

MODERATE INCOME HOUSING UNIT PROGRAM

Authority: Section 13.400 et seq., Howard County Code

01. **Purpose.** These Rules prescribe policies, procedures and authorizations for determining a designee, criteria for the allocation of units and selecting eligible purchasers.

02. **Definitions.**

A. The terms appearing in these rules have the meanings defined in the Act and in Section B of this Rule.

B. **Terms Defined.**

1. “*Act*” means subtitle 4 of Title 13 of the Howard County Code, as amended.

2. “*County*” means Howard County, Maryland.

3. “*Department*” means the Howard County Department of Housing and Community Development.

4. “*Designee*” means the Howard County Housing Commission, a nonprofit corporation or a quasi-public housing development organization designated by the Department as eligible to operate and maintain moderate income housing units on a long-term basis.

5. “*Eligible Purchaser*” means a holder of a certificate of eligibility under section 13-406 of the Act, who has received a bona fide mortgage commitment in an amount sufficient to enable the individual to purchase a moderate income housing unit.

03. **Determining a Designee.**

A. Any nonprofit corporation or quasi-public housing development organization created under State or local law to engage in housing, community, or economic development activities to address the needs of persons of low or moderate income in Howard County shall be an eligible designee provided:

1. The nonprofit corporation is organized under either Section 501(c)(3) or 501(c)(4) of the Internal Revenue Service Code;

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2. The organization is in “Good Standing” with the State of Maryland;
 3. The organization has had Audited Financial Statements with “Unqualified Opinions” by a Certified Public Accountant for the past three Fiscal Years;
 4. The nonprofit corporation requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body;
 5. The nonprofit corporation is not affiliated with either the developer or the builder, or any related party; and
 6. The organization has owned, operated, and maintained low or moderate income rental housing on a long term basis, or has carried out home ownership programs and activities for persons of low or moderate income, and has the financial resources to acquire units for sale and resale to eligible purchasers, and to monitor program compliance on a long term basis.
- B. The Housing and Community Development Board may determine other nonprofit corporations or quasi-public housing development organizations to be qualified designees provided:
1. The nonprofit corporation is or will be organized under either Section 501(c)(3) or 501(c)(4) of the Internal Revenue Service Code;
 2. The organization has been undertaking charitable activities and programs to address the needs of persons of low or moderate income in Howard County, or is affiliated with and sponsored by an existing nonprofit organization undertaking such activities;
 3. The nonprofit corporation requires the general membership of the organization have a broad base of community participation, and the members of its governing body to be nominated and approved by the general membership of the organization;
 4. The organization or the sponsoring organization, is not affiliated with either the developer or the builder, or any related party; and
 5. The organization can demonstrate, to the satisfaction of the Housing and Community Development Board, it has or can acquire the experience and

resources required to purchase, own, operate, and maintain moderate income rental housing on a long term basis, or the experience and the financial resources to acquire units for sale and resale to eligible purchasers and monitor program compliance on a long term basis.

- C. In the event more than one eligible designee applies to acquire the units, the Department will allocate the available housing units not acquired by the Housing Commission, if sufficient in number, equally among the designees to the extent of their requests.
- D. In the event there are not a sufficient number of available units to allocate amongst the designees, the units will be allocated equally by lottery.

04. **Procedure for Selecting Eligible Purchasers and Renters.**

A. **Application.**

- 1. An individual desiring to purchase or rent a moderate income housing unit must apply to the Department for a certificate of eligibility on an application form prescribed by the Department. The application must be submitted during an enrollment period as described in paragraph B. Applications will be made available from the Department and on the County's website.
- 2. The application must include verifiable information and documentation indicating:
 - (a) the applicant's income, assets, and household size; and
 - (b) whether the applicant is seeking to purchase or rent a moderate income housing unit; and
 - (c) whether the applicant is seeking to rent or purchase a unit in a planned senior community; if so, at least one member of the applicant's household must be 62 years of age or older; and
 - (d) whether the applicant is seeking to rent or purchase a unit in an age-restricted adult housing development; if so, at least one member of the applicant's household must be 55 years of age or older; and
 - (e) if for purchase, whether the applicant qualifies for any of the priorities for selection listed in paragraph D.

3. An applicant seeking to purchase a moderate income housing unit may also submit evidence from a bonafide (Fannie Mae or Freddie Mac approved) mortgage lender that the applicant is pre-qualified to receive a fixed rate mortgage loan in an amount sufficient to enable the applicant to purchase a moderate income housing unit.

B. Enrollment Period.

1. The Department will accept applications only during quarterly enrollment periods, which will generally be held in January, April, July, and October of each year or at such other times as the Department determines. The Department will provide public notice of each enrollment period through the County website and local media.
2. Each enrollment period will continue for a minimum of 30 days.
3. If at any time the number of applicants on the waiting list exceeds four times the number of moderate income housing units expected to become available for rent or purchase during the next quarter, the department may determine to postpone an enrollment period for up to 90 days.

C. General Waiting List.

1. Upon receipt by the Department, all applications will be numbered and placed on a rolling waiting list that will indicate:
 - (a) the date of receipt of each application; and
 - (b) whether the applicant is seeking to rent or purchase a moderate income housing unit; and
 - (c) whether the applicant is seeking to rent or purchase a unit in a planned senior community or an age-restricted adult housing development.
2. The Department, within 10 working days of the receipt of each application, will review the application for completeness and notify the applicant of any deficiency, allowing five working days for the applicant to remedy the deficiency.

D. Priorities for Purchasers: General Waiting List.

1. Each applicant seeking to purchase a moderate income housing unit will be assigned a numerical score based upon the priorities for which the applicant qualifies as described in this Section D.
2. Upon receipt of a complete application, the Department will determine if the applicant qualifies for any of the following priorities and will assign priority points accordingly:
 - (a) one priority point will be assigned to an applicant with the lowest income who qualifies for mortgage financing available at the time. For the purposes of this provision, an applicant shall be deemed to have the lowest qualifying income if the applicant's income is equal to or less than 70% of the median income.
 - (b) one priority point will be assigned to an applicant who is a first-time homebuyer. A "first-time homebuyer" is an individual who, during the three years before receiving a certificate of eligibility:
 - (1) has not owned any property used or usable as a residence; or
 - (2) has owned a personal residence but, because of the separation or divorce of the joint tenants or the death of one of the joint tenants, needs to purchase a personal residence without the former joint tenant.
 - (c) one priority point will be assigned to an applicant who resides in Howard County at the time of receipt of the application.
 - (d) one priority point will be assigned to an applicant who works in Howard County at the time of receipt of the application. If more than one member of the applicant's household works, the primary income earner must work in Howard County in order to receive priority.
3. In addition, the Department will assign one priority point for each year that the applicant has remained continuously on the waiting list, up to a maximum of three points. These points will be assigned as of the anniversary of the date of the receipt of an application.

E. Priorities for Purchasers: Mixed Use Waiting List.

1. In addition to the general waiting list, the Department will establish a separate “mixed use” waiting list exclusively for use in selecting eligible purchasers of moderate income housing units located in an MXD or CAC zoning district. An applicant will be placed on the mixed use waiting list only if:
 - (a) the applicant is employed in a mixed use development; or
 - (b) the applicant is employed by Howard County, Maryland. If more than one member of the applicant’s household works, the primary income earner must be employed by Howard County in order to be placed on the mixed use waiting list; or
 - (c) the applicant is employed by the Board of Education of Howard County. If more than one member of the applicant’s household works, the primary income earner must be employed by the Board of Education in order to be placed on the mixed use waiting list; or
 - (d) the applicant has been dislocated by Route 1 redevelopment within one year of the date of receipt of the application.
2. Applicants placed on the mixed use waiting list will maintain their positions and scores on the general waiting list.

F. Determination of Eligibility to Purchase.

1. Initial Selection.

- (a) When the Department is notified that any moderate income housing units are to be offered for sale, the Department will promptly select from either the general waiting list or the mixed use waiting list, as applicable, the names of all applicants assigned the highest number of priority points. If the moderate income housing units are located in a planned senior community or age-restricted adult housing development, only those applicants who have expressed a preference and qualify for that type of community will be selected.
- (b) If the number of applicants selected is less than four times the number of moderate income housing units being offered for sale, the applicants assigned the next highest number of priority points will be selected until the total number of applicants selected is equal to at

least four times the number of moderate income housing units being offered for sale.

- (c) For mixed use developments, if the number of applicants selected from the mixed use waiting list is less than four times the number of moderate income housing units being offered for sale, the applicants assigned the highest number of priority points on the general waiting list will be selected until the total number of applicants selected is equal to at least four times the number of moderate income housing units being offered for sale.
- (d) Upon selecting the pool of applicants with the highest priority points, the Department will review the credit scores of each selected applicant. If an applicant's credit service rating is less than the minimum threshold credit rating required by major mortgage lenders doing business in Howard County for residential mortgage loans, as surveyed by the Department, the applicant will be notified and the applicant's name will be removed from the pool and returned to the waiting list. If the number of applicants remaining in the pool falls below four times the number of moderate income housing units being offered for sale, the applicants assigned the next highest number of priority points on the applicable waiting list will be selected until the total number of applicants selected is equal to at least four times the number of moderate income housing units being offered for sale.

2. Notice.

The Department will notify each selected applicant of the availability of moderate income units by certified mail. The notice will include the location, number, type, size, amenities, and sales prices of available units as well as information regarding any mortgage financing available to buyers. The notice will include an election form which will require the applicant to:

- (a) indicate whether the applicant is ready and willing to buy an available moderate income housing unit; and
- (b) agree to (i) occupy the moderate income housing unit as the applicant's principal place of residence and (ii) abide by the resale restrictions of the MIHU Program; and
- (c) update the information on the applicant's application with respect to

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the applicant's income, assets, household size and whether the applicant continues to qualify for the priorities for selection listed in paragraph D; and

- (d) if the development contains a mix of unit types or number of bedrooms, elect a unit type and number of bedrooms. Single applicants will only be permitted to participate in lottery drawings for one and two bedroom units. Two person households will be eligible to participate in lottery drawings for dwelling units of up to three bedrooms.
3. Reply. An applicant who is notified by the Department of the availability of a moderate income housing unit must submit the completed election form described in paragraph 2 above to the Department within 10 calendar days of the date of the notice.
4. Review. Upon receipt of the election form, the Department will review it to determine if:
- (a) the applicant qualifies as a moderate income buyer pursuant to section 13.406 of the Howard County Code;
 - (b) the applicant continues to qualify for the priority points assigned to the applicant; and
 - (c) the applicant meets the preliminary qualifications for mortgage financing as follows:
 - (1) the applicant's total monthly house payment, including (i) the monthly payment of principal and interest on a 30-year fixed-rate mortgage loan at the prevailing interest rate in an amount sufficient to pay 97% of the applicable MIHU sales price, plus (ii) the expected monthly payment of real estate taxes and property insurance on the property (calculated at 1.2% per annum of the market value of the unit), plus (iii) the expected monthly mortgage insurance premium (calculated at 0.7% of the loan amount), plus (iv) the applicable monthly homeowner or condominium association fees for the development, may not exceed 33% of the applicant's monthly gross household income; and

- (2) the maximum monthly payments for all of the applicant's debts may not exceed 41% of the applicant's monthly gross household income; and
 - (3) the applicant's credit service rating may not be less than the minimum threshold credit rating required by major mortgage lenders doing business in Howard County for residential mortgage loans, as surveyed by the Department; and
 - (4) the applicant has sufficient liquid assets to pay (i) the estimated downpayment and settlement costs required to purchase a moderate income housing unit and (ii) a cash reserve equal to one monthly house payment.
5. Certificate of Eligibility. If the applicant is deemed to meet all of the qualifications of paragraph 4 above, the applicant will be issued a certificate of eligibility.

G. Lottery.

1. From the pool of certificate holders, the Department will publicly conduct random lottery drawings to select one eligible purchaser and one alternate for each available moderate income housing unit. If the development contains a mix of unit types and number of bedrooms, a separate drawing will be conducted for each unit type and number of bedrooms.
2. The selected purchasers and alternates will be placed on a list in the order in which they were selected. The list of eligible purchasers and alternates will be forwarded to the sales representative for the seller of the moderate income housing units.
3. Those not selected in the lottery will be placed back on the waiting list without a loss of assigned points.

H. Mortgage Commitment and Selection of Lots.

1. The Department will instruct each selected purchaser to (i) seek and obtain a bona fide mortgage commitment in an amount sufficient to enable the selected purchaser to purchase a moderate income housing unit, and (ii) meet with the sales representative of the seller to select a lot for purchase.

2. The seller must make a good faith effort to enter into a contract with each selected purchaser within the priority period provided in Section 13.404 of the Act. If, however, a selected purchaser fails to either (i) enter into a purchase contract, or (ii) obtain or comply with a commitment for mortgage financing, or (iii) settle on the property by the agreed upon settlement date, the Department may substitute the highest ranking alternate purchaser for the selected purchaser in accordance with the procedures set forth in Section 13.404 of the Act.
3. Any alternate purchaser not selected to purchase a moderate income housing unit will be returned to the waiting list without a loss of assigned points.

I. Determination of Eligibility to Rent.

1. Selection. When the Department is notified that moderate income housing units are to be offered for rent, the Department will promptly select from the general waiting list, in order of date of receipt of application, two rental applicants for each available rental moderate income housing unit. If the rental moderate income housing units are located in a planned senior community or age-restricted adult housing development, only those applicants who have expressed a preference and qualify for that type of community will be selected.
2. Notice. The Department will notify each selected applicant of the availability of rental moderate income units by certified mail. The notice will include the location, number, type, size, amenities, and rental rates of available units. The notice will include an election form which will require the applicant to:
 - (a) indicate whether the applicant is ready and willing to rent an available moderate income housing unit; and
 - (b) agree to occupy the moderate income housing unit as the applicant's principal place of residence; and
 - (c) update the information on the applicant's application with respect to the applicant's income, assets, household size; and
 - (d) if the development contains a mix of unit types or number of bedrooms, elect a unit type and number of bedrooms. Single applicants will only be permitted to rent one and two bedroom units. Two person households will be eligible to rent dwelling units of up to

three bedrooms.

3. Reply. An applicant who is notified by the Department of the availability of a rental moderate income housing unit must submit the completed election form described in paragraph 2 above to the Department within 10 calendar days of the date of the notice.
4. Review. No less than 15 calendar days after the date of the notice, the Department will review each submitted election form in the order of date of receipt of application to determine if:
 - (a) the applicant qualifies as a moderate income renter pursuant to Section 13.406 of the Act;
 - (b) the applicant meets the minimum qualifications for rental housing as follows:
 - (1) the applicant's total monthly rent payment, including the utility allowance established for the Howard County Housing Voucher Program, may not exceed 33% of the applicant's monthly gross household income; and
 - (2) the maximum monthly payments for all of the applicant's debts may not exceed 41% of the applicant's monthly gross household income; and
 - (3) the applicant's credit service rating may not be less than the minimum threshold credit rating required by major residential rental property management companies doing business in Howard County, as surveyed by the Department; and
 - (4) the applicant has sufficient liquid assets to pay a cash reserve equal to two monthly rental payments.
5. Certificate of Eligibility. If the applicant is deemed to meet all of the qualifications of paragraph 4 above, the applicant will be issued a certificate of eligibility. If an applicant does not qualify, the next ranking applicant will be reviewed for eligibility in accordance with paragraph 4 above. The Department will issue one certificate of eligibility for each available rental moderate income housing unit.

6. Unqualified Applicants. Any applicant who submits an election form but does not qualify under paragraph 4 will be returned to the waiting list in the same position.

J. **Lease.**

1. The Department will instruct each certificate holder to meet with the rental management representative for the owner of the development to select a rental moderate income housing unit.
2. The owner must make a good faith effort to enter into a lease with each certificate holder within the priority period provided in Section 13.405 of the Act. If, however, a certificate holder fails to enter into a lease, the Department may substitute the next ranking qualified applicant in accordance with Section 13.405 of the Act.

05. **Miscellaneous.**

- A. Non-Discrimination. A participating lender may not discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, physical or mental handicap, occupation, political opinion, sexual orientation, personal appearance, familial status, source of income, or age in any aspect of the Program, and shall comply with all applicable federal, State, and County laws regarding discrimination and equal opportunity in employment, housing and credit practices.
- B. Waiver. The County Executive may waive or vary particular provisions of these rules to the extent that the waiver is consistent with the Act if, in the determination of the County Executive, the application of a rule in a specific case, or in an emergency situation, would be inequitable or contrary to the purposes of the Act.
- C. Severability. The provisions of these rules are severable. A judgment by any court of competent jurisdiction finding or declaring that any provisions of these rules or the application of any provision to any person or circumstance is invalid, does not affect the validity of the remaining provisions of the rules or any other application of these rules, and the remaining rules shall have full force and effect as if no judgment has been entered.

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