lender, are allowed for non-recurring closing costs and/or prepaids
 - All credits must be used in escrow
- **Impound Account**
 - Taxes and insurance impound account is required
- **Appraisal Report**
 - A Fair Market Appraisal report using only market rate units as comparable is required
 - The report must be no more than 90 days old at the time of submission of lender package to MOHCD
- **Loan Prepayment**
 - BMR Owners may prepay first mortgage loans before the loan term but BMR Owners who also have Below Market Rate Downpayment Assistance Loan Program (BMR DALP) loans from the City may be required to repay the BMR DALP loan at that point. Refer to the BMR-DALP program manual for details.

- **Debts Included in DTI Ratio**

- Installment Payments: Installment debts with a remaining term of ten (10) months or more must be included to the total DTI ratio.
- Revolving Accounts: Use the greater of \$10 or 5% of the balance if no payment amount is listed on the credit report.
- Lease Payments: Lease payments must always be included as a debt when determining the total DTI ratio.
- Child Support: Include all child support (including alimony or separation maintenance) obligations with a remaining term of ten (10) months or more.
- Student Loans: Student loans must be included in the applicant's liabilities regardless of the payment type or status of payments. Regardless of payment status, MOHCD is to use either: (i) the greater of 1% of the outstanding balance on the loan, or the monthly payment reported on the applicant's credit report; or (ii) the actual documented payment, provided the payment will fully amortize the loan over its term.
- Loans Secured by Financial Assets: When an applicant uses his or her financial assets – life insurance policies, 401(k) or 403B accounts, individual retirement accounts, etc. – as security for a loan, the applicant has a contingent liability. MOHCD will include this contingent liability as part of the applicant's recurring monthly debt obligations when determining the applicant's total DTI ratio. A copy of applicable loan instrument will be required to verify the debt payment.
- Court-Ordered Assignment of Debt: When an applicant has outstanding debt reflected on the credit report that was assigned to another party by a court order (such as under a divorce decree) and the creditor does not release the applicant from liability, the applicant has a contingent liability. MOHCD will exclude this contingent liability as part of the applicant's monthly debt obligation. A copy of divorce decree must be provided along with the applicant's application in order to exclude it from the DTI ratio.

Upgrades, storage units, and additional spaces, including second parking spaces:

- Must be financed separately from the financing of the BMR Unit
- Cannot be added to the resale price when the owner sells
- Must be sold separately from the BMR condo when the owner sells
- Are the sole responsibility of the BMR Unit Owner
- Are not allowed when purchasing with City provided down payment assistance funds

d) *City and Other Government Financing Assistance*

Applicants are encouraged to work with the MOHCD-Approved Lender to determine eligibility for MOHCD and other first-time homebuyer assistance programs that may assist with the purchase of a BMR Unit. While these programs may add processing time to the BMR transaction, they can be invaluable in helping an applicant qualify for a mortgage. A MOHCD-

Approved First-Time Homebuyer Education Provider can provide more information on other first time homebuyer assistance programs.

When financing with MOHCD first time homebuyer assistance programs, such as Below Market Rate Downpayment Assistance Loan Program (BMR DALP), Teacher Next Door (TND), an applicant must meet all of the eligibility requirements for the particular City loan program. In the case of any conflicting requirements, the more restrictive will apply.

BMR Buyers that use the MOHCD-administered down payment assistance program should consult the BMR DALP Program Manual for additional program guidelines. The BMR DALP Program Manual can be found on the DALP general website page at <http://sfmohcd.org/DALP-DETAILS>.

9. MOHCD Final Approval

If no further information is required from the BMR applicant or the MOHCD-Approved Lender, within 15 business days of receipt of the full and complete lender package, MOHCD will determine final eligibility. Once eligibility is determined, MOHCD will proceed with escrow closing and release program documents along with escrow instructions to the title company.

10. Closing the Sale

a) Transaction Fees for BMR Sales

The Project Sponsor or BMR Owner must pay all usual, customary and reasonable transaction costs normally borne by the seller in a residential real estate transaction, with the following requirements:

- For BMR Initial Sales, the Project Sponsor shall pay realtor fees (see Section IV (B)(8)(b) of this Manual for other options for Realtor Representation) in an amount commensurate with fees being paid for market rate buyer representation in the Project and pay City and County Transfer Tax in all cases.
- For BMR Resales, realtor fees up to 5% of the BMR resale base purchase price are added to the BMR Owner's Maximum Resale Price, which shall be split 50-50 between buyer's and seller's agents; and City and County of San Francisco Transfer Tax must be paid by the BMR Owner in all cases.

b) Pre-Closing Buyer Meeting

Once MOHCD has issued a final approval for the purchase of a BMR Ownership Unit ("Purchase Commitment Letter"), which expires in 30 days from the date of the letter, all Household members that will appear on the title are required to attend a pre-closing meeting at MOHCD. MOHCD staff will review the Acknowledgement of the Declaration of Restrictions, this Manual and other applicable documents, the Post Purchase Education requirement described in Section IV (B)(12) of this Manual, and answer any questions about BMR Unit ownership.

c) Title Company

BMR Unit sales transactions are more complicated than traditional home sales and require additional steps on the part of title companies. While BMR Unit sellers may select any title company, MOHCD recommends choosing one with experience in BMR transactions. MOHCD conducts an annual training event for title companies and title officers to ensure timely and accurate closings. MOHCD can provide applicants, Project Sponsors and BMR Unit Owners with the names of title companies and title officers with experience in San Francisco BMR transactions.

Once a buyer and seller have executed documents and before proceeding with closing, the title company must send the following to MOHCD:

- Original borrower's signed BMR Note
- Certified copy of signed City and County of San Francisco Deed of Trust
- Certified copy of signed City and County of San Francisco Declaration of Restrictions and Option to Purchase Agreement
- Certified copy of signed Acknowledgement of the Declaration of Restrictions, Procedures Manual and Planning Code Ordinance
- Certified copy of signed Request for Notice of Default
- Estimated Combined Master Settlement Statement
- Copy of signed first mortgage Note & Deed of Trust
- Copy of first mortgage lender escrow instructions
- Certified copy of signed Grant Deed
- HO-6 homeowners insurance policy or other homeowners insurance policy approved by MOHCD
- Closing Disclosure
- Copy of signed note and deed of trust for any MOHCD-approved subordinate loans or liens used to purchase the BMR Unit
- Proof of insurance naming the City and County of San Francisco as an additional insured.
- Any other applicable documents required by MOHCD

11. Documents that Enforce Program Restrictions

Before the issuance of the First Construction Document (as defined by Section 401) by the Department of Building Inspection, a Notice of Special Restrictions reflecting conditions of project approval, and other appropriate documentation, is recorded with the Office of the Recorder of the City and County of San Francisco on each BMR Unit. Such restrictions and other recorded documents include language restricting the sale or rental of the BMR Unit in accordance with the Use Restrictions.

Key documents include:

a) Promissory Note, or "BMR Note"

MOHCD prepares the BMR Note in an amount equal to the difference between (i) the appraised fair market value of the BMR Unit without regard to the sales restrictions on the BMR Unit at

the time of purchase, and (ii) the Maximum Purchase Price of that Unit at the time of purchase pursuant to the Use Restrictions. All BMR Notes contain restrictions on resale and rental of a BMR Unit.

The BMR Note provides for an appreciation and is due and payable, in full, if either of the following occurs: (1) the date of a sale or transfer of the Unit that is not in compliance with this Manual and/or the Use Restrictions; or (2) the date of an event of a default of any of the conditions, obligations or covenants contained in the BMR Note (including without limitation the covenant to sell the BMR Unit in compliance with the Use Restrictions). The appreciation is equal to the difference between (i) the appraised fair market value of the BMR Unit at the time of purchase without regard to the BMR restrictions in the NSR and/or other applicable Use Restrictions, and (ii) the appraised fair market value of the BMR Unit at the time of resale without regard to the BMR restrictions in the NSR and/or other applicable Use Restrictions.

The BMR Note is terminated, and no amount is due, upon a resale of the BMR Unit performed in compliance with this Manual and the Use Restrictions.

b) *Deed of Trust*

The BMR Deed of Trust is subordinate to the first mortgage deed of trust, executed by the Buyer as trustor, for the benefit of the City to secure the BMR Note. The BMR Deed of Trust will not be subordinated to any other liens or restrictions affecting the Project or a BMR Unit.

c) *Declaration of Restrictions and Option to Purchase Agreement*

BMR Owners execute a Declaration of Restrictions and Option to Purchase Agreement that, among other things, requires the BMR Owner to comply with the Use Restrictions and grants the City an option to purchase the BMR Unit in the event that the Owner does not comply with the Program terms.

d) *Buyer Acknowledgment of Special Restrictions*

Each BMR Owner shall execute and deliver to the City an “Acknowledgement” that s/he has read this Manual, the Use Restrictions, and the recorded Declaration of Restrictions and Option to Purchase Agreement for the BMR Unit.

At the Close of escrow for an individual BMR Unit, the Acknowledgement, the Declaration of Restrictions and Option to Purchase, and the City and County of San Francisco Deed of Trust are all recorded against the BMR Unit with the Office of the Recorder of the City and County of San Francisco. When a BMR Owner sells a BMR Unit in compliance of this Manual and the Use Restrictions, the BMR Owner’s BMR Deed of Trust will be reconveyed or terminated by the City, and the new Buyer will enter into a new Declaration of Restrictions and Option to Purchase Agreement, a new BMR Note, a new BMR Deed of Trust, and any other documents required by the City.

12. *Post-Purchase Education*

All BMR Owners are expected to attend at least 6 hours of Post-Purchase Education workshops within 24 months of purchase of a BMR Unit. Homeowner education workshops cover topics such as HOA

rights and responsibilities, refinancing a BMR Unit, and property home maintenance. As part of the closing costs, BMR Owners pay a fee to ensure attendance at a “Post Purchase” workshop, which will be provided by a nonprofit agency. This fee shall not exceed \$200 and will be authorized by MOHCD in the City’s escrow instructions. The fee will be refunded in full to BMR Owners who complete all 6 hours of post purchase education within 24 months of purchase. After 24 months of the date of purchase, any unclaimed deposit will be retained by the designated nonprofit agency. MOHCD will provide information about the date, time, and location of post-purchase workshops on its website at www.sfmohcd.org, and will send regular announcements to new homeowners via mail and email.

MOHCD-Approved Lenders shall follow the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) for proper disclosure of the Post-Purchase Education fee.

C. Requirements of Owning a BMR Unit

Owning and selling a BMR Unit differs in many ways from owning and selling a market rate home. As a result, it is important that BMR Owners understand the rules and procedures of the Program fully. Any violation of the Program rules and regulations, Use Restrictions, and applicable sections of the Planning Code may result in the City declaring the BMR Owner to be in default of the Program and may lead to the immediate sale of the BMR Unit as well as monetary and other enforcement actions.

The following restrictions apply to all BMR Owners for the Life of the Project:

1. Owner Occupancy

The BMR Unit must be the Owner’s Primary Residence. Everyone on title must live in the Unit at least 10 out of 12 months of each calendar year and must begin occupying the BMR Unit within 60 days of the purchase.

2. No Renting

Except as provided in this Section, BMR Owners are prohibited from renting or subleasing any part of a BMR Unit without the prior written approval from MOHCD. No part of a BMR Unit can be rented or subleased as a short-term rental or listed on short-term rental or vacation rental sites at any time. Renting of a parking space or any other space purchased with the Unit is also prohibited.

In its sole discretion, MOHCD may grant consent to a BMR Owner to rent all or part of their BMR Unit for up to 12 months. Circumstances considered include:

- The Household is required to temporarily relocate due to documented employment requirements;
- The BMR Owner is experiencing temporary financial hardship where the Households monthly housing expenses exceed 50% of the total Household income; or,
- For other reasons deemed acceptable by MOHCD in its sole discretion.

MOHCD will consider allowing the temporary rental only if all of the following conditions are satisfied:

- BMR Owner is in compliance with all Program requirements and has not previously been out of compliance.
- Total period for which the BMR Unit is leased does not exceed 12 months and is not offered as a short-term rental.
- Tenant satisfies the income and other eligibility requirements placed on the BMR Unit.
- Tenant acknowledges, in writing, that the rental is temporary.
- Initial rent does not exceed the Maximum Annual Rent that MOHCD would allow for a BMR Rental Unit with the same Maximum Household Income restriction or the BMR Owner's total documented housing expenses (including Mortgage principal and interest, property taxes, HOA Dues, and insurance), whichever is lower.
- Owners experiencing temporary financial hardship are required to reside in the BMR Unit and provide MOHCD with written confirmation from a HUD-approved housing counseling agency that temporarily subletting of a portion of the BMR Unit will lead to long-term financial stability.

3. Maintenance

BMR Owners will maintain (i) the BMR Unit in compliance with all applicable laws, ordinances and regulations and in a good and clean condition and (ii) all appliances in good and working order. The Maximum Resale Price of a BMR Unit may be reduced as necessitated by abnormal or excessive wear and tear or because of neglect, abuse or insufficient maintenance by the BMR Owner.

4. Insurance

The BMR Unit must be covered by an insurance policy for a minimum of its replacement value. MOHCD must be named as an additional insured or loss payee on the insurance policy. If HOA master policies do not cover replacement of the interior of the BMR Unit, the BMR Owner must obtain and maintain separate HO-6 condominium or other homeowner insurance policy that lists the City as an additional insured or loss payee during the Owner's term of ownership.

5. Annual Monitoring

MOHCD requires occupancy certification on an annual basis. BMR Owners are required to provide information and documentation regarding occupancy status, insurance and any other information deemed necessary by MOHCD to determine compliance with the Program. At its discretion, MOHCD may require additional documentation after submittal of the initial documentation. MOHCD will not consider requests for subordination, capital improvements, title change or other requests if an Owner is non-compliant with any Program rule.

6. Title Changes

MOHCD will not permit changes in title except as provided below. BMR Owners must get written permission from MOHCD before making any changes to title. MOHCD requires documentation to approve any title change, and BMR Owners must be compliant and current with Annual Monitoring requirements in order to be considered for requested title changes. Mutually agreed to amendments to title documents will be recorded. MOHCD permits a change in title only for one of the following reasons:

a) *Marriage or Domestic Partnership*

No sooner than 12 months after the original purchase, the Spouse or Domestic Partner of a BMR Owner may be added to title and assume the same rights and responsibilities as the original BMR Owner.

b) *Dissolution of Marriage or Domestic Partnership*

Submittal to MOHCD of proof of death, dissolution of marriage or Domestic Partnership is the only way to remove a BMR Owner from title.

c) *Owner's Death*

When one BMR Owner dies, any surviving co-Owners previously approved by MOHCD continue to hold title. Surviving Owners must notify MOHCD within 60 days and provide all requested documentation prior to removing a deceased owner from title.

When all BMR Owners on title have died, the BMR Unit may be transferred by inheritance, will, or any other function of law to a child, Spouse or Domestic Partner not on title provided that the child or Spouse otherwise qualifies for the Program. Within one (1) year of the death of the BMR Owner, the proposed transferee must submit a full standard BMR application with financial and other qualifying information (including loan pre-approval and completion of the First Time homebuyer education requirement) to verify eligibility. If qualified, within ninety (90) days, the child, Spouse or Domestic Partner shall execute a Note, City Deed of Trust, and any other City documents related to the BMR Unit and assume the same rights and responsibilities as the deceased Owner. If not qualified or not interested in retaining the BMR Unit, within 30 days following the disqualification or within twelve (12) months of the death of the BMR Owner, the child, Spouse or Domestic Partner must begin the sales process by following the resale timeline and procedures to sell the BMR Unit to a qualified buyer meeting all eligibility requirements of the Program. The heir(s) of the BMR owner is/are entitled to receive the deceased Owner's proceeds after the sale.

d) *Living Trust*

MOHCD will consider requests to transfer title to an inter vivos (living) revocable trust from a BMR Owner only if the following conditions are met:

- The trust complies with and is governed by the laws of California.
- The BMR Owner must be named as the trustor, trustee and primary beneficiary of the trust.
- There is no unusual risk or impairment of the City's rights, including the right to have full title to the property in the case of default or foreclosure.
- The proposed Living Trust documents contain language approved by MOHCD that a transfer of the BMR Unit to a beneficiary under the living revocable trust who is not the BMR Owner triggers the City's Right of First Refusal or option to purchase the BMR Unit, and other rights under the Program.

- Any changes to a MOHCD-authorized trust must be approved by MOHCD before those changes are made.

7. Refinancing a BMR Unit

BMR Owners must obtain MOHCD's prior written approval of any refinancing of a loan and the addition of any lien on the BMR Unit regardless of lien position. At all times, the City's lien position must be maintained and will only be subordinated pursuant to the MOHCD Subordination Policy. BMR Owners must follow the MOHCD Subordination Policy at <https://sfmohcd.org/subordination-refinance>. No earlier than twelve (12) months after purchase, BMR Owners may submit a request to MOHCD to refinance their first mortgage for the following purposes:

- Lower interest rate
- Shortened first mortgage loan term
- Lower monthly payment

When requesting approval to refinance, BMR Owners must:

- Use a MOHCD-Approved Lender
- Be up to date with Annual BMR Unit Monitoring and in compliance with Program rules
- Pay an administrative fee posted on MOHCD's website
- Have no delinquent mortgage payments, property taxes, HOA payments, unauthorized loans, or liens
- Satisfy any other requirements outlined in MOHCD's Subordination Policy

Cash equity withdrawals on BMR Units are allowed only under the following circumstances and must be pre-approved in writing by MOHCD:

- Capital improvements to the BMR Unit;
- Educational expenses of a Household member;
- Medical expenses of the BMR Owner or the Owner's immediate family member; and
- Funds required to implement a marriage dissolution agreement or domestic partnership dissolution agreement.

Documentation supporting the expense will be required. Under no circumstances can the new loan amount exceed the original loan amount, and the Combined Loan to Value cannot exceed 95%.

BMR Owners with down payment assistance loans from MOHCD may not access cash equity from refinancing until the down payment assistance loan is repaid in full.

BMR Owners with Below Market Rate Downpayment Assistance Loan ("BMR DALP") should consult the BMR DALP Program Manual for additional subordination requirements. The BMR DALP Program Manual can be found on the DALP general website page at <http://sfmohcd.org/DALP-DETAILS>.

8. Default and Foreclosure

BMR Owners are encouraged to contact MOHCD as soon as possible if they are at risk of a loan default, or a foreclosure, or if HOA Dues or Special Assessments become unaffordable. MOHCD supports HUD-approved housing counseling Agencies to help negotiate loan modification at no cost to BMR Owners.

Use Restrictions will survive foreclosure, and any BMR Units purchased by an ineligible buyer through foreclosure must be immediately resold through MOHCD’s resale process to a Qualified Buyer.

D. Reselling a BMR Unit

A BMR Owner may only sell their Unit to a Qualified Buyer. All Transfers shall take place through an escrow account with a title company mutually acceptable to seller and buyer. No Transfer shall be permitted unless the selected title company complies with escrow instructions provided by MOHCD.

The following table describes the major steps and approximate processing times BMR Owners can expect for most resales. All processing times listed are estimates, and transaction times may vary depending on unique circumstances presented by a particular BMR Unit.

| Resale Processing Timeline | |
|---|-------------------------------|
| Steps | Time Estimate |
| Notice of Intent to Sell Packet Submittal – Issuance of Pricing Letter | 30 calendar days |
| Marketing Plan Submittal – BMR Unit Posting | 14 calendar days |
| Marketing – Application Deadline (Application Period) | 21 calendar days |
| Lottery for Resale Buyer (14 days after Application Deadline) | 14 calendar days |
| Full Application Submittal | 5 business days |
| MOHCD Application Review – Issuance of Conditional Approval | 15 business days |
| Sales Contract Ratification (45-day financing contingency & 60-day closing) | 7 calendar days |
| First Loan Approval – Lender Package Submittal to MOHCD | 30 calendar days |
| MOHCD Final Review – Issuance of Full Approval | 15 business days |
| Escrow & Closing | 15 calendar days |
| Total Calendar Days | Approximately 180 days |

When selling a BMR Unit, BMR Owners must adhere to the following procedures.

1. Notice of Intent to Sell

A BMR Owner that is ready to sell must notify MOHCD in writing at least 30 days prior to marketing the BMR Unit. MOHCD shall provide the Maximum Resale Price only upon receipt of all of the following documents:

- A Resale Pricing Request on a form provided by MOHCD;
- An executed Listing Agreement with a licensed realtor who has a local real estate office in San Francisco to accept paper applications;
- Proof of monthly HOA Dues in the form of an invoice or payment coupon; and
- A statement of all reimbursement credits approved by MOHCD (if applicable).

Within 30 days of receipt of a complete request, MOHCD will issue a pricing letter with the Maximum Resale Price of the BMR Unit and any other conditions of sale. No more than one pricing letter may be requested in any calendar year and any pricing requests received within twelve (12) months of another request may be subject to a fee as determined by MOHCD. The pricing is valid for 30 days from the date of the letter. No separate terms can be required within a sales agreement that require the BMR Buyer to purchase appliances, furnishings, storage units or other items. All amenities and parking spaces that were purchased with the BMR Unit originally must be sold with the Unit upon resale. Repricing may be subject to a fee as listed on MOHCD's website at www.sfmohcd.org.

2. Maximum Resale Price

The Maximum Resale Price will be calculated according to a formula designed to ensure that BMR Units remain affordable. The specific Resale Pricing Formula for determining the Maximum Resale Price for BMR Units where the most recent sale is after the effective date of this Manual will be contained in a Declaration of Restrictions and Option to Purchase Agreement recorded against the specific BMR Unit.

A BMR Owner is not guaranteed that a new buyer will purchase the Unit at the Maximum Resale Price. As in any real estate transaction, a BMR Owner may have to lower the price in order to attract a buyer. Owners with deferred maintenance or excessive wear and tear should expect to negotiate a lower sales price. The Maximum Resale Price is simply the maximum amount that a BMR Owner may advertise for the Unit.

3. Cost Reimbursement (Capital Improvements) in Resale Price

While the resale price of BMR Ownership Units is strictly limited in order to preserve affordability, BMR Owners have the opportunity to increase the Maximum Resale Price in order to reflect pre-approved documented costs associated with capital improvements, repairs, and Special Assessments.

In order to maintain the affordability for subsequent BMR Owners, MOHCD will cap all eligible capital improvements and eligible replacement and repair costs, combined, at 10% of the resale price. BMR Owners may begin claiming all eligible capital improvements, repairs and replacements made ten (10) years or more after the initial sale of the Unit. All improvements that are credited in the resale price must remain in the BMR Unit at resale. Note that there is no cap on the amount of credit that can be claimed for Special Assessments, however the amount is depreciated over time.

BMR Owners must obtain MOHCD's approval for all eligible capital improvements, eligible replacement and repairs, and Special Assessments when the costs are incurred, and all City code requirements must be followed. No credit will be provided for improvement costs that are not approved within six (6) months of completion of work, for work performed without required permits, or for work that does not comply with applicable San Francisco or California codes.

a) Eligible Capital Improvements

Eligible capital improvement costs include major structural system upgrades, new additions to the BMR Units and improvements related to increasing the health, safety and energy efficiency of the property. Improvements that meet these criteria will be given 100% credit. Examples of such improvements include:

- Major Electrical Wiring System Upgrade
- Room Additions
- Alarm System
- Smoke Detectors
- Major Plumbing System Upgrade
- Installation of Additional Closets and Walls
- Removal of Toxic Substances, such as asbestos, lead, or mold/mildew
- Upgrade to Double Paned Windows
- Insulation
- Upgrade to Energy Star Built-In Appliances as follows: furnace, water heater, stove/range, dishwasher and microwave hood.

b) *Eligible Replacement and Repair*

These costs include in-kind replacement of existing amenities, repairs and general maintenance that keeps the property in good working condition. Costs that meet these criteria will be given 50% credit for repairs.

- Electrical maintenance and repair, such as switches and outlets
- Countertops
- Built in cabinets
- Plumbing maintenance and repair, such as faucets, supply line and sinks
- Bathroom tile
- Bathroom vanity
- Flooring
- Replacement of Built in appliances as follows: furnace, water/heater, stove/range, dishwasher, microwave hood, garbage disposal
- Window sash
- Heating system
- Lighting system (Recessed)

c) *Ineligible Costs*

These costs include cosmetic enhancements, installations with limited useful life spans, non-permanent fixtures, improvements with special features that are for personal needs, and alterations that are matters of personal preference. BMR Owners may undertake these projects for their own enjoyment to the extent they obtain all required permits and the proposed alterations comply with applicable codes; however, the cost will not be added to the resale price. Ineligible Costs can include, but are not limited to, the following:

- Fireplace tile and mantel, gas fireplace installation, decorative wall coverings or hangings, window treatments, installed mirrors, shelving, refinishing of existing surfaces
- Health spa, special entrances, thermostats, built in stereo system

- Track lighting, doorknobs, handles, locks, portable appliances (refrigerator, microwave, stove/oven, etc.)
- Carpet, painting of existing surfaces, window glass, light bulbs
- Remodeling of a specific room, changing floor plan

d) *Special Assessment Costs*

As a building ages, an HOA may find it necessary to impose a fee on its owners to cover the cost of repairs or improvements to the building. The HOA Board of Directors must follow California Bureau of Real Estate laws when deciding to initiate a Special Assessment. All owners in a building, including BMR Owners, must share the burden of a Special Assessment. The cost of a Special Assessment will be added to the resale price of the BMR Condo at the depreciation rate of seven percent (7%) per year from the date that the Special Assessment payment was made. Monthly HOA Dues cannot be counted as Special Assessments.

MOHCD has a program to assist with a Special Assessment that is not affordable to a BMR Owner. BMR Owners are encouraged to contact MOHCD for more information.

e) *Procedure for Submitting Cost Reimbursement in Resale Price*

BMR Owners must submit a request for cost reimbursement in resale price to MOHCD for review within 6-months of the completion of the project or payment of a Special Assessment. BMR Owners must submit a written request on a form provided by MOHCD that includes the following items:

For Capital Improvements, Replacement and Repairs:

- The receipt and invoice for each eligible improvement.
- Proof of payment, such as a cancelled check, bank account statement or credit card bill.
- A copy of site or building permits, if required.
- Contractor’s license number for Projects exceeding \$500.
- Before and after photos.

For Special Assessments:

- An invoice for the Special Assessment.
- Proof of payment, such as a cancelled check, bank account statement or credit card bill.

At its discretion, MOHCD may arrange a site visit to inspect the completed project or require further information to substantiate improvements to BMR Units or payment of Special Assessments. Once the improvements have been verified, MOHCD will provide written documentation of the resale credit for cost reimbursement at resale.

4. *Marketing at Resale*

The BMR Units must be marketed for at least 21 calendar days preceding an application deadline. MOHCD will announce the available BMR Units on its email housing alert system and,

when available, on the DAHLIA San Francisco Housing Portal. Among other requirements, the BMR Owner's realtor must:

- Hold 3 open houses - including at least one weeknight and one weekend day, with each open house lasting at least two hours.
- Advertise the BMR Unit on the Multiple Listing Service (MLS) to promote public awareness.
- Accept applications and distribute lottery ticket numbers in accordance with the most recent MOHCD application policies and procedures.
- Have a local real estate office in San Francisco.
- Field all questions regarding the BMR Unit.
- Enter applicant information into a MOHCD-provided applicant tracking system within 48 hours of application deadline.
- Ensure completeness of all paper applications.
- Be in compliance with all applicable federal, state and local laws relating to Fair Housing.
- Attend and assist with the BMR public Lottery.

5. Lottery Process

The MOHCD Housing Preferences and Lottery Procedures Manual at <https://sfmohcd.org/lottery-preference-programs>, as revised from time to time, contains detailed procedures for application tracking, lottery preference qualifications, application review guidelines, and application denial appeals.

6. Closing

Realtor fees are paid by the BMR Owner and must be shared in a commission agreement with the BMR buyer's Realtor. Such fees are based on the MOHCD-calculated Resale Base Price before the addition of any Cost Reimbursement credits.

V. BELOW MARKET RATE (BMR) RENTAL PROGRAM

Renting a BMR Unit differs in many ways from renting a market-rate apartment. As a result, it is important that applicants fully understand their rights and responsibilities under the Program. Any violation of the restrictions, policies and procedures set forth in this Manual and in applicable sections of the Planning Code may result in the City declaring the BMR Renter to be in default of the Program and may lead to the immediate termination of the BMR lease as well as monetary and other enforcement actions.

A. Rent and Income Levels

The City restricts the rental of BMR Unit Rentals to Households that are Low- to Middle-Income. Each BMR Unit has its own rent level and income limit. A legal document called a Notice of Special Restrictions (NSR) includes the specific income level for calculating the Maximum Annual Rent that may be charged for each BMR Unit. Applicants can review the listing information in DAHLIA San Francisco Housing Portal (<https://housing.sfgov.org/>) for details on the actual rent levels and income limits for each BMR Unit.

Most BMR Rental Units have rent levels that are affordable to Households earning either 55%, 80% or 110% of AMI, as amended by the City through the Planning Code over time.

Due to changes to the Planning Code over time, many older BMR Rental Units are available to Households at one income level, while newer BMR Units are available to Households ranging in income. For projects governed by this Manual, the following table sets forth the most common rent and income levels for BMR Units:

BMR Rental Program Rent Amounts and Income Limits by AMI Level

| <u>Target Rent Levels</u> | <u>Allowable Household Income</u> |
|---------------------------|-----------------------------------|
| 55% of AMI | At or below 65% of AMI |
| 80% of AMI | Between 65% and 90% of AMI |
| 110% of AMI | Between 90% and 130% of AMI |

Households earning up to 65% of AMI may apply for BMR Rental Units with rent level at 55% of AMI. Households earning between 65% and 90% of AMI may apply for BMR Rental Units with rent levels at 80% of AMI. Households earning between 90% and 130% of AMI may apply for BMR Rental Units with rent levels at 110% of AMI. For any affordable units with rental rates set at 110% of AMI, the Units shall have a minimum occupancy of two persons.

B. Permissible Reasons for Project Owners to Deny BMR Renter Applicants

If an applicant Household meets the Program qualifications, Project Owners may only deny a rental application based on the criteria described below. Each Project will have its own “Resident Selection Criteria” within these guidelines. MOHCD reviews and approves each Property’s criteria before the Project is listed on DAHLIA.

The Project must adhere to all applicable federal, state and local standards for “Resident Selection Criteria” and all reasons for applicant denials must be based on documented proof. Any credit, eviction, or criminal history reviews conducted for prospective BMR Unit renters must be evenly applied to all renters in the Project, including market-rate renters.

1. Inability to Pay Rent

The Project Owner may require a minimum income for BMR Renters but must not require any applicant to have a minimum Gross Income of more than 2 times the annual Maximum Annual Rent. If an applicant is using a rent subsidy such as a Housing Choice Voucher, the minimum Gross Income will be based on the BMR Renter’s monthly share of rent rather than the Maximum Annual Rent amount, which will be partially covered by the voucher. For example, if the BMR Unit’s rent is \$1,200 and an applicant is responsible for a rent payment of \$400, then to qualify the applicant must earn a minimum of \$800 per month.

2. Credit

While the Program has no minimum credit standard, the Project Owner may require adult Household members to clear a credit check, but only after the Household has income qualified. If a Project Owner’s minimum credit score standard is above 620 (or its equivalent in the case of other credit scoring models), the Project Owner must consider the following mitigating circumstances when selecting applicants.

- An applicant’s recent timely payment history; 24 months from the date of the application of on-time payments for bills and credit accounts.
- An applicant’s timely rent payment history; 24 months from the date of the application of on-time rent payments of equal or greater value to the proposed rent for the BMR rental unit.
- Negative credit history due to outstanding medical or student loan debt or unpaid balances below \$2500 should not be taken into consideration.
- Alternate forms of credit history such as rent payments, insurance, utilities and childcare paid on time, especially in the case where an individual has no credit, should always be taken into consideration.

a) Eviction History

The Project Owner may require adult Household members to clear an eviction history review. Eviction review is limited to the last three years from the date of an application and “No fault” may not be considered as a basis for denial. When a Project Owner discovers a previous eviction judgment for non-payment of rent or other lease violations, it must give the applicant an

opportunity to present any mitigating circumstances before issuing a denial. Project Owners shall consider the following mitigating circumstances:

- Relocation/escape from a domestic violence situation or escaping or evading an abuser.
- Having had insufficient or interrupted income in a non-subsidized residence.
- Successful enrollment in money management or payee services after a non-payment eviction.
- Circumstances that will be unlikely to recur with stabilized housing costs.

b) *Criminal History*

Project Owners must comply with the provisions of San Francisco’s Fair Chance Ordinance (San Francisco Police Code Article 49). Among other things, the Fair Chance Ordinance prohibits a Property Owner from considering criminal records that occurred over seven (7) years before the date of review of a BMR Unit rental application. It also requires Property Owners to review income and all other eligibility qualifications before performing a criminal background check. For more information on the Fair Chance Ordinance and applicant rights when it comes to criminal background checks, contact the San Francisco Human Rights Commission. See: <http://sf-hrc.org/fair-chance-ordinance>.

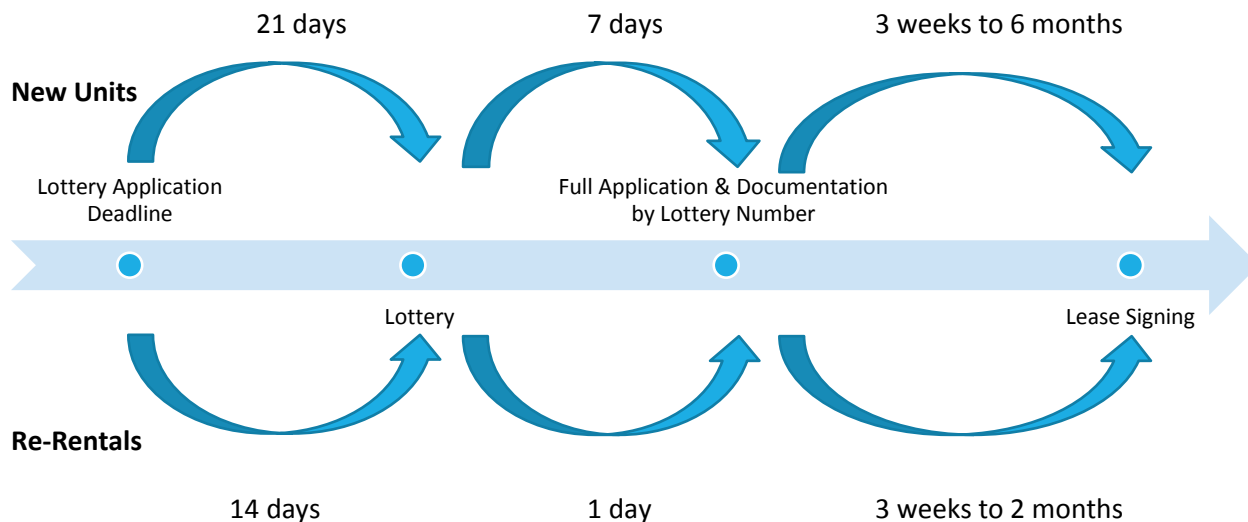
c) *Use of Guarantors*

If an applicant’s income, credit or rental history does not meet the Project’s minimum qualification requirements or “Resident Selection Criteria,” the Project Owner shall allow the applicant to use a lease guarantor. While a lease guarantor is not entitled to live in the BMR Rental Unit, it is guaranteeing that the rent will be paid by the guarantor if the tenant is not able to pay. Specific clauses of the lease or rental agreement will outline the responsibilities of the lease guarantor and must be approved by MOHCD.

If the BMR Unit tenant is able to demonstrate good standing for their rental payment history over the previous 12-month lease period, then upon recertification the Property Owner may not require a guarantor for renewal of the lease.

C. *Application Process for BMR Rental Units*

Below is an estimated timeline for applicants to apply for and rent a BMR Unit. The entire process can take up to 7 months from the day the Project Sponsor announces the availability of newly constructed BMR Units and 2 months for a re-rental. The processing times listed below are estimates; actual times may vary depending on many reasons including the number of BMR Units, the Project Owner’s staff capacity, construction delays and additional information required to determine an applicant’s eligibility.



1. Application, Marketing, and Lottery

New BMR Rental Units shall be marketed for a minimum of 21 calendar-days. The Unit(s) shall be listed on DAHLIA San Francisco Housing Portal and advertised in local newspapers, online sources and other venues as required by MOHCD.

Applicants must submit a MOHCD application by a specific deadline for each new BMR Unit, either through DAHLIA San Francisco Housing Portal or by paper through MOHCD’s Post Office box, as listed on DAHLIA. DAHLIA can be translated into many languages and the paper BMR application is available in the City’s official languages, as amended from time to time. Currently these languages are Chinese, English, Spanish and Filipino.

When BMR Units become vacant, the re-rental of the Unit shall be listed on DAHLIA San Francisco Housing Portal for a 7 calendar-day period.

All applications submitted by the deadline listed on DAHLIA are entered into a lottery. MOHCD may allow the use of an existing lottery list if a new vacancy in the same building takes place within 6 months of a previous lottery and if the vacant Unit has the same allowable maximum income level and same bedroom count as the previous lottery.

Marketing requirements as described in Section VI (H) may be required for BMR Rental Units upon re-rental.

2. Full BMR Rental Program Application

After the lottery, the Project Owner will contact applicants in lottery rank order with an invitation submit a full housing application within 5 business days. Typically, a Project Owner contacts 10 Households for every available Unit. Project Owners must offer leases to qualified applicants in lottery rank order. Applicants should note that the request to provide a full housing application does not always result in a lease offer, since higher-ranked applicants may sign leases for all available BMR Units.

Project Owners must notify applicants in lottery rank order by phone, mail, text and email to request the complete application and documentation within the 5 business day period. Project Owners or their agents must adhere to the application review guidelines outlined in this Manual and the MOHCD Housing Preferences and Lottery Procedures Manual.

A full housing application and the following required documents (listed below) for all Household members age 18 and older must be provided:

- Most recent federal tax return with all schedules, forms, W2s and 1099s.
- 3 current and consecutive pay stubs or if self-employed, a year to date P&L statement.
- 3 current and consecutive bank or assets statements from all bank or liquid asset accounts.

3. Fees for Applying

After the lottery, Project Owners are allowed to charge an application fee and fees to cover the costs of running background checks that have been approved by MOHCD in the Marketing Plan as listed on DAHLIA. Fees collected from applicants not reviewed shall be refunded within 15 days of determining that the applicant will not be reviewed for a BMR Rental unit.

4. Alternative Contact

BMR applicants who want extra help applying and providing documents may choose to list someone else to receive communication during the application process. This can be a case manager, family friend or even a local agency that provides language assistance. If an alternative contact is listed on your housing lottery application, Project Owners will include the 3rd party in all communication regarding the Unit and the applicant Household, including but not limited to communications relating to deadlines, requests for more information and application approvals and denials.

5. Changing an Application after Submission

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

- 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 marriage, legal adoption or new legal guardianship (including foster children).
- Update of data relating to income qualifications, such as a new job, salary increase or decrease, or a job that has ended.
- Correction of technical errors, such as current phone number or other non-qualifying information

Changes to a BMR Unit application are not permitted after an applicant's Household eligibility has been determined.

6. Affordable Rents

The Maximum Annual Rent for a BMR Rental Unit is set assuming a Household size and income level that follows Planning Code and HUD rules. The actual Households that qualify for BMR Rental Units might, and usually do, have slightly different incomes or Household sizes. For example, if the maximum rent for a 2-bedroom BMR Unit is \$1300, any qualified BMR renter must pay this amount. The rent does not vary by Household income or size. This rule differs from some other affordable rental programs.

To calculate the rent for a BMR Rental Unit, MOHCD refers to the Use Restrictions for the Unit. The Use Restrictions state the maximum "Area Median Income" level for calculating the rent for every BMR Unit within the Project. MOHCD then follows the affordable rent set forth by HUD for the applicable unit size and income restriction. HUD's calculation assumes that Household sizes are one person larger than the number of bedrooms in the Unit and that Households pay no more than 30% of their Annual Gross Income on rent. For certain BMR Units that are considered "Single Room Occupancy" and Group Housing units, however, the rent is based on 75% the rent of a studio unit.

MOHCD uses three Maximum Annual Rent levels for BMR Rental Units to distinguish between the utilities included in a tenant's monthly rent payment and those utilities the BMR renter pays directly to the utility provider because the unit is individually metered or submetered; and the utility provider is able to track individual unit consumption.

Project Owners that pay garbage and miscellaneous mandatory fees such as rental insurance, are eligible to charge the Base Rent and the BMR renter will pay water, sewage, gas and electricity directly to the utility provider. Property Owners that pay garbage, water, sewage, and miscellaneous mandatory fees such as rental insurance, are eligible to charge the Tier 1 rent and the BMR renter will pay gas and electricity directly to the utility provider. Property Owners that pay garbage, water, sewage, gas, electricity, and miscellaneous mandatory fees such as rental insurance, are eligible to charge the Tier 2 rent and the BMR renter will not pay for any other utilities.

In the case where a Project Owner applies a Ratio Utility Billing System ("RUBS") to all tenants in the building, the Project Owner may charge the Base Rent if garbage and miscellaneous mandatory fees; Tier 1 rent if garbage, water, sewage, and miscellaneous mandatory fees; and Tier 2 rent if garbage, water, sewage, gas, electricity, and miscellaneous mandatory fees are included in the RUBS calculation.

| | Base Rent Includes garbage and misc. mandatory fees | Tier 1 Rent Includes Base plus water & sewage | Tier 2 Rent Includes Tier 1 plus PG&E |
|--|--|--|--|
| Property Owner pays garbage, and miscellaneous mandatory fees | X | | |
| BMR renter pays their own water, sewage, gas and electricity because the BMR unit is individually metered or submetered | | | |
| Property Owner pays water, sewage, garbage, and miscellaneous mandatory fees | | X | |
| BMR Renter pays gas and electricity because the BMR unit is only individually metered or submetered for gas and electricity | | | |
| Property Owner pays water, sewage, garbage, gas, electricity, and miscellaneous mandatory fees | | | X |
| BMR renter pays no utility bills because the BMR unit is not individually metered or submetered for any utilities | | | |
| Property Owner uses a Ratio Utility Billing System (RUBS) for garbage and miscellaneous mandatory fees | X | | |
| BMR renter pays their own water, sewage, gas and electricity because the BMR unit is individually metered or submetered | | | |
| Property Owner uses a Ratio Utility Billing System (“RUBS”) for water, sewage, garbage, and miscellaneous mandatory fees | | X | |
| BMR Renter pays gas and electricity because the BMR unit is only individually metered or submetered for gas and electricity | | | |
| Property Owner uses a Ratio Utility Billing System (“RUBS”) for water, sewage, garbage, gas, electricity, and miscellaneous mandatory fees | | | X |
| BMR renter pays no utility bills because the BMR unit is not individually metered or submetered for any utilities | | | |

7. Rent Subsidies

San Francisco law prevents Project Owners from refusing to accept rental subsidies from a tenant, including but not limited to the San Francisco Housing Authority Section 8 Housing Choice Voucher Program. When a BMR Renter uses a rent subsidy, the Project Owner must enter into a lease agreement with the BMR Renter that only requires the tenant to be responsible for the Maximum Annual Rent

Amount as determined by MOHCD. Project Sponsors must provide MOHCD with a copy of the executed Request for Tenancy Approval (“RTA”) form within 10 days of lease signing.

8. Additional Fees or Rent Required of Renters

Project Owners must inform MOHCD in advance of any additional required fees or rent, such as renters insurance, that will be required of BMR Renters. Such fees will be allowed only if applied to all renters in the Project and only if the fees or rent do not increase the Maximum Annual Rent under the Program. Certain optional fees may be allowed outside of the Maximum Annual Rent, such as a pet fee, but only if approved by MOHCD through the Marketing Plan and Resident Selection Criteria review.

9. Application Approval and Disqualification

When Project Owners approve applicants, they must contact the approved Household through email, text, mail, **and** telephone. The approval letter will include information on next steps to be taken in the process of renting a BMR Rental Unit.

When Project Owners disqualify applicants, they must notify the applicant in the same manner described above for approvals. The disqualification letter will explain the reason(s) for the disqualification and provide information on the appeal process.

10. Applicant Appeals

If a disqualified applicant believes the disqualification decision was reached in error and has additional information and documentation that could reverse the decision, they can ask for reconsideration. Appeal requests must be made in writing and must clearly state the basis for the applicant’s belief that the Project Owner made an error in disqualifying the application. 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. Applicants must submit an appeal request to the Project Owner within 5 calendar days from the date of the disqualification letter. The disqualification letter will include the actual deadline for appeal and a link for secure electronic submission of sensitive documents.

MOHCD will work to respond to an appeal for reconsideration within 5 business days from the date of receipt of the appeal request. Project Owners will hold one appropriately sized BMR Rental Unit for the disqualified Household during the 5 business day appeal period; however, they are not required to hold the applicant’s preferred BMR Rental Unit. Once MOHCD makes a decision on an appeal request, that decision is final.

D. Restrictions on BMR Rental Units and Renters

Because renting a BMR differs from renting a market rate unit, it is important that BMR renters understand the rules of the Program. Violation of these restrictions could result in an Owner’s decision not to renew a lease, eviction and/or penalties. The following requirements apply:

1. Occupancy

All members of the Household that applied must move into the BMR Rental Unit within 60 days of the start of the lease and occupy the BMR Unit as their Primary Residence for at least 10 out of 12 months of each calendar year.

2. No Subletting

BMR Renters may not sublet any part of the BMR Rental Unit to anyone that is not a part of the Household at any time. BMR Rental Units cannot be subleased for long-term or short-term vacation rentals at any time. There is also no renting or subletting of a parking space or any other space provided with the BMR. Any violation of this rule will lead to the termination of the lease and fines enforced by the Planning Department and/or City Attorney's Office.

3. Household Size

BMR Renter Households must maintain a minimum Household size of at least one person per bedroom. Any violation of this rule, including changes in Household size after commencement of the lease term, could result in non-renewal of the lease for a BMR Household. In the case of BMR Units with rents priced for Middle-Income Households (110% AMI), the minimum Household requirement is two people, including studio units.

4. Household Changes

A Project Owner must not allow any changes to a lease for a BMR Unit within the first lease year, except in following situations: in the case of death, dissolution of marriage or domestic partnership within the Household and only with the written consent of MOHCD and the Project Owner.

Should MOHCD approve the Household composition change, the new Household must submit a new application for the BMR Rental Unit and meet the current qualification standards. If a Household adds or removes anyone within the first twelve (12) months, the new Household income must be at or below the limit that was applicable at the time the continuing members of the Household initially applied. After the first 12 months, if the Household composition changes, the new Household income must remain at or below the allowable recertification limits. Moreover, additions to the Household may be subject to a credit and criminal background check when qualifying.

5. Transferring BMR Rental Units

BMR Renters may apply for other BMR Rental Units by participating in the full application and lottery process for any available BMR Rental Units, but are not given a priority to such units. BMR renters in one building may not transfer to another BMR Rental Unit in the same building once they have begun their lease term unless specifically authorized by MOHCD to address compelling circumstances such as death of a Household member, divorce or separation, or mobility accessibility needs of one or more Household members. A BMR renter will be responsible for any costs associated with an approved transfer.

6. Rental Unit Maintenance

BMR Renters are responsible for making sure that their BMR Rental Units is not damaged and for maintaining the Unit in compliance with the terms of their lease. Project Owners are responsible for maintaining the BMR Unit in the same manner they maintain their market rate units.

7. Annual Recertification

Each year, BMR Renters must provide Household income documentation and other applicable Household information to the Project Owner. BMR Renters who fail to timely provide the required documentation are in violation of the Program and will not have their lease renewed.

E. Lease Requirements for BMR Rental Units

1. Unit Selection

Successful applicants have the opportunity to choose among appropriately-sized BMR Units in their lottery rank order. For more information on the Unit selection process, see the San Francisco Housing Preferences and Lottery Procedures Manual.

2. Lease

MOHCD provides lease guidelines to be used by the Project Owner for each BMR Rental Unit. Each lease will include a BMR Renter acknowledgement of the restrictions and recertification procedures that govern the occupancy of the BMR Rental Unit. The Project Owner may also include an addendum that details building rules not covered in the standard lease. BMR leases and any addendum to the lease must be pre-approved by MOHCD.

3. Lease Execution and Commencement

The Project Owner allows a BMR Renter a minimum of seven (7) calendar days from the date of the Program approval letter to enter into a lease. That lease should commence no sooner than ten (10) calendar days from the signing unless the BMR Renter prefers to begin the lease sooner. These deadlines will be clearly outlined in the Project Owner's approval letter to the BMR Renter Household.

4. Minimum Term and Early Lease Termination

All leases must have a twelve (12)-month term. The material terms of the lease shall not change from year to year, except for the Maximum Annual Rent and other changes required or approved by MOHCD. Should a BMR Renter have the need to terminate their lease, the BMR renter will be responsible for notifying the Project Owner in writing of their intentions and will be financially responsible for any fees associated with an early termination. Project Owners however, may not assess, charge or collect fees from BMR renters for any period in which the BMR Unit has been re-rented.

5. Household Members on the Lease

All Household members age eighteen (18) and older must sign the lease for a BMR Rental Unit. There is no "master leaseholder". In other words, all Household members who appear on the lease have equal status.

The following Household members are not required to sign the lease:

- Legal dependents of leaseholders as claimed on the two most recent federal income tax return or minor children of leaseholders. Spouses or Domestic Partners are not considered dependents.
- Household members younger than age twenty four (24) who are the children of a leaseholder who will reside in the BMR Rental Unit as their Primary Residence, regardless of whether they are named as a dependent on the federal tax form or not.
- Recent immigrants who cannot produce a credit score and who are unable to demonstrate alternative forms of credit. To qualify for this exception, a person must provide entrance documentation reflecting that the person has been in the United States for two (2) years or less.

6. Deposit Requirement

Deposits charged to BMR Renters cannot exceed one month's rent, with the following exceptions:

- An additional one (1) month's rent may be charged as a deposit if the BMR Renter has negative or no credit history.
- Project Owners that allow pets may charge an additional refundable pet deposit that is reasonable and in line with the same deposit paid by market rate renters, but in no instance may the pet deposit exceed one month's rent for the BMR Rental Unit. Pet deposits should be refunded, less any documented damage costs attributed to the pet. Project Owners may not collect a deposit for documented service animals.

7. Late Payment Fees

Late payment fees may be charged for BMR Renters who fail to pay rent in full by the due date defined in their lease. Under no circumstances can BMR Renters be required to pay late payment fees higher than 5% of the BMR Rental Unit rent in any given month.

8. Third Party Notice

BMR Renters who want extra help following the requirements of their leases may choose to list someone else to also receive the recertification information or any legal notices from the Project Owner. This can be a case manager, family friend or even a local agency that provides language assistance. If a Third Party is listed on a BMR Renter's Lease Addendum, Project Owners must inform BMR Renters who designate a third party notice that personal information will be shared with the third party. Until notified by a BMR renter to stop communication to the third party, Project Owners must include the third party in all communication regarding the Unit and the BMR Renter Household, including but not limited to lease violations, evictions and other actions.

F. Annual Monitoring and Recertification of BMR Rental Units

On an annual basis, MOHCD provides training on the form, contents, and procedures for the annual monitoring and recertification of BMR Rental Units. Project Owners will be responsible for satisfying the following recertification requirements every year:

1. Annual Renter Household Recertification

BMR Renters are recertified on an annual basis to determine the continued Program eligibility of the Household, including Household size, occupancy, income, and non-ownership of a housing Unit. Credit and criminal background checks may only be undertaken at the Household's initial qualification or when there are Household Changes as described in Section V (D)(4). Approximately 120 days before lease expiration, Project Owners are required to provide existing renters with a recertification application. Renters must complete the recertification form and provide annual Household income documentation specified in that application.

2. Allowable Income Increases upon Recertification

Within the first twelve (12) months of occupying a BMR Rental Unit, the income of the BMR Renter Household cannot exceed the income level of the BMR Rental Unit when it was first rented. After the first 12 months of occupying a BMR Rental Unit, the income of the BMR Renter Household can increase up to a maximum 175% of AMI, adjusted for Household size. If upon recertification the Household's income exceeds 175% of AMI, the Household must vacate the Unit within 90 calendar days.

3. Permissible Rent Increases for BMR Rental Units

Project Owners that are in compliance with the annual recertification of all BMR renters on the Project are allowed to increase rents for BMR Units no more than once in a twelve (12)-month period up to the Maximum Allowable Rent published by MOHCD for the AMI(s) that apply to their BMR Rental Units (see <http://sfmohcd.org/income-limits-and-rent-limits-below-market-rate-rental-units> for the published rent charts). The typical annual rent increase is less than 5%. Between 2008-2017, rent increases averaged 3.2% each year. However, some years see bigger rent increases than others. In 2017, the BMR Rental Unit rent increased 7%. In 2018, however, the rent increase was 2.68%. Some years, AMI declines and rent stays the same as the prior year. A Project Owner must not increase rent for a BMR Rental Unit more than the most recent year's annual increase in AMI.

Rent adjustments may only occur upon or after recertification, and only in the case where a BMR Renter has reached the end of an annual lease. The Project Owner must follow all applicable federal, state and local laws when increasing rent.

G. Eviction or Non-renewal of Lease for BMR Rental Units

1. Non-renewal of Leases

Some BMR Renters may find themselves in a situation where they need counseling and/or legal services to prevent lease non-renewal or eviction. MOHCD expects Project Owners to refer BMR Renters to housing assistance listed on the MOHCD website and to communicate potential lease violations or other issues to MOHCD before taking any action against a BMR Renter.

Possible reasons for terminating or not renewing the lease of a BMR Renter may include the following:

- Documented non-payment of rent, meaning that the BMR Renter or the guarantor, if any, has failed to pay the rent to which the landlord is lawfully entitled under the lease agreement.

- Documented illegal use of the BMR Unit, meaning that the tenant is using or permitting it to be used for any illegal purpose
- Documented subleasing of the BMR Unit or offering it as a short-term rental.
- Documented breach of the lease agreement.
- Overcrowding of the BMR Rental Unit. The Project Owner must adhere to the San Francisco Housing Code, which includes a formula for calculating the allowable number of occupants per bedroom by the square footage of each bedroom.
- City-approved conversion of a BMR Rental Unit to a BMR Ownership Unit where the tenant is unable or unwilling to purchase the Unit in accordance with Section VI of this Manual.
- Documented violation of BMR Program rules, for example, exceeding the maximum allowable income for recertification; not meeting the minimum Household size requirement; not submitting annual income recertification documentation, or not occupying the BMR Unit as the Household's primary residence.

2. General Procedures for Non-renewal of Lease

Any decision not to renew the lease of a BMR Renter based on the rules of this Manual must be reviewed and approved by MOHCD before the Project Owner can take action.

3. Eviction Procedures

If a Project Owner is seeking to evict a tenant, the eviction process must comply with all applicable Local, State and Federal laws. MOHCD shall not prevent a Project Owner from evicting a BMR Renter who has a documented lease violation(s).

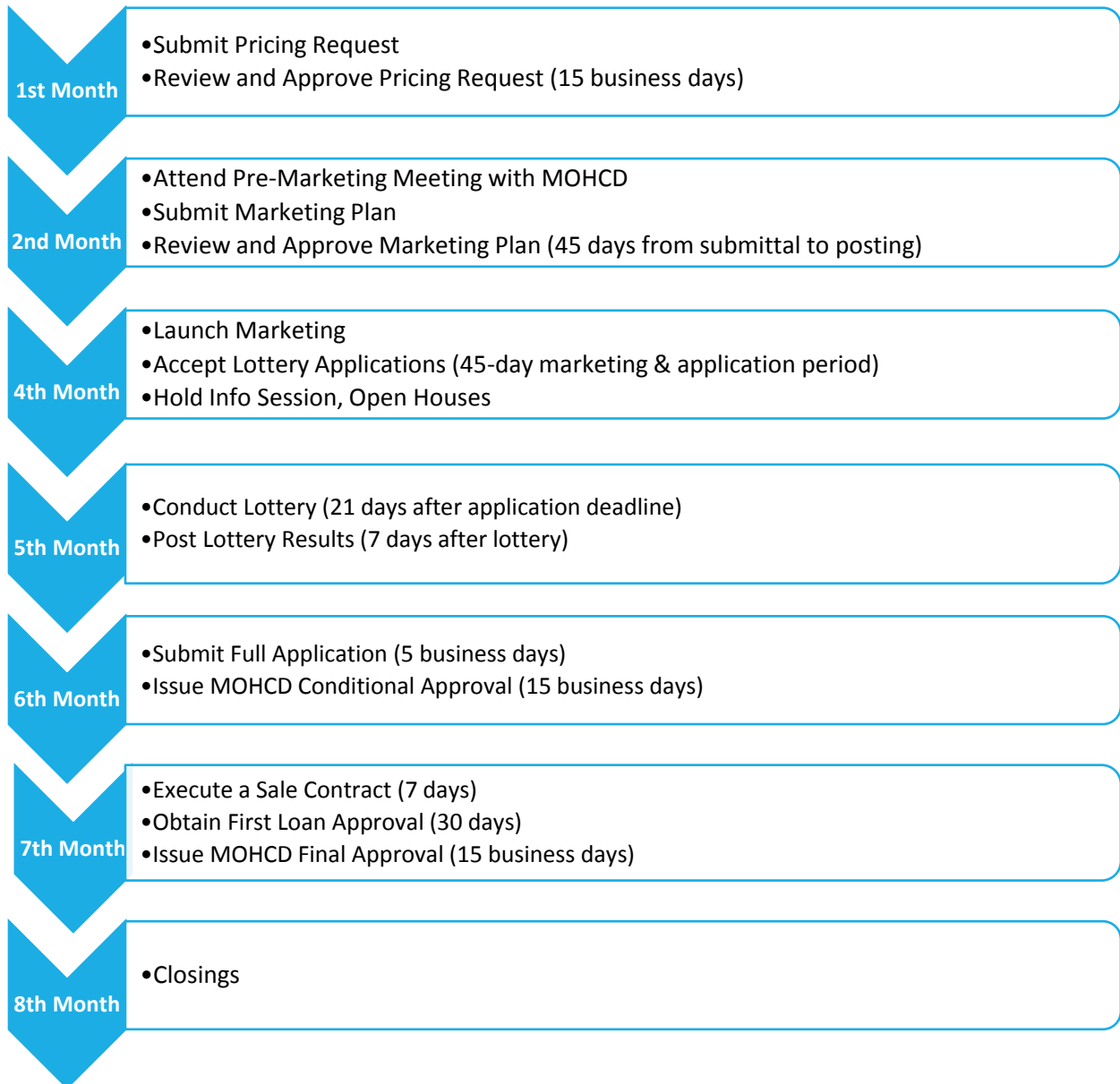
H. Renovation of BMR Rental Units

Any upgrades or renovations a Project Owner makes to the Project or a BMR Rental Unit must be implemented comparably between BMR Units and market-rate units, including services related to relocation during renovations.

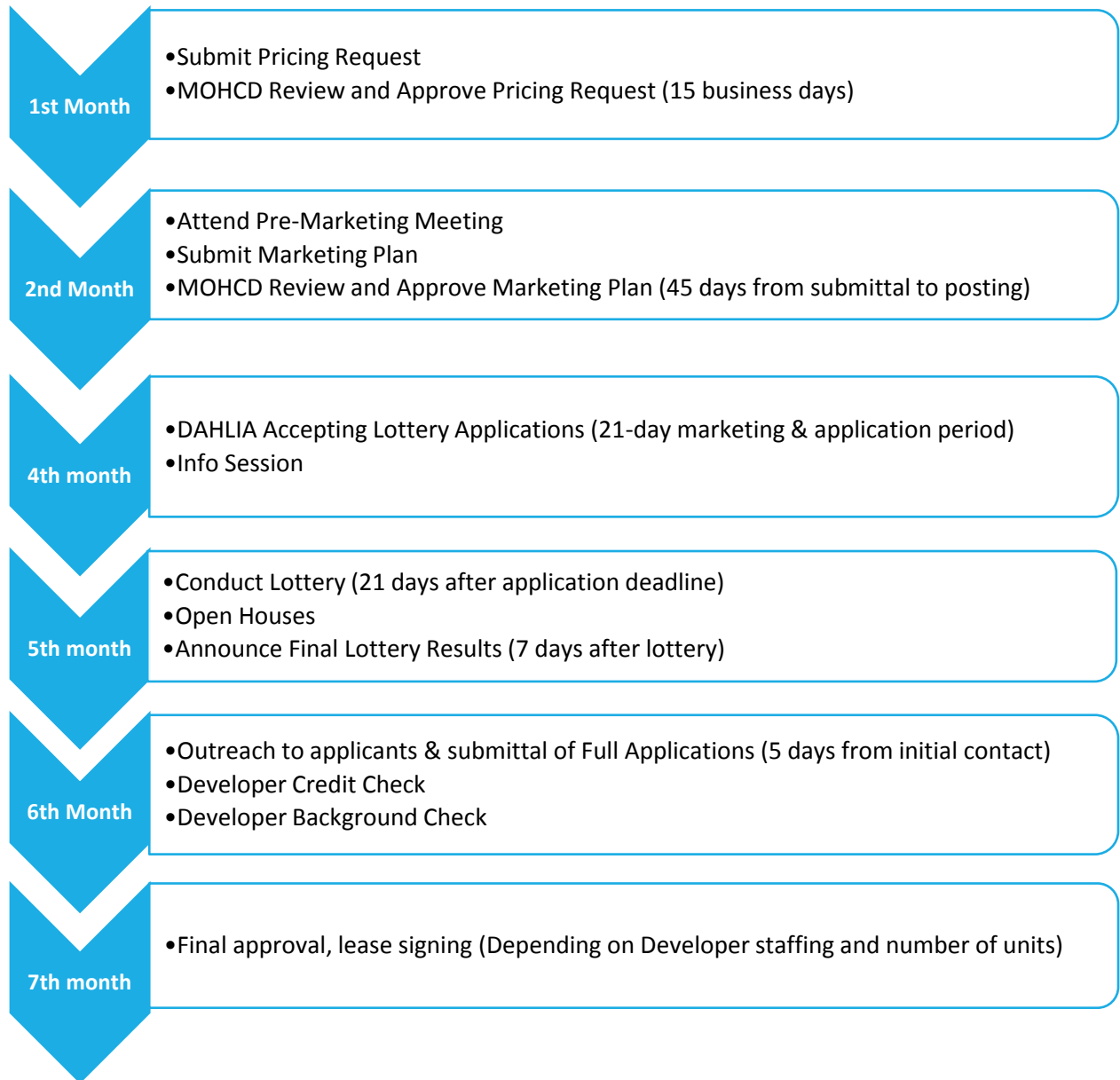
VI. DEVELOPER REQUIREMENTS

Project Sponsors must work with Planning Department staff to determine how they will satisfy their Program obligation as part of a larger entitlement process through one of the means described in the Planning Code. Section I of this Manual provides more information on the Program.

Depending on the number of BMR Units in a building, a Project Sponsor should expect a minimum of eight (8) months from start to closing for the sale of BMR Ownership Units. The following is an overall process and timeline for Developers of BMR Ownership Units:



Depending on the number of BMR Units in a Project, a Project Sponsor of BMR Rental Units should expect a minimum of 7 months from start to lease signing. The following is an overall process and timeline for Developers of BMR Rental Units.



A. Developer Project Approval Process

The Program approval process generally proceeds as follows:

- Project Sponsors have 30 days prior to any Project approvals from the Planning Commission or Department, to elect to meet the Program Requirements through one of the alternatives described in subsection (g)(1) of Section 415.5 (each, an “Alternative”) or through payment of

the Affordable Housing Fee. Project Sponsors work with Planning Department Staff to determine the method of compliance and to complete the “Inclusionary Affordable Housing Program: Affidavit for Compliance”, which details the Program requirements applicable to that specific project.

- The Alternative that the Project Sponsor selects will be a condition of project approval.
- Following entitlement approvals, the Project Sponsor records an NSR on the property, which memorializes the Project’s specific Program obligations including the Alternative the Project Sponsor has selected.
- For projects opting for the On-Site option, NSRs will be subsequently amended to identify which units will be designated as BMR Units.
- Project Sponsors must send copies of the recorded NSR to MOHCD and Planning.
- DBI issues additional project approvals, such as building permit or Certificate of Occupancy, to fulfillment of the Affordable Housing Program obligations.

B. Requirements for both On-Site and Off-Site Units

1. Size of BMR Units

Although BMR Units do not need to be the same square footage as market-rate units, they must at least meet the following square footages as defined by California Tax Credit Allocation Committee Regulations (May 16, 2017) or the applicable Planning Code requirement:

| <u>Unit Type by Bedroom Count</u> | <u>Minimum Unit Size</u> |
|-----------------------------------|--------------------------|
| Studio unit | 300 square feet |
| 1-bedroom unit | 450 square feet |
| 2-bedroom unit | 700 square feet |
| 3-bedroom unit | 900 square feet |
| 4-bedroom unit | 1000 square feet |

2. Marketing and Lotteries

Project Sponsors must meet MOHCD’s requirements regarding marketing and lotteries for BMR Units.

3. Preferences

Project Sponsors must comply with the statutory occupancy preferences provided in Chapter 47 of San Francisco’s Administrative Code.

4. Timing

MOHCD will make every effort to ensure that Projects proceed through the MOHCD procedures in a timely manner while Project Sponsors must make every effort to ensure BMR Units are leased-up or sold

at the same time as the market-rate units. Unnecessary delays in leasing or sale of BMR Units by Project Sponsors will result in enforcement actions by the City.

5. Document Retention Policy

Project Sponsors of BMR Units shall retain initial application forms and Household income documentation for the greater of (a) five (5) years from the date of a BMR Renter or BMR Owner's occupancy of a BMR Unit, or (2) the duration of the tenure of the BMR Owner or BMR Renter occupying the BMR Unit, whichever is longer.

C. Additional Requirements for Developing On-Site BMR Units

Sections 415.3 and 415.6 and Zoning Administrator Bulletin No. 10 (see http://sf-planning.org/sites/default/files/ZAB_10_DesignationPrioritiesInclusionaryAffordableHousingProgram.pdf) set forth the rules regarding On-Site Inclusionary Housing development. Project Sponsors should review those sections carefully (in addition to Section 415's requirements generally) to answer these questions regarding On-Site BMR Units:

- Number of BMR Units required (varies by size of Principal Project, type of project (rental vs. ownership) and project location).
- Affordability levels of BMR Units.
- How or whether the State Density Bonus applies (see below for more information on this issue).

Section 415.6 also provides important information regarding these elements of On-Site development:

1. Equivalency of Units

a) Exterior Features and Size

BMR Units should be comparable in number of bedrooms, exterior appearance and overall quality of construction to market-rate units in the same project.

b) Interior Features

BMR Units should generally include same interior features as market-rate units in the same building, but appliances need not be the same make, model or style, so long as they are new and of good quality.

c) Location of BMR Units

BMR Units should be evenly distributed throughout the building, except for buildings over 120', in which case they should be evenly distributed in the building's lower 2/3rds. Project Sponsors should also consult Planning Department Zoning Administrator Bulletin No. 10 for further information concerning BMR location requirements regarding issues such as adjacency and comparable access to building and neighborhood amenities, (balconies, views, light, etc.) as well as income tier distribution.

2. Public Subsidies

Project Owners may not use any local, state, or federal public subsidies to fund BMR Units, except for tax-exempt bonds coupled with 4% low-income housing tax credits, applied in conformance with Section 415.6(i).

3. Local Density Bonus (HOME-SF)

HOME-SF is San Francisco's local density bonus program. In exchange for increased affordability, a HOME-SF project is entitled to form-based density, certain zoning modifications, and height increases. HOME-SF projects are not required to provide BMR Units at the rates and income levels described in Section 415.6. Instead, a HOME-SF project must choose one of three tiers to provide between 20% and 30% on-site affordable BMR Units, known as HOME-SF units, at various income levels. Unless otherwise specified in Section 206.3, HOME-SF units are subject to the provisions of Section 415 and this Manual.

4. State Density Bonus

On-Site BMR Units can be used to qualify for a density bonus under California Government Code Section 65915 (State Density Bonus) or one of the Affordable Housing Bonus Programs contained in Section 206 et seq. Project Sponsors who receive additional density under the State Density Bonus must pay the Affordable Housing Fee on the additional units or square footage authorized under the State Density Bonus program, as specified in Section 415.5(g)(1)(D).

D. Additional Requirements for Developing Off-Site Units

Sections 415.3 and 415.7 govern the rules regarding Off-Site Inclusionary Housing development. Project Sponsors should review those sections carefully (in addition to Section 415's requirements generally) to answer these questions regarding Off-Site BMR Units:

- Number of BMR Units required (varies by size of Principal Project, type of project (rental vs. ownership) and project location).
- Bedroom count and size of Off-Site BMR Units.
- Affordability levels of BMR Units.

Section 415.7 also provides important information regarding these elements of Off-Site development:

1. MOHCD and Planning Pre-Approval

Project Sponsors wishing to develop Off-Site BMR Units must notify MOHCD and the Planning Department as early as possible, but no less than 120 days before any required Planning Commission hearing for the Principal Project. MOHCD and Planning will evaluate the Project Sponsor's Off-Site proposal's conformance with Section 415.7 prior to seeking any formal Planning Commission approvals.

2. Location

Off-Site BMR Units must be located within one mile of the Principal Project.

3. Delivery of BMR Units

Off-Site BMR Units must be delivered no later than the market-rate units in the Principal Project, and the Principal Project may not receive its first Certificate of Occupancy (COO) until all Off-Site BMR Units have received a first COO.

4. Equivalency of Units

Off-Site BMR Units must be comparable in exterior appearance and overall quality of construction as Principal Project market-rate units.

5. Public Subsidies

Project Owners may not use any local, state, or federal public subsidies to fund BMR Units, except for tax-exempt bonds coupled with 4% low-income housing tax credits, applied in conformance with Section 415.7(g).

E. Quality Standards for Off-Site Inclusionary Housing

In addition to the requirements listed above, as required by Section 415.7(d), all Off-Site Inclusionary Housing must meet the following quality standards:

1. Square Footage

The total square footage of the off-site BMR Units may not be less than the total square footage of market-rate units in the Principal Project, multiplied by the applicable Inclusionary Housing On-Site percentage requirement for the project that applies under Section 415.6.

2. Unit Mix

The mix of bedroom sizes among the BMR Units must be proportional to the bedroom sizes for the market-rate units in the Principal Project.

3. Room Sizes

- No bedroom may be smaller than 100 square feet.
- At least one bedroom in every Unit, except for studios, must be at least 144 square feet.
- The minimum horizontal dimension for any bedroom, excluding alcoves not included in the minimum square foot calculation, shall be 10 feet.
- Primary rooms in studios shall be no less than 165 square feet, excluding any contiguous kitchen area.
- The minimum horizontal dimension for any such primary room, excluding alcoves not included in the minimum square foot calculation, shall be 11 feet.
- No living room shall be smaller than 144 square feet, with a minimum dimension excluding alcoves not included in the minimum square foot calculation, of 11 feet.
- At least one bathroom shall meet ADA size requirements, and all other full bathrooms required by this section must be at least 40 square feet in size.

4. Minimum Required Kitchen Amenities

Each BMR Unit must include at least the following kitchen amenities:

- full-size, four-burner cook top and full-size oven with built-in exhaust hood/microwave oven unit (or an equivalent)
- Full-size sink with electric disposal
- Full-size dishwasher
- Full-size refrigerator/freezer
- Full-size, good quality, upper and lower cabinets with doors
- Comparable counter top surface
- Comparable floor surface

- Appliances that are new (or fully restored and operational vintage) and of good quality in terms of performance, durability and appearance (while not needing to match the appliances installed in the Principal Project)

5. Minimum Required Bath Amenities

- At least one bathroom in each Unit shall have a sink, toilet, and both a shower stall and standard-size tub or a combination tub-shower unit.
- Generally, bathrooms shall include a shower stall, sink, and toilet

6. Closet Requirements

- At least one coat closet, with minimum dimensions of 4'x2'.
- At least one linen closet, with minimum dimensions of 36"x18".
- At least one closet for each bedroom.
- First/master bedroom minimum closet size is 16 square feet, with a minimum depth of 2 feet.
- Additional bedroom minimum closet size is 12 square feet, with a minimum depth of 2 feet

7. Laundry Requirements

- Comparability to the Principal Project's laundry facilities.
- If Principal Project provides in-unit laundry, so must the Off-Site BMR Units.
- Common laundry rooms on every floor of the Principal Project shall have one full-size washer and one full-size dryer for every four units per floor.
- Common laundry rooms serving the whole building shall have one full-size washer and one full-size dryer for every eight units.
- Laundry machines shall be new and of good quality and durability

8. Zoning Administrator Discretion

The Planning Department, through the Zoning Administrator, may approve variations or exceptions to the Off-Site Inclusionary Housing Standards described in this section if, the Zoning Administrator determines, in his/her discretion:

- The variation is appropriate given particular conditions applicable to the Principal Project.
- A variation is required to preserve the character defining features of historic or older buildings undergoing rehabilitation.
- A substantially superior outcome is achieved for the Off-Site BMR Units.
- Production of good quality, durable, and industry-standard housing units are still produced that remain generally equivalent to the Principal Project.

In addition, the Off-Site Inclusionary Housing Standards are subject to change at the discretion of the Planning Department to allow for market standard or technological changes that affect building elements and design.

F. Compliance Through Land Dedication In Eastern Neighborhoods

Project Sponsors choosing the land dedication option under Section 419.5 of the Planning Code shall adhere to all requirements contained in such section and shall adhere to the following procedures.

1. Initial Planning Department Review of Project

Prior to any project approvals from the Planning Department or Planning Commission, the Planning Department through its designated Planner shall require the Project Sponsor to indicate the intent to satisfy the Inclusionary Housing Program requirement partially or completely through land dedication on the Affidavit for Compliance with the Inclusionary Housing Program.

On an additional standardized form provided by MOHCD, the Planner shall:

1. Define the tier and percent requirement of the Project under Section 419;
2. Identify whether the Principal Project for which the land dedication is provided applies to a single site or to a collective of sites within a 1-mile radius;
3. Confirm that the land dedication requirement meets the required percent of total developable area of the Principal Project [which excludes land already substantially developed, subsequent non-developable uses required in connection with the project approval (i.e. Open spaces, streets, alleys, walkways, or other public infrastructure), easements and other parts of the land that are not developable];
4. Confirm that the percentage of land being dedicated to fully or partially fulfill the Project Sponsor's requirement under the Program accommodates at least the same percent of total potential units to be constructed on the Principal Project;
5. Calculate the total number of BMR Units that would have been owed if they were provided as on-site BMR Units on the Principal Project;
6. State whether the dedicated land is in the form of air rights; and
7. Note if the Section 419.5 rental incentive applies.

The Planner will then submit the standardized land dedication form to MOHCD.

2. MOHCD Review and Recommendation

The Project Sponsor must deliver to MOHCD all site information at least 120 days prior to the scheduled approval hearing by the Planning Commission. MOHCD will issue a denial or conditional approval letter prior to issuance of project approvals from the Planning Commission or Planning Department and after MOHCD has completed its due diligence review of complete information submitted by the Project Sponsor.

In order to determine whether to issue a letter verifying acceptance, MOHCD will review the proposed land dedication to determine whether it satisfies the following requirements of Section 419.5, among others:

1. The dedicated site will result in a total amount of inclusionary units not less than forty (40) units. MOHCD may conditionally approve and accept dedicated sites which result in no less than twenty-five (25) units at its discretion;

2. The dedicated site will result in a total amount of units that is equivalent or greater than the minimum percentage of the units that would have been provided on-site at the Principal Project, as required by Table 419.5, had the BMR Units been provided on-site. MOHCD may also accept dedicated sites that represent the equivalent of or greater than the required percentage of units for all units that could be provided on a collective of sites within a one-mile radius, provided the total amount of inclusionary units provided on the dedicated site is equivalent to or greater than the total requirements for all Principal Projects participating in the collective, according to the requirements of Table 419.5;
3. The dedicated site is suitable from the perspective of size, configuration, physical characteristics, physical and environmental constraints, access, location, adjacent use, and other relevant planning criteria. The site must allow development of affordable housing that is sound, safe and acceptable;
4. The dedicated site includes or will include infrastructure necessary to serve the units, including sewer, utilities, water, light, street access and sidewalks;
5. The developer must apply for and pay for environmental review under CEQA of the land dedication and complete any applicable CEQA review prior or simultaneous to approval of the Principal Project;
6. The value of the dedicated land is equal to or greater than the value of the Principal Project multiplied by the applicable required land dedication percentage. Value shall be determined by Fair Market Appraisals of the Principal Project and the proposed land dedication submitted by the Project Sponsor and subject to review and approval by MOHCD.

3. Required Materials

In order for MOHCD to perform this review of the proposed land dedication site, the Project Sponsor must provide the following due diligence documents to MOHCD with respect to the proposed site:

1. Preliminary Title Report dated within 30 days of submittal;
2. Recent Land/Site Surveys;
3. Geotechnical Report;
4. Phase I Report;
5. Phase II Report if hazardous materials are suspected in the Phase I Report;
6. Cost estimate for mitigation of any hazardous materials;
7. Land Use Memo that assesses the conformance of the proposed affordable housing project at the land dedication site with existing zoning, occupancy and use restrictions;
8. Fair Market Value Appraisal to be completed to Uniform Standards of Professional Appraisal Practice standards by qualified appraisers holding a California Certified General Appraisal License (issued by the Office of Real Estate Appraisers), preferably with a Member of the Appraisal Institute member designation (issued by the Appraisal Institute), and with experience valuing similar properties in the Bay Area;
9. Infrastructure Study assessing the availability and capacity of infrastructure (sewer, utilities, water, light, street access and sidewalk) available to support the proposed affordable housing

project. If adequate infrastructure is not provided, a third-party cost estimate of providing such infrastructure must be provided;

10. Density Studies compliant with site's underlying zoning, including one version that assumes Principal Project stated unit mix and size standards and one version that assumes 30% of units are 3-bedroom units;
11. Cost study for each version of the density study in order to estimate how much it would cost to develop affordable housing according to each density study, taking into account federal prevailing wage labor rates;
12. Schedule for delivery of land, including estimated dates for First Construction Document, demolition, lot division, etc.;
13. Intent of developer to deliver vacant site.

Developable units as assumed for the preceding studies should be comparable in size to the Principal Project unit sizes and at no time smaller than the following unit sizes:

- Studios = 350
- 1-BR = 550 square feet
- 2-BR = 800 square feet
- 3-BR = 1,000 square feet
- 4-BR = 1,250 square feet

Developable projects as assumed for the preceding studies must be able to accommodate the same parking ratio as that being provided by the Principal Project.

4. Approval Letter and Conditions

If MOHCD determines that the site is acceptable in accordance with Code Section 419, MOHCD will issue a formal approval letter. If MOHCD's acceptance of the site is dependent on certain conditions being satisfied prior to the conveyance of the site, MOHCD shall identify such conditions in the letter. At a minimum, MOHCD's acceptance of the site shall always be conditioned on a finding of consistency with the General Plan and approval of the conveyance by the Board of Supervisors and Mayor. Other conditions may include, but shall not be limited to:

1. If the proposed land dedication site is found to have any hazardous materials or other environmental damage that requires remediation prior to development of Housing Units, MOHCD's acceptance of the site shall also be conditioned on the Project Sponsor clearing the site of such hazardous materials to the satisfaction of MOHCD in its sole discretion prior to conveyance to City. Alternatively, if approved by MOHCD, any required environmental remediation may be able to be mitigated after conveyance within a mitigation cost standard that is determined by MOHCD and borne by the Project Sponsor. If MOHCD agrees to allow environmental remediation work to be done after conveyance, MOHCD's acceptance of the site shall also be conditioned on the Project Sponsor placing sufficient funds (as determined by MOHCD) to pay for such remediation in an escrow account concurrently with the conveyance,

which funds shall be released to MOHCD when the environmental remediation costs are incurred.

2. If mitigation measures relevant to the land dedication are required as part of the Principal Project's environmental clearance, MOHCD's acceptance of the site shall also be conditioned, when appropriate, on the Project Sponsor completing such measures for the dedicated site concurrently with the Principal Site. If applicable, the Project Sponsor shall be obligated under the Conditions of Approval to satisfy this condition post-conveyance.
3. Removal of exceptions to title deemed unacceptable to MOHCD shall be in its sole discretion.
4. MOHCD shall not be required to identify all conditions in the letter; failure to reference any conditions in the letter shall not preclude the City from imposing such reasonable conditions after the letter is issued as may be deemed appropriate by MOHCD in light of any new information discovered after the letter is issued. Notwithstanding the foregoing, no new conditions may be added after the Agreement (as defined below) has been approved by the Board of Supervisors and Mayor and executed by MOHCD.

Should MOHCD issue a formal conditional approval letter, the Project Sponsor will seek entitlement for the Principal Project. Should the Project become entitled, the Board of Supervisors must then approve the land dedication per the standard City land conveyance process by grant deed, unless another method is approved. If approved by the Planning Commission, the Board of Supervisors, and the Mayor, the Project Sponsor must convey the land before issuance of First Construction Document for the Principal Project, with all conditions set forth in the Agreement (as defined below) and the MOHCD conditional approval letter having been met. In certain circumstances, the City may provide for a later conveyance if adequate security is provided to the City by the Project Sponsor.

If MOHCD issues an acceptance letter, MOHCD and Project Sponsor will enter into a purchase and sale agreement in a form prepared by MOHCD (the "Agreement"). The Agreement will state that the sale of the land dedication site will be for \$1, and will be subject to all of the conditions precedent as identified by MOHCD. Upon execution of the Agreement by Project Sponsor, MOHCD shall present the Agreement and the proposed conveyance to the Board of Supervisors for approval. Upon approval of the Agreement and approval of the conveyance by the Board of Supervisors and the Mayor, and upon satisfaction or waiver of all of the conditions precedent, the Project Sponsor shall convey the land to MOHCD. Subject to the terms of the Agreement, in the event that any conditions have not been satisfied or waived by the issuance of the First Construction Document for the Project (or such later date as agreed to by the

Planning Commission in the Principal Project's condition of approval), regardless of reason, the Project Sponsor shall not be able to use land dedication to satisfy its Inclusionary Housing Program Requirements and must satisfy the requirements of the Program through another means.

G. Pricing New BMR Units

1. Pricing and Maximum Income Levels

Pricing a BMR unit begins once a Project's NSR is finalized with the Planning Department confirming the number, type, location, and permissible pricing levels and income limits of purchasers or tenants.

Per the Planning Code, the maximum income levels specified in the NSR for the Project are the required income limits for the pricing and qualifying of BMR Units for the Life of the Project. However, BMR Ownership Units can be sold to Households earning ten percent (10%) more than the income limit used to establish pricing.

MOHCD will monitor to ensure that the Maximum Annual Rents or Sales Prices are not higher than twenty percent (20%) of the median market rate rents or sales prices for the neighborhood within which the project is located. In accordance with the American Community Survey Neighborhood Profile Boundaries Map, MOHCD will adjust the allowable rents and sales prices, accordingly. MOHCD shall review the updated data on neighborhood rents and sales prices on an annual basis.

2. Income Table

Each BMR Ownership Unit is typically priced between 80% and 130% of AMI in accordance with the Planning Code, as amended from time to time. This means that the sales price is calculated to be Affordable to Households at these income levels. BMR Rental Units are typically priced between 55% and 110% of AMI.

The income table used for pricing all BMR Units is the table published annually by MOHCD. It takes the middle income for all Households in our local area (San Francisco, Marin and San Mateo Counties combined) according to the Housing and Urban Development Department (HUD) and adjusts those incomes by Household size. The table is called the "Maximum Income by Household size derived from the Unadjusted Area Median Income (AMI) for HUD Metro Fair Market Rent Area (HMFA) that contains San Francisco". It is posted at www.sfmohcd.org once those numbers are released by HUD within the first 5 months of each calendar year.

3. Pricing Request Process

In preparation for the pricing and marketing of BMR Ownership or Rental Units, Project Owners are required to meet with MOHCD staff to review the documents needed. This meeting takes place approximately six months prior to pricing to ensure sufficient time should a document require revisions.

To begin the pricing process, the Project Sponsor must submit a request for determination of initial sales or rental pricing on a form provided by MOHCD, together with electronic copies of at least the following:

- Completed Affordable Housing Plan.
- Planning Motion from the Planning Commission Or in the case of smaller projects, the approved building permit application.
- NSR with the Program Conditions of Approval per Section 415 and the final approved floor plans (high resolution copy) designating the BMR Units in the Project.

- A schedule listing the final HOA Dues for each unit in the Project (where the Project contains BMR Ownership Units).
- The Project's Affidavit of Compliance with the Program.
- Density Bonus regulatory agreement, if applicable.

MOHCD will make a pricing determination within (15) business days after receiving a complete request. Because interest rates and other factors may change, each pricing determination is only valid for 60 days.

Project Sponsors or BMR Owners shall begin marketing in the same calendar year the Maximum Affordable Purchase Price is established. Once a Project Sponsor or BMR Owner begins marketing, the sales price cannot be adjusted even if a new calendar year's AMI limits has been released.

MOHCD determines the allowable sales price or rental amount for BMR Units based on the target percentage of the AMI and standard assumptions about affordable housing costs.

4. Pricing BMR Ownership Units

The initial sales price of BMR Ownership Units is calculated according to the following assumptions:

- The income limits specified in Use Restrictions based on the income level for a Household that is one person larger than the total number of bedrooms except:
 - Studio units which assume a one-person Household;
 - SRO units which are calculated at 3/4 of the price of a studio.
- The final HOA Dues for each BMR Unit upon initial sale. HOA Dues will be adjusted for BMR Units with and without parking spaces, if applicable.
- The tax rate as published by the San Francisco Assessor and Recorders Office each calendar year.
- A mortgage interest rate that is the ten (10) year rolling average of 30-years of interest rate data provided by Freddie Mac.
- Total payments of no more than 33% of the gross monthly income, including payments for taxes, insurance, homeowner or association's fees, Community Facilities District Fees (if any), and related costs.
- A 10% down-payment.
- Whether or not Parking is included in Maximum Purchase Price.

5. Unit Upgrades for BMR Ownership Units

Project Sponsors may offer upgrades to BMR Ownership buyers provided that the upgrades are:

- Optional
- Not financed as part of the purchase
- Not added to the resale price
- Not offered to Buyers using down payment assistance or other financial assistance from the City

6. Establishing Initial Rent Levels for BMR Rental Units

MOHCD shall calculate initial rent levels according to the following assumptions:

- A Household that is one person larger than the total number of bedrooms except:
 - Studio units which assume a one-person Household;
 - SRO units which are calculated at 3/4 of the price of a studio.
- 30% of the monthly income required by the Use Restrictions

H. Parking for BMR Ownership and Rental Units

1. Number of Parking Spaces

Parking spaces must be assigned to BMR Units at the same ratio of parking spaces to market-rate units in the Project overall regardless of the total number of parking spaces available. See the chart below for an example.

| | Units | Parking Spaces | Percent of Total |
|-------------------|------------|----------------|------------------|
| Market Rate | 80 | 48 | 80% |
| Below Market Rate | 20 | 12 | 20% |
| Total | 100 | 60 | 100% |

2. Price of Parking Spaces

a) Bundled Parking

In Projects where parking is included in the sales price or monthly rent amount of a market rate unit, then parking spaces must also be granted to BMR Owners or Renters within the Maximum Affordable Purchase or Maximum Annual Rent. These parking spaces are sold and re-rented with the BMR Unit at no extra cost.

b) Unbundled Parking

Ownership Unit Parking

In Projects where parking for the market-rate units is sold separately, the price of parking for BMR Units shall be calculated by taking the Maximum Purchase Price that is 10 AMI percentage points above the maximum income level specified in the NSR and subtracting the Maximum Purchase Price at the maximum income level specified in the NSR. All parking spaces granted to BMR Owners shall be resold with the BMR Ownership Unit within the Maximum Resale Price.

Example:

| | |
|------------------------------------|------|
| Maximum income level from NSR | 90% |
| 10% AMI above maximum income level | 100% |

| | |
|---|---------------------|
| Maximum Allowable BMR Sales Price for 1 bedroom | \$340,000 @100% AMI |
| Maximum Allowable BMR Sales Price for 1 bedroom | \$300,000 @90%AMI |
| Parking Price | \$40,000 |

Project Sponsors choosing this option must provide proof that they have marketed their Market Rate Units as having separately priced parking and list two respective sales prices for every Housing unit, one price with parking and one price without parking.

Rental Unit Parking

In rental buildings, the BMR parking spaces designated for BMR Units must remain exclusively for the use of BMR Renters for the Life of the Project. When leasing BMR Units, Project Owners must create a Parking Waitlist consisting of the BMR Households that were not granted a parking space, in lottery rank order. All parking spaces granted to BMR Renters must be offered to the next Household on the Parking Waitlist when a BMR Renter moves out. As new BMR Renters move into the building, they must be added to the end of the Parking Waitlist.

Project Owners may charge one of three maximum monthly parking rental rates to new BMR Renters based on the designated maximum income level for a specified BMR rental unit in the NSR as follows:

- (1) for BMR Rental Units designated at 55% AMI, the lesser of \$100 per month or 80% of the Project’s average monthly parking rate for a market rate parking space;
- (2) for BMR Rental Units designated at 80% AMI, the lesser of \$175 or 80% of the Project’s average monthly parking rate for a market rate parking space; and
- (3) for BMR Rental Units designated at 110% AMI, the lesser of \$250 or 80% of the Project’s average monthly parking rate for a market rate parking space.

In addition, the parking rate for SRO BMR Rental Units cannot exceed the lesser of 75% of the maximum parking rate of a studio unit, or 80% of the Project’s average monthly parking rate for a market rate parking space. The chart below provides an example of the initial maximum monthly parking rates assuming a Project’s average monthly parking rate for a market rate parking space is \$350.

| Monthly Parking Rates | SRO | STUDIO | 1BR | 2BR | 3BR |
|-----------------------|-------|--------|-------|-------|-------|
| Units at 55% AMI | \$75 | \$100 | \$100 | \$100 | \$100 |
| Units at 80% AMI | \$131 | \$175 | \$175 | \$175 | \$175 |
| Units at 110% AMI | \$188 | \$250 | \$250 | \$250 | \$250 |

If a Property Sponsor is in compliance with the annual recertification for all BMR Renters of the Project, the Project Sponsor may increase the monthly parking rate to an existing BMR Renter

no more than 2% in a 12-month period. The parking rate increase may only occur upon or after recertification, and only in the case where a BMR Renter has reached the end of an annual lease.

3. Parking Selection

The opportunity to purchase or lease a parking space will be offered in lottery rank order until all required BMR parking spaces are purchased or leased. For BMR Ownership Units, if there are still remaining parking spaces assigned to BMR Units, Project Sponsors may sell the remaining spaces to Market Rate buyers. If available, BMR Owner Households may purchase or lease a second parking space outside of the lottery system, at market price. However, the selling of this second parking space becomes the responsibility of the BMR Owner upon resale and the price cannot be added to the Maximum Resale Price. Subsequent buyers of the BMR Unit are not required to purchase the second parking space.

In BMR Rental buildings, if there are remaining parking spaces assigned to BMR Units, Project Sponsors must receive written approval from MOHCD to lease the remaining spaces at market rate on a month-to-month basis until a Parking Waitlist Household requests a parking space originally restricted to BMR Units.

4. Bike Parking

BMR Ownership and Rental Units that are initially sold or rented with a designated bike parking space must be resold or re-rented with bike parking spaces included at no additional cost.

I. Marketing New BMR Units

1. Goal of Marketing and Outreach Requirements

The overall goal of MOHCD in its marketing and outreach requirements is to ensure that the diverse groups of people living in San Francisco have knowledge of and access to the affordable housing opportunities offered through the Program. Project Sponsors are required to conduct various activities and use every good faith effort to engage in targeted outreach that attracts income qualified Households from communities that have been historically disenfranchised from City sponsored housing. This includes, without limitation, members of the following racial, ethnic, gender or otherwise underserved through current market rate housing:

- African-Americans
- Latinos
- Asians – defined as persons of Chinese, Japanese, Korean, Pacific Islander, Samoan, Filipino, Southeast Asian or Asian Indian origin
- Native Americans
- Women
- Lesbian, Gay, Bi-Sexual and Transgender (LGBT) Individuals
- Families with dependents

- People with a physical or mental impairment that substantially limits one or more major life activities or is regarded as having such an impairment
- Seniors – defined as persons over the age of 62 years

Marketing of BMR Units must be in compliance with all applicable federal, state and local laws related to Fair Housing laws and must not have the effect of excluding or discriminating against any person on the basis of race, religion, national origin, sex, sexual orientation, health status, source of income such as disability insurance, social security, TANF, or any other basis prohibited by federal, state or local law.

It is the Project Sponsor’s responsibility to ensure that all sales or rental staff of the project receive and review a copy of this Manual and the Restrictions applicable to the BMR Unit.

2. Minimum Qualifications for Marketing Firms

When selecting a marketing sales and/or leasing firm for new BMR Units, Project Sponsors must require all of the following minimum qualifications:

- Documented experience in marketing to and working with low and moderate income first time homebuyers and renters;
- Language capacity in all City official languages (Spanish, Chinese, Filipino, English);
- Cultural sensitivity and demonstrated awareness of the needs of San Francisco’s diverse populations; and
- Experience with Microsoft Office and similar technology

3. Marketing Timeline

Project Sponsors cannot submit a marketing plan before MOHCD Pricing approval. For BMR Ownership Units, the Marketing Plan cannot be submitted prior to six (6) months before the first BMR Unit is ready for move-in; for rental housing, the Marketing Plan cannot be submitted prior to seven (7) months before the estimated issuance of the Temporary Certificate of Occupancy (TCO). Sponsors prepare and submit for approval; a Marketing Plan in a format prescribed by MOHCD. No applications, marketing or advertising material can be distributed or published without prior written approval by MOHCD.

The following timelines are recommended to Project Sponsors for completion of MOHCD marketing and outreach activities:

- Ownership: New BMR Ownership Units must be advertised, and applicants must have an opportunity to apply, for at least forty-five (45) days prior to the application deadline.
- Rental: New BMR Rental Units must be advertised by the Project Sponsor for at least twenty-one (21) days prior to an application deadline.

See the Housing Preference and Lottery Procedures Manual for more information on Lottery timelines.

4. Marketing Meetings & Trainings

In preparation of lease up and sales, Project Sponsors and/or their leasing agents are required to attend a series of Marketing and Outreach in-person and telephone meetings/trainings with MOHCD staff.

These include:

a) *Pre-Marketing Meeting*

This is an in-person meeting with Project Sponsors to discuss the overall marketing expectations, actual timelines, process, roles and responsibilities for a successful, timely lease up and sales process. The Pre-Marketing meeting occurs after Pricing is finalized and prior to submitting a Marketing and Outreach Plan to MOHCD.

b) *Marketing and Outreach*

After the Marketing and Outreach Plan has been submitted and before final approval, this meeting of the leasing agent and MOHCD staff is used to finalize any outstanding issues within the Plan.

c) *DAHLIA Training*

This training is for First Time leasing and sales agents using the DAHLIA Salesforce system.

d) *Pre-Lottery Meeting*

The purpose of the telephone pre-lottery meeting is to discuss the logistics of the public lottery and the roles of the leasing agent and MOHCD staff in attendance.

e) *Pre-Lease Up Training for Rental Projects*

This is an in-person training for leasing agents to learn how to use MOHCD income calculation tools and how to use DAHLIA during lease up.

5. Advertising and Community Outreach

a) *Print, Electronic Newspapers, Social Media and Internet Presence*

BMR Rental Units and BMR Ownership Units must be; advertised in at least 5 local newspapers that reach diverse Low and Moderate-income communities in San Francisco for a continuous period of at least the first 2-3 weeks of the required marketing period; and announced on at least 3 social media outlets like Facebook, Twitter, Next Door, Craig's List, throughout the marketing period

b) *Physical and Electronic Flyers*

Project Sponsor must provide a flyer for the BMR Units that includes specific information (and in the required languages) prescribed and approved by MOHCD prior to distribution.

c) *Community Outreach*

The Project Sponsor must conduct community outreach to the surrounding neighborhoods including outreach through identified local nonprofit community based organizations. Community Outreach activities must target diverse low to moderate-income Households.

d) *Open Houses*

Potential buyers and renters of BMR Units must be allowed to inspect the available units in the same fashion as market rate applicants. Project Sponsors shall hold at least 3 open houses. At least one open house should be held on a weekday evening and one on a weekend. Each open house should be no shorter than 2 hours and provide information on the application process.

e) *Information Sessions*

Projects with ten (10) or more BMR Units may be required to hold at least 1 information session. Project Sponsors offering larger quantities of BMR Units may be required, at MOHCD's discretion, to hold additional information sessions in a public, accessible location that is arranged and paid for by the Project Sponsor.

f) *Building Signage*

Project Sponsors shall prominently display MOHCD prescribed and approved signage on the construction site of any project that will include On-Site or Off-Site BMR Units. The signage should be no smaller than 5' by 5' and indicate the number and type (tenure) of BMR Units in the project and include a web address and/or telephone number for interested applicants to learn more.

g) *Certificate of Preference Outreach*

Please see the Housing Preference and Lottery Procedures Manual for details on the required targeted outreach to Households previously displaced by government action in the 1960's and 70's. Project Sponsors must pay for a mailing to Certificate of Preference ("COP") Holders to announce new BMR Unit offerings.

6. *Fair Chance Ordinance*

For BMR Rental Units, Project Owners must comply with the provisions of San Francisco Police Code Article 49 (the Fair Chance Ordinance) which sets forth activities and requirements that must be met when leasing City sponsored affordable housing. For more information about the Fair Chance Ordinance, contact the San Francisco Human Rights Commission. <https://sf-hrc.org/fair-chance-ordinance>

7. *Marketing Plan Content*

The Marketing Plan Template provided by MOHCD will guide Project Sponsors through the marketing plan submittal process. In preparation, Project Sponsors should plan to provide MOHCD with the following information as part of the marketing plan submittal:

- Marketing Launch, Open Houses, Information Session(s), Application Deadline, Lottery Dates.
- A strategy for marketing to residents of the immediate neighborhood.
- A comprehensive strategy for reaching out to diverse Low-income, Median-income, moderate-income communities in San Francisco including the names of local community-based organizations with contact information for the individual representing the organization that will be engaged in the outreach effort.

- A social and print media plan.
- Marketing flyers and COP postcards that include a description of the BMR Units in the Project, Maximum Income Limits, and all important dates.
- Listing of BMR Ownership Units with the San Francisco Multiple Listing Service (MLS).
- A comprehensive plan for how the Project Sponsor and their agents will ensure that every applicant's language and/or cultural needs are met throughout the application, sales/lease up process.
- A written Resident Selection Criteria for all rental Projects that include BMR Rental Units.
- A list of community housing organizations that will receive written notification regarding the availability of the BMR Units prior to commencement of advertising or marketing of the market-rate units.
- A list of organizations that the Project Sponsor or the Project Sponsor's marketing representative must work with in order to meet language or cultural needs of Minority Communities.
- A plan for obtaining and displaying the banner to be hung on-site during construction announcing the development of BMR Units.

The MOHCD Housing Preferences and Lottery Procedures Manual contains detailed procedures for application tracking, lottery preference qualifications, application review guidelines, appeals and unit selection.

J. Conversion of BMR Rental Units to Ownership Units

1. BMR Renter Right to Purchase

When authorized by local and State laws and the Project's conditions of approval, and the Planning Department through a Zoning Administrator Letter of Determination process, a BMR Rental Unit may be converted to BMR Ownership Unit. Project Owners must offer the opportunity to purchase the BMR Unit to the existing tenant Household before it is marketed for sale through the MOHCD lottery process. Along with the rules set forth in the Section 415.8 (b)(5), the following conditions apply:

- The BMR 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.
- Existing BMR renters have at least one year from the time of official notice from the Project Owner to exercise the right to purchase.
- The sales price for Existing Renters will be either at the level of affordability for the unit as a BMR Rental Unit as specified in the NSR or Conditions of Approval for the BMR Rental Unit or affordable to the actual income level of the current BMR Renter Household, whichever is higher, with a maximum allowable qualifying income level up to 120% of AMI. If the unit is not sold to

the Existing Renter, the sales price will correspond to the affordability level required for a BMR Ownership Unit under the NSR or conditions of approval.

- The existing BMR Renter Household must be a qualified buyer under the Program and the gross annual Household income of the BMR Renter at the time of purchase shall not exceed the Income level designated in the NSR.

2. Sale to Other Qualified BMR applicant

If the existing BMR Renter decides not to purchase the BMR unit, it will be priced at the level of affordability dictated by the Use Restrictions and according to MOHCD's BMR sales pricing rules. The Project Owner must also ensure that the BMR Unit meets the physical conditions required by this Manual and must adhere to MOHCD's marketing requirements including a MOHCD lottery. The prospective purchaser must meet all of the requirements of a BMR Unit applicant described in this manual.

3. Relocation Allowance

If the existing BMR Renter decides not to purchase the BMR unit, the Project Owner shall provide a relocation allowance to the current BMR Renter that complies with relocation allowances required under the San Francisco Rent Ordinance. (See Administrative Code Section 37.9A:

http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca)

VII. CHANGES IN PROPERTY MANAGEMENT OR OWNERSHIP OF BMR UNITS

For rental projects, the Project Owner must notify MOHCD in writing within thirty (30) days of any change in the property management of BMR Units. The notification to MOHCD shall contain the name(s) and contact information of the new entity and the personnel involved in the management of the BMR Units.

Project Sponsor wishing to sell a Project that contains BMR Rental Units must notify MOHCD in writing within thirty (30) days of the completion of an ownership Transfer and must provide the buyer's name and contact information.

VIII. OTHER PROGRAMS AND UNITS GOVERNED BY THIS MANUAL

A. Density Bonus Programs

1. State Density Bonus

On-Site BMR Units can be used to qualify for a density bonus under California Government Code Section 65915 (State Density Bonus) or one of the Affordable Housing Bonus Programs contained in Section 206 et seq. Project Sponsors who receive additional density under the State Density Bonus must pay the Affordable Housing Fee on the additional units or square footage authorized under the State Density Bonus program, as specified in Section 415.5(g)(1)(D).

2. HOME SF

In certain neighborhoods and under certain building conditions, Developers may opt to participate in San Francisco's HOME SF program, a local density bonus program, codified in Section 206.3. Developers must be compliant with the requirements of Section 415.6 regarding on-site BMR Units, except that the required affordable sales price or rents, percentage of affordable units, and unit amenities are specified in Section 206.3, as follows:

- Tier One (fewer than 25 units)
 - On-site affordability requirement: 20%
 - Ownership: 10% at 80% AMI; 5% at 105% AMI; 5% at 130% AMI
 - Rental: 10% at 55% AMI, 5% at 80% AMI; 5% at 110 AMI%
- Tier One (25 or more units)
 - On-site affordability requirement: 23%
 - Ownership: 10% at 80% AMI; 8% at 105% AMI; 5% at 130% AMI
 - Rental: 10% at 55% AMI, 8% at 80% AMI; 5% at 110 AMI%
- Tier Two (all projects)
 - On-site affordability requirement: 25%
 - Ownership: 10% at 80% AMI; 8% at 105% AMI; 7% at 130% AMI
 - Rental 10% at 55% AMI; 8% at 80% AMI; 7% at 110% AMI
- Tier Three (all projects)
 - On-site affordability requirement: 30%
 - Ownership: 10% at 80% AMI; 10% at 105% AMI; 10% at 130% AMI
 - Rental: 10% at 55% AMI; 10% at 80% AMI; 10% at 110% AMI
- Notwithstanding other Planning Code requirements regarding HOME SF unit pricing, all HOME SF units must be priced at least 20% below the market-rate rents or sales prices for that unit size and neighborhood.
- MOHCD will use generally available, third-party market data to determine market-rate rents and sales prices. In cases where such readily available data is not determinative or the HOME SF unit pricing is close to or exceeds the specified cap of 20% below market, MOHCD may require the Project Sponsor to conduct a market survey to demonstrate appropriate pricing. Such surveys

must be conducted by third party, independent real estate market analysts, and MOHCD reserves the right to reject market studies that are not procured from independent parties.

- HOME SF projects must provide a minimum dwelling unit mix of (A) at least forty percent (40%) two (2)- and three (3)-bedroom units, including at least ten percent (10%) three (3)-bedroom units, or (B) any unit mix which includes some three-bedroom or larger units such that fifty percent (50%) of all bedrooms within the HOME-SF Project are provided in units with more than one (1) bedroom.
- HOME SF developments should incorporate family-friendly amenities, such as open space and rear yards designed for children, stroller storage space, and bathtubs.

B. Planning Code Section 124(f) Middle Income Housing units

1. Eligible Projects

Section 124(f) provides a density bonus for projects in the “C-3-G and C-3-S Zoning Districts” that provide Middle Income units Affordable to Households earning no more than 150% of Area Median Income (AMI) for owned units or 120% of AMI for rental units in zoning districts in San Francisco. Per Section 124(f), such units will not count toward a Project’s Floor Area Ratio requirements, thereby allowing for more units to be built in a Project. Sponsors must work with the Planning Department to determine eligibility for the 124(f) Program.

Units designated as 124(f) units shall meet all of the procedures, pricing methodology, marketing, monitoring obligations and other requirements of this Manual, including a requirement that all 124(f) units be sold or rented at a price that is at least twenty (20%) below the Market Rate sales price or rent for the area.

2. Restricted Income Units

Section 124(f) units that also satisfy a Project’s requirements under Section 415 et seq must follow the Maximum Allowable Income requirements of the Program and be sized and located according the rules of Section 415 et seq and this Manual.

Per Section 124(f), 124(f) units that do not satisfy any Program obligation will follow the Maximum Allowable Income requirements of Section 124(f) and be family sized, meaning that each 124(f) unit must contain at least two (2) or three (3) bedrooms.

3. Income Tiers/Income Mix

In the event that the 124(f) unit is not also an On- or Off-site unit under Section 415, 124(f) units shall not be used to determine the required unit size mix for purposes of the Program.

4. Affordability Period

Section 124(f) units must remain Income Restricted for the Life of the Project.

5. Combination with Other Density Bonus Programs

124(f) units may not be counted toward any other Density Bonus allowance.

C. Condo Conversion Below Market Rate Program Units

This Manual is adopted in its entirety for units subject to Section 1344 of the San Francisco Subdivision Code under the Condo Conversion Below Market Rate (BMR) Program (“Condo Conversion BMR Units”). This includes all owners who purchased a Condo Conversion unit on or after January 18, 2009, which was the effective date of the Ordinance No. 320-08 (File No. 080520) (“Condo Conversion Ordinance”), and all Condo Conversion BMR owners who purchased prior to the effective date of the Condo Conversion Ordinance who have agreed through a contract with the City under San Francisco Subdivision Code Section 1344 (i) (b) to opt into an alternative for compliance with Section 1344 and to be bound by the Procedures Manual in place at the time of purchase. Pursuant to the Subdivision Code, all such Owners of Condo Conversion BMR Units must comply with the terms and guidelines set forth in this Manual, including but not limited to the procedures regarding marketing, monitoring and enforcement.

D. Replacement Units

Section 415.6(a)(3) requires projects that demolish, convert or remove affordable units to replace these units with affordable units of a comparable number of bedrooms even where that would result in more than the otherwise required percentage of affordable units. All such replacement units shall meet all of the procedures, pricing methodology, marketing, monitoring obligations and other requirements of this Manual, including that all such replacement units be sold or rented at a price that is at least twenty percent (20%) below the market rate sales price or rent for the area.

IX. DEFINITIONS

The definitions contained in Section 401 shall apply to this Manual. Defined terms are capitalized throughout this Manual.

Affordable Housing Fee

The fee paid to the City under Section 415.5.

BMR Owner

Owner of a BMR Unit.

BMR Renter

Renter of a BMR Unit.

BMR Unit, BMR Rental Unit or BMR Ownership Unit

A Below Market Rate Unit, either ownership or rental, also defined in Section 401 as an “Affordable unit” or “affordable housing unit,” that is restricted pursuant to Section 415.

BMR Renter Acknowledgement

An acknowledgement requiring the Household’s signature at the time of lease signing agreeing to the restrictions on the BMR Rental Unit and the policies and procedures of the BMR program.

Bundled Parking

Parking that is sold and re-rented with the BMR Unit at no extra cost.

DAHLIA

San Francisco Housing Portal Database of Affordable Housing Listings, Information and Application. A web accessible data system used by MOHCD to manage applications and related data.

Declaration of Restrictions

A Declaration of Restrictions and Option to Purchase Agreement recorded against the title for a BMR Ownership unit.

Domestic Partner/Partnership

Any Federal or State registered Domestic Partnership.

Fair Market Appraisal

The value of a BMR Unit determined without regard to sales or rental restrictions on that unit pursuant to an independent appraisal conducted by a State licensed appraiser acceptable to MOHCD.

Fair Housing

State or federal laws that govern the fair and unbiased treatment of buyers and renters when selling or renting a housing unit.

First-Time Homebuyer

Someone who has not owned or gained interest in a housing unit in the past 3 years.

Gross Income

Income received before any deductions for taxes, expenses or other items.

Head of Household

Head of Household is the primary applicant as defined by the IRS and/or first mortgage loan application. There cannot be more than one Head of Household on a given application.

HO-6

A homeowners insurance specifically for condominiums. It covers the interior walls, fixtures, and personal property inside a condominium.

HOA or Homeowners Association

An association that manages the common areas of a condominium or planned unit development (PUD).

HOA Dues

Monthly payments due to a Homeowners Association for the upkeep, maintenance and improvement of common areas in a residential building.

HOME-SF Unit

An on-site income restricted residential unit provided within a HOME-SF project that meets the requirements set forth in Section 206.3.

Household

Any person or persons who reside in or intend to reside in the same Residential Unit.

Household liquid assets

Generally, an asset that can be converted into cash with little or no loss in value.

Inclusionary Housing

Includes both BMR Ownership Units and BMR Rental Units.

Letter of Determination

The Zoning Administrator issues determination letters resulting from inquiries about the zoning regulations applicable to specific development proposals. These letters offer guidance to requesting parties as to whether a proposed project, such as a new building, an addition to an existing building, or a use change, conform to the Planning Code.

Once these letters are issued, applicants still must obtain all applicable required building permits and/or certificates before a use can commence or a building can be built. Please see the links below for those letters issued by the Zoning Administrator for the most recent time period, which are identified by address. To view archived Letters of Determination, use the navigation on the right to search letters by year.

Life of the Project

As long as the building stands or exists. See Section 401.

Loan to Value Ratio

The percentage of a property's value that a lender can or may lend to a borrower.

Lottery

Random selection process that provides qualified applicants the opportunity to rent or buy BMR Units.

Maximum Household Income

The maximum income allowed for a Household applying for a BMR Unit as determined by Household size through the income table named Maximum Income by Household Size Derived from the Unadjusted Area Median Income (AMI) for HUD Metro Fair Market Rent Area (HMFA) that Contains San Francisco.

Maximum Income by Household Size

Derived from the Unadjusted Area Median Income (AMI) For HUD Metro Fair Market Rent Area (HMFA) That Contains San Francisco. It is shown in a table produced by MOHCD annually that announces AMI levels for that calendar year and published on the MOHCD website at www.sfmohcd.org.

Maximum Annual Rent

The monthly consideration paid by a BMR Renter for use of the designated BMR Unit as the Household's principal residence, as defined in Section 401.

Maximum Purchase Price

The highest allowable price for any given BMR Ownership Unit, as defined in Section 401.

Maximum Resale Price

The purchase price to be paid by a new buyer of BMR Ownership unit to a previous owner.

MOHCD-Approved First-Time Homebuyer Education Provider

A HUD approved housing counseling agency and certified by MOHCD as listed at www.sfmohcd.org

MOHCD-Approved Lender

A Nationwide Mortgage Licensing System (NMLS) lender who has attended annual trainings for all MOHCD homeownership programs, signed the BMR Lender Agreement, and is a part of an approved lending institution that pays an annual participation fee to MOHCD. Certified Lenders are listed at www.sfmohcd.org.

Notice of Special Restrictions or NSR

As defined in Section 401, a document that details the affordability restrictions on BMR Units.

Parking Waitlist

A list maintained by the Project Owner of BMR Households in BMR Rental Units who are waiting for a parking space. The lottery ranked list shall consist of BMR Households who were not granted a parking space at initial lease-up followed by BMR renters who later move into the building.

Planning Code

The City and County of San Francisco Planning Code.

Planning Commission

As defined in Section 401, a governing body of the Planning Department that among other things, reviews a Conditional Use Permit or PUD.

Post-Purchase Education

A course designed to provide basic education for new homeowners offered by a HUD approved counseling agency certified by MOHCD as listed at www.sfmohcd.org.

Primary Residence

Household members on title or lease who live in the Unit at least ten (10) out of twelve (12) months of each calendar year.

Principal Project

A housing development on which a requirement to provide affordable housing is imposed.

Profit and Loss Statement or P&L Statement

A financial statement that summarizes the revenues, costs and expenses incurred during a specified period.

Project

Building or development where BMR Units are located.

Project Approval

Approvals of a Project by the City's legislative bodies.

Project Owner or Project Sponsor

The owner of a Project.

Qualified Applicant

Person that has been determined by MOHCD to meet the eligibility requirements for a particular BMR Unit.

Qualified Household

Household that has been determined by MOHCD to meet the eligibility requirements for a particular BMR Unit.

Resale Pricing Formula

A formula containing the specific steps necessary to determine the Maximum Resale Price for a BMR Ownership unit. Generally contained in a unit's Declaration of Restrictions or, in some cases, in prior versions of this Procedures Manual.

Resale BMR Units or Resales

All BMR Units sold after the initial sale.

Restricted Affordable Unit (as applied to the State Density Bonus Program)

A dwelling unit within a Project which will be Affordable to Very Low, Lower or Moderate Income Households, as defined in Section 206.2, for a minimum of 55 years. Restricted Affordable Units shall meet all of the requirements of California Government Code 65915, except that Restricted Affordable Units that are ownership units shall not be restricted using an equity sharing agreement.

SRO or Single Room Occupancy Unit

As defined in the Section 890.88.

Section 8 Or Section 8 Housing Choice Voucher Program

A federal housing program administered locally by the San Francisco Housing Authority. In which a subsidy is paid to the landlord directly by the public housing agency on behalf of the participating family.

Special Assessment

A proportional fee charged to a BMR Owner by the Homeowners Association (HOA) to cover the cost of physical improvement to the entire Project.

Spouse

A partner in a legal marriage.

Transfer

Any voluntary or involuntary sale, assignment or transfer of title in a BMR Unit.

Transfer Tax

Tax on the passing of title to property from one person (or entity) to another.

Unbundled Parking

As defined in Section 167, parking that is not sold or rented with a unit.

Use Restriction

Any restrictions imposed by the Program or the City on the use or conveyance of a BMR Unit, as set forth in the NSR, Conditions of Approval, Declaration of Restrictions, and/or other recorded documents or associated Planning Code provisions in effect at the time of Project Approval.

Zoning Administrator

The Zoning Administrator for the City and County of San Francisco.