

# **BILLERICA HOUSING AUTHORITY**

## **ADMISSIONS AND CONTINUED OCCUPANCY POLICY**

### **Policy Statement**

The Billerica Housing Authority (BHA) was established in 1965 to provide safe, decent and affordable public housing opportunities for low to moderate income residents. The Billerica Housing Authority currently administers 80 units of Section 8 New Construction Public Housing (16 River Street) and 97 units of State Housing (13 River Street and Talbot Apartments). In addition, the BHA administer a number of family housing units (705 Program) as well as Affordable Housing units ( in HCVP).

Determination of eligibility and the selection of tenants will be carried out within DHCD and/or HUD prescribed regulations while respecting the dignity and right to privacy of those who participate. This policy serves as the written procedure of how the BHA will select and maintain residents in these Programs.

The Admissions and Continued Occupancy policy will help the BHA attain, to the maximum extent feasible, a resident body that is composed of individuals with a broad range of incomes. This policy precludes admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the residents or the development environment.

**Mandatory Prohibition for Lifetime Sex Offenders** – HUD/DHCD prohibits the admission of individuals subject to a lifetime registration requirement under the State sex offender registration program.

As long as the BHA is accepting applications, no person or family shall be denied the opportunity to apply for housing. In no case will an eligible applicant be denied admission, or continued occupancy, or segregated on account of race, creed, religion, national origin, sex, age, marital status, sexual orientation, or disability.

It is the policy of the Billerica Housing Authority to fully comply with all Federal, State and local nondiscrimination laws; The Housing Opportunity Through Modernization Act of 2016 (HOTMA), The Americans with Disabilities Act; Violence Against Women Act (VAWA); and the U.S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity. The BHA shall affirmatively further fair housing in the administration of its public housing program. No person shall, on the grounds of race, color, sex, religion, national or ethnic origin, familial status, sexual orientation or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under BHA's programs. To further its commitment to full compliance with applicable Civil Rights laws, BHA will, upon request, provide Federal/State/local information to applicants/tenants of the Public Housing Program

regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

For all aspects of the application, admission, lease, continued occupancy and grievance procedures, a handicap, or disabled person shall be provided reasonable accommodation, to the extent necessary and feasible, to provide the person with an opportunity to apply, use and occupy a dwelling unit equal to a non-handicapped or disabled individual.

The BHA shall provide a notice to each tenant that the tenant may, at any time during tenancy, request reasonable accommodation of a handicap/disability of a household member, including reasonable accommodation so that a tenant can meet lease requirements or other requirement of tenancy.

## **2. Outreach and Advertising**

2.1 Elderly and Disabled – In order to attract both Elderly and Disabled Applicants, the BHA will send notices and information packets to outreach agencies such as the Billerica Council on Aging, Community Teamwork, and AgeSpan (formerly Merrimack Valley Elder Services).

2.2 Minority – Notices and information packets will be sent to all of the above-mentioned agencies. The BHA may also notify other Housing Agencies in an effort to attract those least likely to apply for BHA programs.

Bi-lingual materials will be provided as needed and where practical and feasible. Limited English Proficiency (LEP) persons will be afforded reasonable steps to ensure meaningful access to the programs and documents. If necessary, language interpretation services/organizations in the area will be contacted to assist those in need on a case by case basis .

2.3 The opening and closing of the Waiting List will be advertised in the local media. The EHO logo will be used in all advertisement and public notices.

## **3. Completion of Applications**

3.1 A pre-application will be utilized and stamped with the receipt date and time when it is accepted. Individuals and families may apply by mail, electronically (e.g. via CHAMP) or in person at the BHA office. Basic information will be taken at the time of application. Personal interviews for detailed information and verification of income to determine eligibility under the guidelines provided by HUD are scheduled per “Determination of Eligibility” further explained in this plan.

- 3.2 All applications will be assigned a chronological control number and be placed on the Waiting List. The Waiting List shall include: Application Date, Name, Control Number, Eligibility Status, Minority Information, Bedroom Assignment and Preference and Income Category. The Waiting List may be maintained either manually or on the computer.
- 3.3 The BHA will periodically perform updates of its Waiting List to see if eligible applicants are still interested in remaining on the Waiting List. All eligible applicants will be given a reasonable time to respond to the update. Applicants are informed in writing that if they fail to respond to the update they will be removed from the Waiting List.
- 3.4 The taking of applications may also be suspended if the BHA deems that it has a sufficient number of applicants for the reasonable future based on turnover rates.
- 3.5 All information received regarding an applicant will be maintained by the BHA in a confidential and secure manner in accordance with any regulations.

#### **4. Determination of Initial Eligibility**

- 4.1 The BHA will inform all applicants of the eligibility criteria, including applicable income limits, other factors such as family size, preferences, income categories, age and disability requirements which may affect the applicant's eligibility. In addition, applicants are provided general information relative to BHA's Public Housing Programs. Applicants are also informed of the Waiting List process and its approximate length, and the preferences governing selection for placement.
- 4.2 Applicants are informed that it is their responsibility to inform the BHA , in writing, of address and other changes, and that the BHA notifications returned undeliverable will cause their application to be withdrawn.
- 4.3 Disabled Person. A disabled person is defined as an individual who is under a disability as defined in Section 223 of the Social Security Act or in Section 102(b)(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970.
  - 1. Section 223 of the Social Security Act defines disability as: a) inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than 12 months; or b) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in Section (I) (1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
  - 2. Section 102 (b) (5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970 defines disability as : "A disability attributed to

mental retardation, cerebral palsy, epilepsy, or other neurological condition of an individual found by the Secretary of Health Education and Welfare to be closely related to mental retardation or to require treatment similar to that for mentally retarded individuals, which disability originates before such individual attains the age of eighteen, which constitutes or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual”.

(Note: The BHA may adopt and/or utilize procedures for determining the status of persons who claim disability but are not recipients of benefits under the statutes cited above. It should be noted that the receipt of veteran’s benefits for disability, either service-incurred or otherwise, does not automatically establish disability as defined above, and the BHA must make a determination on the basis of its evaluation of the applicant’s condition.)

- 4.4 Handicapped Person. A handicapped person is defined as a person having a physical or mental impairment that: a) is expected to be of long continued and indefinite duration; b) substantially impedes his or her ability to live independently, and c) is of such a nature that such ability could be improved by more suitable housing conditions.
- 4.5 Elderly. A person who is at least 60 years of age for State Programs and 62 years of age for Federal Programs.
- 4.6 Notification of Eligibility. Each applicant will be informed of his/her control number at the time of application or within a reasonable time thereafter. Applicants will be notified in writing, of their initial determination of eligibility and preference status as soon as the authority staff has reviewed their application and made a determination therein. All applicants initially determined eligible are informed that a final determination of eligibility will not be made until such time as their name comes to the top of the Waiting List and full verification has been made of all eligibility requirements.
- 4.7 Notification of Ineligible Applicants. If the BHA determines that an applicant is ineligible for its Public Housing Programs or a Preference for any reason, the BHA shall send prompt written notification to the applicant. The notice shall state the reasons for the determination, and state the applicant’s rights to request an informal hearing of the decision if requested within 10 days of the date of the notification.
- 4.8 Informal Hearing. The informal hearing will be conducted by the Executive Director or his/her designee. In no case will the informal hearing be held by the individual who made the initial decision, or their subordinates. The applicant will be given the opportunity to present written or oral objections to the decision. The applicant will also be notified that they have the right to legal counsel or other representation, at their own expense, at the informal hearing. The BHA will respond in writing with the decision within 30 days of the hearing.

4.9 Occupancy Standards. The BHA seeks to provide a commitment to housing assistance while avoiding overcrowding and shall be consistent with the applicable housing quality standards.

## **5. Selection and Preferences**

5.1 Standard Applicants - All eligible applicants not qualifying for any of the preferences are to be considered standard applicants.

5.2 Local Preference – In selecting among applicants within each preference category, preference is given to applicants who either work or live in Billerica. The BHA will ensure that the local preference does not restrict or have the effect of restricting other groups protected by Federal and State anti-discrimination laws.

5.3 Veteran’s Preference – Qualified Veterans or qualified dependents/widows

5.4 Other Preferences such as an applicant displaced by Natural Forces, displaced by Public Action, or Emergency will be considered.

5.5 Selection of Applicants. Selection shall be made among applicants in the following order:

1. First preference to Veterans who qualify ;
2. Local applicants who qualify;
3. Applicants with other preferences who qualify;
4. Standard Applicants who qualify.

5.6 Selection of Applicants for Accessible Units. Applicants requiring ADA accessible units will need to document the need for such units at the time of initial application. On receipt of said documentation the BHA will place the applicant on the Waiting List for an ADA unit and will select such applicants in the same way as described above.

## **6. Applicant Screening and Determination of Final Eligibility**

6.1 Time of determination of final eligibility. The BHA will contact the next initially eligible applicant within thirty (30) days of an expected vacancy. The applicant will be notified that they are at, or near, the top of the Waiting List and be requested to complete a final application if they have not already done so. They will need to sign the appropriate release form to authorize the BHA to perform income and non-income third-party verification to make a final determination of eligibility. The Declaration of Citizenship and immigration Status will also need to be completed. All applicants are informed that all information must be returned to the BHA within ten (10) days or their names will be removed from the Waiting List.

- 6.2 Eligible Applicants. Eligible applicants are those applicants who the BHA determines meet both the income and non-income eligibility criteria for public housing as defined in Section 6.3 and 6.4 of this policy.
- 6.3 Income Eligibility. The BHA will perform third party verification on all income sources from all family members to determine gross annual income as defined in 24 CFR Section 5.609.
- 6.4 Non-income Eligibility. The conduct of an applicant in present or prior housing has been such that it would not interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare or to affect adversely the physical environment or the financial stability of the development if the applicant were admitted to that development and that the applicant has the proven ability to meet all lease obligations imposed by the BHA.

Relevant information respecting habits or practices to be considered shall include, but is not limited to:

1. An applicant's past performance in meeting financial obligations, especially rent.
2. A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants.
3. A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.
4. Head of household is at least 18 years of age, and can demonstrate capability to fulfill obligations of lease under State Law (i.e. minors not emancipated).
5. Misrepresentation of income or household members or any other significant or required information on application.
6. Past participation in any Housing Authority program that resulted in failure to satisfy liability for unpaid rent or damages in connection with the program.
7. Illegal drug-related or violent criminal behavior by the applicant or any household member including the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use of a controlled substance.

8. Alcohol abuse where the BHA determines there is reason to believe that the person abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.
  9. Eviction from a public housing by the applicant or any member in the applicants household.
  10. Actual or threatened abusive or violent behavior toward Housing Authority personnel.
  11. The applicant or household member does not meet the requirements for admission of non-citizens as defined by 24 CFR Part 5, Subpart E.
  12. Family does not intend to use the unit as their primary residence (i.e. absent from the unit, other than through hospitalization, for more than three months out of the year).
  13. The applicant family has a history of violation of Federal, State or local Civil Rights Laws.
- 6.5 The BHA shall use reasonable means to verify non-income eligibility including, but not limited to; landlord references, credit reports, criminal history review, police and court reports, interviews, home visits and staff notes.

In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects. For example:

1. Evidence of rehabilitation.
2. Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs and the availability of such programs.
3. For persons evicted from Public Housing for drug-related activity or Alcohol abuse.
  - (a) The person demonstrates successful completion of a rehabilitation program approved by the BHA, or b) the circumstances leading to the eviction no longer exist. For example, the individual involved with drugs is no longer in the household because the person is incarcerated.

## **7. Unit Offer and Lease Procedures**

7.1 Unit Offers. Once an applicant has been deemed eligible under the above criteria they will be offered the next available unit. All unit offers will require the applicant to accept the unit offer within ten (10) days, or their name will be removed from the Waiting List. The unit offer will specify the address of the offered unit and date of availability. If an applicant is unable to accept a unit offer due to hardship (medical condition, lease obligation etc.), but wishes to maintain their standing on the Waiting List, they may do so only if they submit documentation that satisfies the BHA of a justifiable hardship. Without good cause, BHA will remove the applicant's name from the Waiting List and send notice to the applicant which will include their right to a hearing. The applicant may re-apply if the Waiting List is open.

7.2 Leasing Procedures. A lease agreement is to be entered into between the BHA and each tenant. The lease agreement is to be kept current at all times and is to reflect the rent being charged and the conditions governing occupancy.

1. The Head of Household is required to execute a lease agreement prior to actual admission. The lease agreement must also list all others in the household. One copy of the lease will be given to the lessee and one executed copy will be filed in the permanent record folder established for the family
2. In the event of divorce, or separation, the lease shall remain in the name of the Head of the Household until otherwise determined by the proper court as petitioned by and at the own expense of the Head of Household or other household member.
3. The lease shall provide that modification of the lease must be accompanied by a written rider to the lease executed by both parties, except for modifications of rent resulting from a re-determination.
4. Cancellation of the tenant's lease is to be in accordance with the provisions of the Tenant Lease except where otherwise allowed by M.G.L..

7.3 The BHA will conduct an initial inspection of all dwelling units with the tenant at the same time of the lease. The purpose of the inspection is to certify that the unit meets HUD Housing Quality Standards (HQS) or mandated HUD equivalent and Massachusetts State Sanitary Code. A permanent copy will be maintained in the tenant family's file.

## **8. Determination of Rent**

8.1 Annual and Adjusted income. Shall be determined in accordance with CFR 24 5.609 & 5.611 and shall be attached and incorporated into this policy.



8.2 The BHA has established a minimum Total Monthly Rent as per DHCD regulations. Requests for such hardship must be documented.

8.3 Utility Schedule. The BHA Will establish and periodically review and update its utility Standards.

## **9. Continued Occupancy & Annual Recertification**

9.1 Continued Occupancy. In order for a tenant to be considered for continued occupancy, the tenant must complete and provide all requested Recertification and Continued Occupancy documentation. As a condition to admission and/or continued occupancy, the BHA shall require the tenant to execute approved release and consent forms authorizing any depository or private source of income, or any Federal, State or local agency, to furnish information to the BHA that the BHA determines necessary.

9.2 Reexamination Date. The BHA must conduct a reexamination of household income and composition at lease annually. The effective date of the reexamination shall varies by property. The date is available upon the tenant's request. The BHA will commence recertification procedures ninety (90) days prior to the reexamination date.

9.3 Verification. The use or disclosure of information obtained from a tenant or from another source pursuant to the release and consent shall be limited to purposes directly connected with the administration of the BHA's programs.

9.4 Notice of Reexamination Adjustment. In accordance with the lease, the tenant shall receive thirty (30) day written notice of any rent adjustment resulting from the redetermination. If, however, the family has misrepresented or delayed information affecting eligibility or rent, the BHA may set a retroactive rent or take other corrective action.

9.5 Annual Inspections. In accordance with regulations, the BHA shall perform at least annual inspections of all occupied units to certify compliance with standards. The BHA may conduct these inspections more frequently, at its option. A copy of the inspection report will be signed maintained in the tenant's file. Work orders will be issued and completed on all deficient items. Tenants may be charged for damages they cause in accordance with the lease.

## **10. Interim Recertification**

10.1 Interim Re-certifications are rent adjustments between regularly scheduled adjustments due to change in income or family composition.

- 10.2 **Applicability.** All tenants are required to report any changes in Family Composition or income within ten (10) days of such change. Any decrease in rent shall be effective the first month following the change. Any increase in rent shall be effective on the first of the month in which the change occurred. The BHA will not institute an interim rent increase if the change is less than 10% of the previously reported adjusted income.
- 10.3 **Adding Household members to Lease.** No person may reside in a unit, or be added to a lease without prior written approval by the BHA. A tenant may apply to have members added to their lease by notifying the BHA, in writing, of their request and providing all of the required information and authorizations needed to evaluate eligibility of the new household member(s) and meet all of the requirements for eligibility outlined elsewhere in this plan, or elsewhere, prior to approving the additions to the lease.

Appeals for denial of the addition of a new household member shall be through the BHA's adopted grievance procedure.

## **11. Transfers**

- 11.1 **Transfers.** The Housing Authority will allow transfer of tenants from one unit to another under the following documented circumstances:
- Tenants who have serious, documented health problems and/or can no longer climb stairs.
  - Tenants who qualify for a Reasonable Accommodation under the Americans with Disabilities Act.
  - Administrative Reasons as determined by the BHA for proper administration of its Housing Programs or requirements under health, safety and building codes.

## **12. Tenant Participation**

- 12.1 **Tenant Participation.** The BHA strongly encourages tenant participation and active involvement of tenants in all aspects of the BHA's overall mission and operation. The BHA recognizes that its residents have the right to organize and elect a resident council to represent their interest. As long as proper HUD procedures are followed, the BHA shall recognize the duly elected resident council to participate fully through a working relationship with the BHA.
- 12.2 **Role of the Resident Council.** The role of the resident council is to improve the quality of life and resident satisfaction and participate in self-help initiatives to enable residents to create a positive living arrangement for all residents living in BHA Public Housing.
- 12.3 **Tenant Representation on BHA Board of Commissioners.** In accordance with Massachusetts General Laws, at least one (1) member of the Board of Commissioners shall be a BHA tenant in good standing.

### **13. Pet Policy**

In accordance with the Housing Quality and Work Responsibility Act of 1998, the BHA shall allow any resident to keep up to two (2) pets of small (under 40 lbs) size in their units provided that:

1. The resident registers the pet and files an Application for Pet Ownership with the BHA.
2. The resident provides current veterinary records that the pets are spayed/neutered and vaccinated for rabies.
3. Residents keep the pets in their control, either crated or on a leash, when outside their unit.
4. Pets do not cause the tenant to be in violation of their lease.
5. Resident complies with the BHA Pet Policy as well as all applicable Federal, State and local codes pertaining to responsible pet ownership .
6. Resident does not have a documented history of being an irresponsible or negligent pet owner.
7. The pet is considered a usual household pet under Federal, State or local law.
8. Resident enters into a Lease Rider for Pet Ownership with the BHA.
9. Resident must pay a Security Deposit of \$160.00. Such security deposit will be held by the BHA in accordance with all applicable Federal, State and local laws.

### **14. Lease Termination**

14.1 Lease Termination. The BHA shall not terminate or refuse to renew the lease other than for serious or repeated violation of material terms of the lease such as failure to make payments due under the lease or to fulfill the tenant obligations set forth in CFR 24 S966.4 or for other good cause.

1. Either of the following types of criminal activity by the tenant, any member of the household, a guest, or another person under the tenant's control, shall be cause for termination of tenancy. Such cause will not entitle the tenant to a hearing under the BHA's grievance policy:
  - a) Any criminal activity that threatens the health, safety or right of peaceful enjoyment of the BHA's public housing premises by other residents.
  - b) Any drug-related criminal activity on or near such premises.
2. In deciding to evict for criminal activity, the BHA shall have discretion to consider all circumstances of the case, including the seriousness of the offense, extent of participation of household members, and the effects that the eviction would have on household members not involved in the proscribed activity. The BHA may, at its own discretion, allow for the deletion of a household member to preserve a tenancy if it is

convinced that the deletion of such member will allow for total lease compliance of the remainder of the household.

3. The BHA may evict the tenant from the unity only by bringing a court action. The tenant may terminate their lease by providing notice as specified in the lease agreement. Any lease may be terminated by mutual consent of both parties.

14.2 Lease Termination Notice. The BHA shall give written notice of lease termination of:

1. 14 Day Notice in case of failure to pay rent.
2. A reasonable time considering the seriousness of the situation (but not to exceed 30 days) when health or safety of other residents or BHA employees is threatened.
3. 30 Day Notice in all other cases.
4. The notice of lease termination to the tenant shall state the specific grounds for termination, and shall inform the tenant of the tenant's right to make such reply as the tenant may wish. The notice shall also inform the tenant of the right to examine BHA documents directly relevant to termination or eviction.
5. When the BHA is required to afford the tenant the opportunity, the notice shall also inform the tenant of the tenant's right to request a hearing in accordance with the BHA's grievance procedure. In such cases that allow a grievance hearing, the tenancy shall not be terminated until the time to request a grievance hearing, and (if a hearing was timely requested by the tenant) the grievance process has been completed.
6. When the BHA is not required to afford the tenant the opportunity for a hearing under its grievance procedure the termination notice shall:
  - a) State that the termination is not entitled to a grievance hearing on the termination
  - b) Specify the judicial eviction procedure to be used by the BHA for eviction of the tenant.
  - c) State whether the eviction is for drug-related or criminal activity.
7. A notice to vacate which is required by State or local law may be combined with, or run concurrently with a notice of lease termination.

14.3 Right to examine BHA documents before hearing or trial. The BHA shall provide the tenant a reasonable opportunity to examine, at the tenant's request, before a BHA grievance hearing or court trial concerning a termination of tenancy or eviction, any

documents, including records and regulations, which are in possession of the BHA, and which are directly relevant to termination of tenancy or eviction. The tenant shall be allowed to copy any such documents at their own expense.

- 14.4 Notice to Post Office. When the BHA evicts a tenant or household member from a dwelling unit for engaging in criminal activity, including any drug related criminal activity, the tenant shall notify the Billerica Post Office that such individual or household member is no longer residing in the unit.
- 14.5 No Trespass Notice. The BHA reserves the right to issue a “No Trespass” notice to any non-tenant, barring said individual from its property due to the reasonable probability that said individual endangers the health, safety or welfare and peaceful enjoyment of its residents or employees.

**15. Grievance Procedure (See BHA Grievance Policy)**

**16. Posting of Policies, Rules and Regulations**

- 16.1 Special charges for services and repairs shall be determined at the time of occurrence and documentation relating to those costs shall be provided to the tenant. Rules and regulations which are required to be incorporated in to the lease by reference shall be publicly posted in a conspicuous manner in the BHA office or on the BHA web site.
- 16.2 Such charges, rules and regulations may be modified from time to time by the BHA.

Revised and Approved by the Billerica Housing Authority Board of Commissioners on June 8, 2023