

TENANT SELECTION PLAN

**DEVELOPMENT NAME: BILLERICA HOUSING AUTHORITY
McCARTHY COMPLEX
16 RIVER STREET, BILLERICA, MA 01821**

**Approved by The Billerica Housing Authority Board of Commissioners on
April 7, 2022**



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INTRODUCTION

This Tenant Selection Plan (the “Plan”) for the Billerica Housing Authority (the “Development”), an eighty (80) unit multifamily housing development located at 16 River Street, Billerica, MA 01821 has been prepared by the Billerica Housing Authority (the “Agent” and “Owner”).

The Development is currently the recipient of rental housing subsidy under one or more subsidy programs, and is subject to applicable laws, regulations and guidelines, as follows:

Federal Assistance Programs:

- Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f), as amended
- Section 202 of the Housing Act of 1959 (___ U.S.C. ____), as amended
- Section 236 of the National Housing Act (12 U.S.C. 1715z-1)
- Rental Assistance Payments Program, authorized under Section 236 of the National Housing Act (12 U.S.C. 1715z-1)
- Rent Supplement Program, authorized under Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701(s))

NOTE: For purposes of the Plan, a development participating in any of the above Programs are included within the definition of “Federally Assisted Housing” found in 24 CFR 5.100, and are subject under the Plan for requirements applicable to Federally Assisted Housing units.

State Assistance Programs:

- Section 13A of Chapter 708 of the Acts of 1966, as amended (M.G.L. c. 23A, App., the MassHousing Enabling Act)



_____ Massachusetts Rental Voucher Program, authorized under Section 21 of Chapter 133 of the Acts of 1992 and regulations at 760 CMR 49.

Other Federal/State Housing Assistance Programs

_____ Low Income Housing Tax Credits
(___ check here if tax credit attachment is included)

_____ Housing Choice Voucher Program
(___ check here if program specific attachment is included)

_____ HOME Investment Partnership Program
(___ check here if HOME attachment is included)

_____ Housing Stabilization Fund (HSF) Program
(___ check here if HSF attachment is included)

_____ _____
(___ check here if program specific attachment is included)

The objective of the Plan is to consolidate relevant policies and procedures affecting the selection of tenants for subsidized units, pursuant to applicable federal and state laws. The Plan sets out a procedure for processing and selecting applicants for subsidized units, including the establishment of preferences and priorities, occupancy standards, rejection standards, reviews and appeals of rejection decisions, and notice requirements. The Plan may not, however, include all of the policies and procedures affecting the selection of tenants. The Agent/Owner is responsible for understanding and following all relevant requirements of the subsidy program applicable to the Development, including, in the case of Federally Assisted Housing units, HUD Handbook 4350.3 REV-1 (Occupancy Requirements of Subsidized Multifamily Housing Programs). Where, however, a specific subsidy program contains rules or regulations that conflict with the provisions herein, the program’s rules and regulations shall govern.

The Plan is designed to promote fairness and uniformity in the selection of tenants for subsidized units, and to promote efficiency in the application process for subsidized units. *Unless otherwise restricted by the subsidy program as set forth herein, the Plan is not applicable to the processing of applications or selection of tenants for non-subsidized (or “market”) units.* One of the principal elements of the Plan is that it allows the Agent/Owner to make a preliminary determination of eligibility based on the applicant’s self-certification of income and priority status. Initial acceptance



of the applicant's self-certification allows the Agent to focus on other administrative duties, rather than investing significant staff time in verifying such information at initial application and once again when the applicant is accepted from the waiting list. The election for preliminary determination of eligibility by the Agent/Owner should only be exercised if the anticipated waiting period for a unit offer exceeds ninety days. In most cases, the waiting period exceeds ninety days, warranting the effort to save staff time by making a preliminary determination of eligibility.

ELEMENTS OF THE TENANT SELECTION PLAN

A. Right to Apply and Referrals from Public Housing Authorities

No person may be refused the right to apply for housing unless the waiting list is closed for a particular unit size or type, and notice of the closed waiting list has been posted in a prominent, accessible location.

In fulfilling its requirements to rent subsidized units within the Development to low income persons or families, the Agent/Owner will accept referrals in the town in which the Development is located, and will not unreasonably refuse occupancy to any prospective tenants so referred who are otherwise determined to be eligible and suitable for tenancy under this Plan.

B. Statement of Non-discrimination

It is the policy of the Owner and Agent to promote equal opportunity and non-discrimination in compliance with, but not limited to, the federal and state constitutions and legislative enactments addressing discrimination in housing. These enactments include: The Fair Housing Amendments Act of 1988, 42 U.S.C.A. §§3601-3620, as modified by the Housing for Older Americans Act of 1995, 42 U.S.C.A §3607(b)(2)(C), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A §794 *et seq.*, The Americans with Disabilities Act of 1990, 42 U.S.C.A. §§12101-12213, Title VI of the Civil Rights Act of 1964, 42 U.S.C.A §2000d, the Age Discrimination Act of 1975, 42 U.S.C.A. §§6101-6107, Executive Order 11,063, Chapter 151B of the Massachusetts General Laws, and the Massachusetts Equal Rights Law, M.G.L. c 93, §103. In furtherance of this policy:

In carrying out the Plan, the Agent/Owner shall not discriminate on the basis of race, color, creed, religion, national or ethnic origin, citizenship, ancestry, class, sex, sexual orientation, familial status, disability, military/veteran status, source of income, age or other basis prohibited by local, state or federal law in any aspect of tenant selection or matters related to continued occupancy. The Agent shall affirmatively market to minorities and persons with disabilities as specified in its Affirmative Fair Housing Marketing Plan (AFHMP).



Applicants with Disabilities and Reasonable Accommodations: The Agent/Owner shall make reasonable accommodations in policies or reasonable modifications of common areas or unit premises for all applicants with disabilities (as defined in the above listed Acts or any subsequent legislation) who require such changes to have equal access to any aspect of the application process or to the Development and its programs and services. The Agent/Owner shall, for example, arrange for sign language interpreters or other communication aides for interviews during the application process.

Appointments for an application or for reasonable accommodations, including materials in alternate formats, may be made by contacting the site office:

SITE BILLERICA HOUSING AUTHORITY

ADDRESS 16 River Street, Billerica, MA 01821

PHONE 978-667-2175

TDD 1-800-545-1833 X121

FAX 978-667-1156

EMAIL bcorrenti@billericahousing.org

C. Eligibility and Selection Criteria

1. Eligibility for Tenancy. To be considered for selection, applicants must submit a completed application and relevant consent forms. To determine threshold eligibility, the application may be accepted by a self-certifying statement. Third party verification may be required prior to final screening for occupancy. The Agent/Owner must verify the information needed to determine an applicant's eligibility within 90 days prior to the Agent's/Owner's approval of the tenancy.

Note: Eligibility does not constitute acceptance and further screening is required to determine an applicant's ability to maintain a successful tenancy.

Eligibility shall be determined on the following basis:

- (a) **Project-Specific Requirements.** Units designated within the Development for occupancy by a special population, such as elderly or disabled, may only be occupied by those households meeting the criteria for such designations.



- (b) Subsidy Program Requirements. Units within the Development receiving federal or state housing subsidies may only be occupied by those households meeting the criteria of the subsidizing program.. Requirements may include:
- (i) Citizenship/Immigration Status Requirements. Household must submit evidence and meet requirements established by the subsidy program for occupancy by non-citizens.
 - (ii) Maximum Income. Household annual income must not exceed current income limits for the program to which application is made. Annual income may be below program limits but not so low as to make payment of basic rent obligations impractical. However, a household does not need to have income to be eligible for assisted housing programs that provide assistance to meet basic rent obligations through an assistance contract (i.e. Section 8, RAP, MRVP).
 - (iii) Household Characteristics. Household characteristics, such as the number, age, relationship and gender of family members, must be appropriate to the size of the unit and adaptations made therein, pursuant to the subsidy program guidelines.
 - (iv) Student Status. Section 8 Developments are restricted from providing assistance to students enrolled in institutions of higher education (either full or part time) who meet the criteria set forth in 24 CFR 5.612.

2. Screening for Suitability. In selecting tenants under the Plan, the Agent/Owner shall consider the essential requirements of tenancy and determine whether an applicant should be rejected for failing to meet such requirements. Rejection of an applicant is appropriate where the Agent/Owner has a reasonable basis to believe that the applicant cannot meet the essential requirements of tenancy, which may be summarized as:

- (a) to pay rent and other charges under the lease in a timely manner;
- (b) to care for and avoid damaging the unit and common areas, to use facilities and equipment in a reasonable way, and to not create health or safety hazards;



- (c) not to interfere with the rights and enjoyment of others and not to damage the property of others;
- (d) not to engage in any activity that threatens the health, safety or right to peaceful enjoyment of other residents or staff, not to engage in activity on or near the premises that involves illegal use of controlled substances or weapons, and not to engage in any criminal activity on or off the premises that would be detrimental to the housing should it occur on the premises; and
- (e) to comply with necessary and reasonable rules and program requirements of the housing provider.

There may be circumstances which create the presumption that an applicant is not suitable for tenancy. These provide the criteria by which applicants shall be screened (the "Screening Criteria"). Under the circumstances identified therein, there is a reasonable risk that the applicant shall not be able to meet the essential requirements of tenancy.

The Agent/Owner shall apply the Screening Criteria uniformly to all applicants to prevent discrimination and avoid fair housing violations. The costs of screening shall not be charged to the applicant, but shall be borne by the Development as an operating expense, unless otherwise permitted by the subsidy program.

In carrying out the selection of tenants under the Plan, the Agent/Owner must consider mitigating factors that rebut the presumption that an applicant shall be unable to meet the requirements of tenancy. Mitigating factors may include a showing of rehabilitation or rehabilitating efforts and must be balanced against the potentially disqualifying behavior or circumstances. In considering both the disqualifying behavior and mitigating factors, the Agent/Owner shall determine if there is a reasonable risk that the applicant shall be unable to meet the essential requirements of tenancy. Among the factors that should be considered are:

- the severity of the potentially disqualifying conduct;
- the amount of time that has elapsed since the occurrence of such conduct;
- the degree of danger, if any, to the health, safety and security of others or to the security of the property of others or to the physical conditions of the Development and its common areas if the conduct recurred;
- the disruption, inconvenience, or financial impact that recurrence would cause the housing provider; and
- the likelihood that the applicant's behavior will be substantially improved in the future.



In general, the greater degree of danger to the health, safety and security of others or to the security of property of others or the physical condition of the housing, the greater must be the strength of showing that a recurrence of the behavior which led to an initial determination that the applicant would not be able to meet the essential requirements of tenancy will not occur in the future.

Pursuant to the Violence Against Women Act (42 U.S.C. 1437f and 42 U.S.C. 1437d) and regulations promulgated in accordance therewith at 24 CFR Part 5, Subpart L, admission to the development shall not be denied on the basis that the applicant or household member is or has been a victim of domestic violence, dating violence or stalking, as defined in the aforementioned regulations, if the applicant or household member otherwise qualifies for admission.

3. Screening Procedures. To obtain information about an applicant's ability to meet the essential requirements of tenancy under the Screening Criteria, the Agent/Owner shall secure background information as follows:

- (a) Record of Prior Criminal History. In gathering such record of prior criminal history, the Agent/Owner or its agent(s) may obtain Criminal Offender Record Information (CORI) reports as part of the tenant selection process, but access and use of the CORI reports are subject to the provisions of 803 CMR 2.00 et seq. The Agent/Owner or its agent(s) should ensure that none of the information obtained is collected or disseminated in violation of state or federal law.
- (b) Sex Offender Registration Status: The Agent/Owner or its agent(s) shall obtain information necessary to determine if the applicant or any household member is subject to registration with the Massachusetts Sex Offender Registry Board, pursuant to M.G.L. c. 6 Section 178C et seq., or a lifetime registration requirement under any state sex offender registration program. The Agent/Owner or its agent(s) may verify the information provided by the applicant by searching a National Sex Offender Database.

Note: In completing background checks for (a) and (b) above for units receiving Section 8 assistance, the Agent/Owner may request to obtain such information in the manner contemplated by 24 CFR Part 5, Subpart J and HUD Handbook 4350.3 REV-1, Section 4-27.E.

- (c) Verification of Citizenship/Immigration status
- (d) Enterprise Income Verification (EIV) Existing Tenant Search



As required by HUD Notices H 09-20 and H 10-08, issued pursuant to 24 CFR 5.233, the Agent/Owner shall conduct an Existing Tenant Search in EIV, and use the information contained in the Existing Tenant Search Report, to determine if the applicant or any applicant household members are currently receiving HUD housing assistance (i.e. residing at another HUD Multifamily Housing or Public and Indian Housing (PIH) location).

The Agent's/Owner's has policies for obtaining and using the EIV Existing Tenant Search Report as part of this Plan. In the development of such policies, the Agent/Owner may wish to consider the Overview and Suggested Policy Questionnaire/Outline.

- (e) References from landlords in the last five years or from the last two successive tenancies, whichever is more inclusive.
- (f) Credit references furnished by a credit bureau. Information to be considered should not be more than five years old.
- (g) Personal references provided by the applicant.
- (h) References from the applicant's current residence to assess housekeeping habits Development. For the purposes of this subsection, an applicant's current residence shall not include a medical treatment facility or rehabilitation facility.
- (i) Verification of income either from a present employer, appropriate agency, financial institution or other appropriate party.
- (j) Verification of a disability to determine whether a family or person meets the definition of disability used to determine eligibility for occupancy at the Development or for preferences, or to identify applicant needs for features of accessible units or reasonable accommodations. The Agent/Owner may not specifically ask for or verify the nature and extent of the disability. There are ways to verify disability status without obtaining detailed information or information that must not be collected.

Verification of disability may be obtained through a third-party verification form sent by the Agent/Owner to an appropriate source of information, including but not limited to the individual's physician, care worker of the elderly, social worker, psychiatrist, or the Veterans Administration. If a third-party form is used, it must be signed by the Applicant authorizing the release of such information to the Agent/Owner. The form should provide the definitions of disability used to determine eligibility and rent, and should



request that the source completing the form identify whether the Applicant meets the definition. In this way the Agent/Owner is not required to make any judgments about whether a condition is considered a disability, and shall not have prohibited information. For examples and further guidance, see HUD Handbook 4350.3 REV-1.

In the case of applications for Federally Assisted Housing units, receipt of social security disability payments may be adequate verification of an individual's disability status for housing subsidy programs using the Social Security's definition for a person with disabilities (See HUD Handbook 4350.3 REV-1).

If an applicant claims past tenancy-related problems were the result of a disability and some condition has changed making such behavior unlikely to recur, the Agent/Owner shall consider evidence supporting such claims. All applicants are responsible for providing verification for such claims. In instances where the applicant claims some services or treatment shall be available to enable the applicant to correct the problem behavior, the Agent/Owner shall require verification that such services are available and that the applicant is likely to continue to use such services or treatment.

4. Mitigating Circumstances. Mitigating circumstances shall be verified. The individual performing the verification must corroborate the reason given by the applicant for unacceptable tenancy-related behavior and indicate the good prospect for lease compliance in the future because the reason for the unacceptable behavior is either no longer in effect or is otherwise controlled.
 - (a) Alcohol or Substance Abuse. Where an applicant claims that prior unacceptable tenancy-related behavior resulted from alcohol abuse or use of illegal drugs, acceptable verification of mitigating circumstances would have to establish that:
 - (As applicable) There is no current illegal use, which includes activity within the last year, of controlled substances. If such use is documented, applicant must present evidence that such use has stopped and is unlikely to recur.
 - (As applicable) There is no current abuse of alcohol, which includes abuse within the last year, and abuse is unlikely to recur.
 - During the period for which the applicant has claimed no current use, the applicant's behavior as a tenant must have been acceptable.



In any case of confirmed, continued, unacceptable tenancy-related behavior, despite the cessation of drugs or alcohol use, an applicant may be rejected.

- (b) Credit: The Agent/Owner may consider an applicant's credit history, but such information may ONLY be used in lieu of rental history to determine an applicant's ability to pay rent when rental history is not available. Where bad credit is the basis for rejection, mitigating circumstances may include:
- (i) a representative payer or other reliable third party who would take written responsibility for payment;
 - (ii) evidence that such poor credit was the result of a disability that is now under control; or
 - (iii) evidence that credit problems were the result of other circumstances that no longer exist and there is reason to believe that applicant will now pay rent promptly and in full.

An applicant's ability and willingness to pay rent must be demonstrated through an identifiable source of sufficient income to pay rent and prior rental history. The lack of credit history, as opposed to poor credit history, is not sufficient justification to reject an applicant. The Agent/Owner must also take into account rent burden if an applicant can demonstrate a history of satisfying a higher rent burden than the Agent/Owner normally employs.

The Agent/Owner shall have the right to request information reasonably needed to verify the mitigating circumstances, even if such information is of a confidential nature (e.g. verifications from medical professionals that provide confidential information.). If the applicant refuses to provide or give access to such further information the Agent/Owner may choose not to give further consideration to the mitigating circumstance.

5. Prohibited Screening Criteria. The Agent/Owner may not screen applicants for eligibility on the basis of the following:
- (a) Physical Examinations. The Agent/Owner shall not require physical examinations or medical testing as a condition of admission.
 - (b) Meals and Other Services. The Agent/Owner shall not require tenants to participate in a meals program.
 - (c) Donations or Contributions. The Agent/Owner shall not require a donation, contribution or membership fee as a condition of admission. Owners may not require any payments not provided in the lease.



- (d) **Disability Status.** Except as provided in section C.3(i) above, it is unlawful to make an inquiry to determine if an applicant for a dwelling unit, a person intending to reside in that dwelling unit after it is rented or made available, or any persons associated with the applicant, has a disability or handicap, or to make inquiry as to the nature or severity of an identified disability or handicap.

D. Application to Housing

1. Application Forms. Application forms shall be distributed and accepted in the manner(s) indicated below:

- In Person
 By Mail
 By Fax
 By Electronic Submission

NOTE: The electronic transmittal and receipt of applications shall be subject to any applicable federal and state requirements concerning secure data transmission. If applications are accepted electronically, they must be printed and received in accordance with Section D.2(a) below.

Every application must be completed and signed by the head of the household.

The application form shall at a minimum request and shall:

- solicit all the necessary information to determine program and project eligibility;
- provide the opportunity to state the need or desire for an accessible unit;
- provide notice of the right to a reasonable accommodation of a disability;
- include the Equal Opportunity logo and slogan;
- include the non-discrimination statement;
- provide the opportunity to indicate eligibility for a preference; and
- include a notice that the Agent/Owner shall communicate with the applicant in the manner or format requested by the applicant if necessary because of a disability.

All members of the household must be listed on the application form. In addition to the application form, the Agent/Owner shall also obtain the Applicant's consent to obtain third-party verifications or references. Household members 18 years or older,



including any personal care attendant (PCA) (or, for Federally Assisted Housing Developments, any Live-in Aide), must sign a release to conduct criminal and landlord history references. In the case of applications for Federally Assisted Housing units, all adult household members (18 years of age and older) must sign (i) Notice and Consent for the Release of Information (Form HUD 9887), and (ii) Applicant's/Tenant's Consent for the Release of Information (Form HUD 9887-A). In the case of applications for units participating in state subsidy programs, all adult household members must sign the Consent for Release of Information as presented in Attachment 4.

Note: Credit information for PCAs (or Live-in Aide) is not required since their income is not included in the household income calculation. A PCA is defined as a person who resides with a household member with a disability and who (a) provides necessary assistance in activities of daily living to such household member insofar as he or she requires such assistance on account of his or her disability; (b) is not obligated for support of the disabled household member; (c) would not be residing in the unit except to provide such necessary assistance to the household member; and (d) would otherwise move out of the unit upon termination of his or her employment as a personal care attendant or termination of the lease by the disabled client, whichever comes first. (The definition and requirements for a Live-in Aide are found in 24 CFR 5.403 and HUD Handbook 4350.3 REV-1, Section 3-6 (E)(3)(a).)

In accepting applications for occupancy of Federally Assisted Housing units, the following additional requirements shall apply:

CHECK IF APPLICABLE:

Verification of Citizenship/Immigration Status. The Agent/Owner shall require the Applicant to submit evidence of citizenship or eligible immigration status as may be required by HUD to establish eligibility for occupancy.

Proof of Social Security Numbers for Household Members. The Agent/Owner shall require that the Applicant provide social security numbers (SSN) for all household members.

Note: Applicants do not need to disclose or provide verification of a SSN for all non-exempt household members at the time of application and for placement on the waiting list. However, applicants must disclose and provide verification of a SSN for all non-exempt household members before they can be housed.



Failure to respond within 14 days to the Agent's/Owner's requests for documentation or information to process the application shall result in rejection of the application. The Agent/Owner may make exceptions to the procedures described herein to take into account circumstances beyond the applicant's control, including medical problems or extreme weather conditions.

The Agent/Owner shall offer assistance to the applicant in completing the application, explain the tenant selection process, define preferences, and explain the verification process with respect to preferences.

It is the policy of the Agent/Owner to guard the privacy of individuals in accordance with the Federal Privacy Act of 1974 and the Massachusetts Privacy Act, and to ensure the protection of records maintained by the property concerning the applicants or tenants.

The Agent/Owner shall not disclose any personal information contained in its records to any persons or agencies other or other authorized government agencies unless the individual about whom information is requested has given written consent to such disclosure, or unless disclosure is otherwise in accordance with provisions of the state or federal privacy acts.

This privacy policy in no way limits the Agent's/Owner's ability to collect such information as it may need to determine eligibility, compute rent, determine an applicant's suitability for tenancy, or to gather information to process reasonable accommodations requests under Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Fair Housing Act, and state law.

The above policies in no way limit the right or duty of the Agent/Owner to make abuse, neglect or other protective service or emergency reports. Additionally, such policies do not forbid management from sharing information in the public domain with relevant service or government agencies.

2. Processing of Applications. In general, applications shall be processed in accordance with the following steps:
 - (a) **Receiving and Recording** – Upon receipt of an application to housing, the Agent/Owner shall indicate on the application the date and time received, either by using a date and time stamp, or by writing and initialing the date and time received.
 - (b) **Review for completeness** - Applications shall first be reviewed for completeness. Incomplete applications shall be rejected and returned to the



applicant. Applications shall not be evaluated until all of the required information has been provided.

- (c) **Preliminary determination of program ineligibility** - Completed applications shall be reviewed for income eligibility and compliance with any categorical eligibility requirements for the program, such as age or disability. Applications determined ineligible shall be rejected in accordance with procedures outlined herein.
- (d) **Preliminary determination of program eligibility** - When there are more applicants on the waiting list than units currently available, and the anticipated duration of the waiting list exceeds ninety days, the Agent/Owner shall make a preliminary determination of eligibility, based on the applicant's self-certified statement as to his or her income, assets, age, disability status, and preference or priority status. Applicant shall be notified of the status of his/her application in accordance with procedures outlined herein.
- (e) **Waiting list placement** - Once a fully completed application is determined to meet income eligibility requirements and the household composition is determined appropriate for a unit at the Development, the applicant shall be placed on the appropriate waiting list(s). Assignment to a position on the waiting list shall be based on the preliminary determination, and shall be formally verified as the applicant's name advances on the waiting list. However, if the anticipated duration on the waiting list is less than 90 days, formal verification shall be required immediately. The applicant shall be placed on the waiting list, by date of receipt of the completed application within the correct income category and then within the correct preference category as applicable. Applicants eligible for handicapped accessible units must be placed on lists for both accessible and standard units.
- (f) **Formal verification** – If, subsequent to the preliminary determination of eligibility, the Agent/Owner determines that the formal verification of income, assets, or claimed priority status differs from the applicant's self certification, the applicant may be:
 - (i) reassigned to another waiting list (i.e. smaller or larger bedroom size);



- (ii) reassigned to a different preference status; or
- (iii) determined ineligible.

3. Notification of Decision on Application. The Agent/Owner shall send a written response to the applicant advising such applicant of the status of the application. The response shall be mailed not more than thirty days from the date of receipt of the application. Alternate formats for responding to an applicant with a disability shall be provided upon applicant's request. If the Agent/Owner has not made a determination to reject the applicant, the written response shall include the status of the application with respect to:

- result of the preliminary determination of eligibility;
- position on the waiting list;
- SSN disclosure and verification requirements;
- estimate of the time it may take before the applicant will be offered assistance;
- notice that the applicant is responsible for reporting changes in address, phone number, and preference status;
- where applicable, the applicant's qualification for a preference(s) for admission; and
- a statement that the applicant has the right to meet with the Agent/Owner to discuss the determination made with respect to the application.

4. Provisions Relating to Rejection of an Application. If the applicant is not accepted, or is not placed on the waiting list for admission, the Agent/Owner shall follow the procedures outlined in section 3 above, and shall include the following in its written response to the applicant:

- the reason(s) for the rejection;
- notice that the applicant or his or her representative, prior to or at the conference with the Agent/Owner, has the right to inspect the documentation on the basis of which the rejection was made and any other documentation pertinent to the applicant's eligibility, suitability, qualification or entitlement to priority or preference status. The Agent/Owner shall make reasonable arrangements for photocopying any such documentation as the applicant may specify with sufficient advance notice, except that in the case of a credit report, the applicant shall obtain the report from the credit reporting agency;
- notice that the applicant has five business days to request a conference with the Agent/Owner to contest the rejection, and alternatively, in the case of Federally Assisted Housing units, fourteen days to respond in writing or request a meeting with the Agent/Owner to dispute the rejection; and



- notice that the applicant has the right to request a reasonable accommodation if the applicant believes that, with such an accommodation, the applicant would be suitable for admission and that the applicant was rejected for a reason arising from the applicant's disability.

E. Preferences, Priorities and Targeting

This Section describes the preferences, priorities, and targeting that shall be applied in the selection of residents. Applicants with preferences are selected from the waiting list and receive an opportunity for an available unit earlier than those who do not have a preference. Preferences affect only the order of applicants on the waiting list. They do not make anyone eligible who was not otherwise eligible, and they do not change the Agent's/Owner's right to apply or modify the tenant selection criteria found elsewhere in this plan.

As required in Section D above, the Agent/Owner shall inform each applicant about available preferences, and provide an opportunity for each applicant to show that they qualify for available preferences.

1. Preferences. The Agent/Owner may apply preferences required in determining the placement of an applicant on the waiting list. In applying such preferences, the Agent/Owner shall use the following priority categories in descending order and shall document the sources of information obtained to verify qualification for preferences:
 - (a) 1st Priority - Homelessness due to Displacement by Natural Forces: An applicant, otherwise eligible and qualified, who has been displaced by:
 - (i) fire not due to the negligence or intentional act of applicant or a household member;
 - (ii) earthquake, flood or other natural cause; or
 - (iii) a disaster declared or otherwise formally recognized under disaster relief laws.
 - (b) 2nd Priority - Homelessness due to Displacement by Public Action (Urban Renewal): An applicant, otherwise eligible and qualified, who will be displaced within 90 days, or has been displaced within the three years prior to application, by:



- (i) any low rent housing project as defined in M.G. L. c. 121B, § 1, or
- (ii) a public slum clearance or urban renewal project initiated after January 1, 1947, or
- (iii) other public improvement.

(c) 3rd Priority - Homelessness due to Displacement by Public Action (Sanitary Code Violations): An applicant, otherwise eligible and qualified, who is being displaced, or has been displaced within 90 days prior to application, by enforcement of minimum standards of fitness for human habitation established by the State Sanitary Code or local ordinances, provided that:

- (i) neither the applicant nor a household member has caused or substantially contributed to the cause of enforcement proceedings; and
- (ii) the applicant has pursued available ways to remedy the situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

Note: For purposes of this subsection, “enforcement” is interpreted as a formal condemnation of the apartment. Citation for code violations does not, without more, constitute a condemnation.

(d) 4th Priority – Involuntary Displacement by Domestic Violence: “Domestic Violence” as defined in M.G.L. c. 209A means actual or threatened physical violence directed against one or more members of the applicant’s family by a spouse or other member of the applicant’s household. An applicant is involuntarily displaced by domestic violence if:

- (i) The applicant has vacated a housing unit because of domestic violence; or
- (ii) The applicant lives in a housing unit with a person who engages in domestic violence.

If the applicant is still living in the housing unit with a person who engages in domestic violence at the time of selection, the violence must have occurred within six months or be of a continuing nature.

Priority for Involuntary Displacement by Domestic Violence applies only to households with one or more children under the age of 18.

2. HUD Section 236 Program - Required HUD Regulatory Preferences



- (a) If the Development is receiving subsidy under the Section 236 Program, or otherwise remains subject to regulatory oversight under the Section 236 Program, the Agent/Owner shall apply preferences in determining the order of an applicant's placement on the waiting list for a basic rent unit assisted under the Section 236 Program. Pursuant to 24 CFR Part 236 and HUD Handbook 4350.3 REV-1, preference shall be provided to applicants displaced as a result of:
 - (i) government action, or
 - (ii) a Presidentially-declared disaster.

- (b) In addition to the above, if the Development is also receiving Rental Assistance Payments, the Agent/Owner shall apply secondary preferences (in descending order of priority), as follows:
 - (i) Applicants eligible for Rental Assistance Payments;
 - (ii) Applicants eligible to pay less than the Section 236 "market rent" approved for the Development; and
 - (iii) Applicants with income sufficient to pay the Section 236 "market rent" approved for the Development.

For purposes of this subsection, the Section 236 "market rent" shall be the market rent as it appears on the most recently approved Section 236 rent schedule for the Development.

Documentation or sources of information, required to verify an Applicant's qualification for a preference under this Section, shall be determined by HUD.

CHECK AS APPLICABLE:

- The Development is a Section 236 Program Development and is subject to the preference set forth in subsection E.2(a) above.

- The Development is a Section 236 Program Development and receives Rental Assistance Payments, and is subject to the preference set forth in subsection E.2(a) and 2(b) above.

Note: Section 236 preferences take precedence over the preferences for MassHousing financed Developments (see Section E.1 above).

- The Development is not a Section 236 Program Development and is not subject to the preferences set forth in subsection E.2



3. Additional Optional Owner Preferences (as allowed under applicable program rules). If specified below, the Agent/Owner shall apply Additional Optional Owner Preferences in determining the order of an applicant's placement on the waiting list as may be allowed under applicable program rules. Unless otherwise indicated below, such preferences are subordinate to the required preferences set forth elsewhere in this section (Section E) and shall be applied in descending order as set forth below.

CHECK AS APPLICABLE:

- For current residents of housing either financed who seek relocation resulting from:

- providing testimony to law enforcement or management agents;

Documentation/Sources of Information Required to Verify Qualification for Preference: _____

- circumstances involving flight from domestic violence or racial/ethnic harassment;

Documentation/Sources of Information Required to Verify Qualification for Preference: _____

- the need to satisfy a reasonable accommodation request.

Documentation/Sources of Information Required to Verify Qualification for Preference (Substantiation of such preferences must be documented): _____

- Local (Resident) Preference

- Current residents: A household in which one or more members is living in the city or town in which the Development is located (the "Municipality") at the time of application. Documentation of residency should be provided, such as rent receipts, utility bills, street listing or voter registration listing.

- Municipal Employees: Employees of the Municipality, such as teachers, janitors, firefighters, police officers, librarians or town hall employees.



Employees of Local Businesses: Employees of businesses located in the Municipality.

Households with children attending the Municipality's schools, such as METCO students.

Other: _____

Geographic Boundary(ies): _____
(not smaller than municipal boundary(ies))

Applicable Percentage: _____ % (not greater than 70%)

Duration of Preference: _____ Initial Rent Up Only

_____ Other (specify term)

Approval for Local (Resident) Preference:

Required Obtained (attach relevant approval for each)



- HUD
- DHCD
- _____ (Municipality)

Homeless (general, not otherwise covered by homeless preferences above)

Documentation/Sources of Information Required to Verify
 Qualification for Preference: _____

Other - Specify

Preference Description: _____

Documentation/Sources of Information Required to Verify
 Qualification for Preference: _____

HUD Approval Required/Date Obtained: _____

Preference Description: _____

Documentation/Sources of Information Required to Verify
 Qualification for Preference: _____

HUD Approval Required/Date Obtained: _____

4. Housing for Older Persons

If specified below, the Development has been established as housing intended for older persons, and for which tenant selection and occupancy shall be restricted as permitted under exemptions provided under the Fair Housing Act, as amended (46 U.S.C. 3601 et seq.), and regulations promulgated thereto (24 CFR Part 100, Subpart E).



(a) Housing provided under Federal or State Program specifically designed and operated to assist elderly persons (*see* 24 CFR 100.302).

(i) Owner-Adopted Preferences for Elderly, Disabled, Nonelderly Disabled and Near Elderly Disabled Families – as permitted under Section 651 of Title VI, Subtitle D of the Housing and Community Development Act of 1992 (“Title VI-D”).

Owners of qualifying developments receiving Section 8 assistance may elect to extend a preference to elderly families and a set-aside for non-elderly persons with disabilities over other disabled applicants, if the development meets Title VI-D criteria (*see* certification below) and such preferences do not otherwise violate Fair Housing Act or Age Discrimination Act standards (*see* HUD Handbook 4350.3 REV-1, Section 3-18.A).

Certification for Implementation of Title VI-D Elderly Preference

(A) The undersigned certifies that the Development has adopted the HUD Title VI-D Elderly preference, and that it is both qualified and has the supporting documentation on site as specified in HUD Handbook 4350.3 REV-1, Section 3-18.A to support the adopted elderly preference.

Yes

No

The number of units **set aside** at the Development for non-elderly disabled families is _____.

Note: For purposes of this subsection (A) only, a non-elderly disabled family is one in which the head of household, co-head, or spouse is disabled and 18 to 49 years of age.

(B) The Development has adopted the “near-elderly disabled family” preference.

Yes



No

Note: For purposes of this subsection (A) only, a near-elderly disabled family is one whose head, spouse, or sole member is a person with disabilities who is at least 50 years of age but below the age of 62; or two or more persons with disabilities who are at least 50 years of age, but below the age of 62, living together; or one or more persons who are at least 50 years of age, but below the age of 62, living with one or more live-in aides.

- (ii) Owner-Adopted Elderly Restrictions in Certain Federally Assisted Housing Projects that were Designed to Serve the Elderly – as permitted under Section 658 of Title VI-D.

Owners of qualifying Section 236, Section 221(d)(3) BMIR and Section 202 developments may restrict occupancy to such developments to elderly families in accordance with the rules and standards in effect at the inception of the development (*see* HUD Handbook 4350.3 REV-1, Section 3-18.B).

**Certification for Implementation of Title VI-D
Elderly Restriction**

- (A) The undersigned certifies that the Development has adopted the HUD Title VI-D Elderly Restriction and it is both qualified and has the supporting documentation on site as specified in HUD Handbook 4350.3 REV-1, Section 3-18.B to support the adopted restriction.

Yes
 No

Specify Program and Restriction(s): _____



- (iii) Elderly Preferences and Restriction – Projects Not Covered by Title VI-D (*see* HUD Handbook 4350.3 REV-1, Section 3-19).

Specify Program and Restriction(s): _____

- (iv) OTHER:

Specify Program and Restriction(s): _____

- (b) 62 years of age and over - housing intended for, and solely occupied by, persons 62 years of age or older (*see* 24 CFR 100.303). If this designation is checked, the only persons eligible for occupancy of units in the Development are persons 62 years of age or older.

- (c) 55 years of age and over – housing intended and operated for persons 55 years of age or older (*see* 24 CFR 100.304 et seq.). If this designation is checked, at least 80 percent of occupied units must be occupied by one person 55 years of age or older.

Pursuant to 24 CFR 100.306, in order for the Development to qualify as housing designed for persons 55 years of age or older, the Owner and/or Agent must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older.

Pursuant to above policies and procedures, the Development will maintain its designation as a “55 years of age and older” development through limits on tenant selection and eligibility, as follows:

- All applicants for occupancy in the Development must be 55 years of age or older.

- At least one person in each applicant household for occupancy in the Development must be 55 years of age or older.



[] Other [see attached policies and procedures specifying how minimum occupancy requirement will be maintained]

5. HUD Project-Based Section 8 Program – Mandatory Income Targeting

The Agent/Owner may only lease assisted units to families whose income does not exceed fifty percent (50%) of the area median income (“very low income”) at the time of admission, unless:

(i) the assisted units were available for occupancy under a Section 8 Housing Assistance Payments Contract effective before October 1, 1981, and are being leased on or after that date, in which case not more than twenty five percent (25%) of the assisted units were may be leased to families whose income exceeds very low income but does not exceed eighty percent (80%) of the area median income (“low income”) at the time of admission, unless otherwise limited by HUD (see 24 CFR 5.653(d)(1)); or

(ii) written permission is obtained from HUD pursuant to 24 CFR 5.653(d)(3) as noted below to lease a portion of the assisted units to families whose income exceeds very low income but does not exceed low income at the time of admission.

In addition to the 50% area median threshold, HUD mandates that if the Development is receiving project-based Section 8 housing assistance payments as noted below, the Agent shall make at least forty percent (40%) of the assisted units (i.e. those units in the Development for which the owner receives project-based Section 8 housing assistance payments) that become available in each of the Development’s fiscal year available for leasing to families whose income does not exceed thirty percent (30%) of the area median income (“extremely low income”) at the time of admission.

In carrying out this requirement, the Agent/Owner shall obtain the Income Limits for Section 8 Programs published by HUD periodically.

(a) Applicability of Mandatory Income Targeting Requirements (check one):

[X] The Development contains 80 units receiving project-based Section 8 housing assistance payments, which are subject to the Mandatory Income Targeting requirements set forth above.

[] The Development does not receive project-based Section 8 housing assistance payments and is not subject to the Mandatory Income Targeting requirements set forth above.



(b) Allowance/Permission to Lease Assisted Units to Other than Very Low Income Families (check one):

- The assisted units in the Development were available for occupancy under a Section 8 Housing Assistance Payments Contract effective before October 1, 1981, and are being leased on or after that date, in which case not more than twenty five percent (25%) of the assisted units may be leased to families whose income exceeds very low income but does not exceed low income. Note: this allowance remains subject to HUD limitation pursuant to 24 CFR 5.653(d)(1).
- The Development has received permission from HUD by letter dated _____ allowing the Development to lease up to _____% of the assisted units to low income tenants other than very low income families (attach approval letter).
- The Development has not received permission from HUD to lease assisted units to low income tenants other than very low income families.

(c) Method to Comply with Income Targeting Requirements (check one):

NOTE: To be applied only after a determination by the Agent/Owner that the composition of the waiting list shall not allow the Development to achieve the income targeting requirement by simply following the standard waiting list order.

The Agent should periodically review the composition of admissions to confirm that the 40% target shall be met for that fiscal year. If this periodic review reveals that admissions of extremely low-income applicants are below the 40% requirement, the Agent/Owner shall use one of the methods specified below to ensure that the requirement is met by the end of the fiscal year.

- Method 1 – Admit only extremely low-income families until the 40% target is met. In chronological order, the Agent/Owner shall select eligible applicants from the waiting list whose incomes are at or below the extremely low-income limit to fill the first 40% of expected vacancies in the property. Once this target has been reached, admit applicants in waiting list order.



] Method 2 – Alternate between the first extremely low-income applicant on the waiting list and the applicant at the top of the waiting list. To implement this method, the Agent/Owner shall select the first extremely low-income applicant on the waiting list (which may mean "skipping over" some applicants with higher incomes) for the available unit, and then select the next eligible applicant currently at the top of the waiting list (regardless of income level) for the next available unit. As subsequent units become available, tenant selection continues to alternate between the next extremely low-income applicant and the eligible applicant at the top of the waiting list until the 40% target is reached. NOTE: It is possible that (i) selection of the "next extremely low-income applicant" may result in selecting the applicant at the top of the waiting list; or (ii) selection of the "eligible applicant at the top of the waiting list" may result in the selection of an extremely low-income family.

] Method 3 – Alternate between the first extremely low-income applicant on the waiting list and the applicant at the top of the waiting list in groups of 10. In chronological order, the Agent/Owner shall admit the first 4 extremely low-income families from the waiting list and then admit the next 6 families from the top of the waiting list, regardless of income. This procedure results in 40% or more of admissions being extremely low-income. After filling the first 10 available units, owners again admit the first 4 extremely low-income families on the waiting list and then the next 6 families currently at the top of the waiting list.

] Other Method (Please Describe): _____.

F. Waiting Lists

The Agent shall establish and administer its Waiting Lists in accordance with the following policies.

1. Waiting lists shall be maintained in either a bound ledger or on a computer report. A printed copy of the waiting list shall be prepared, prior to the annual update, and maintained for three years.
2. Waiting lists must include the following data taken from the application:
 - (a) Date and time the applicant submitted the application;
 - (b) Name of the head of household;
 - (c) Annual income level (used to estimate levels for income-targeting i.e. extremely low-income, very low-income, low-income and moderate income);



- (d) Identification of the need for an accessible unit, including the need for accessible feature i.e. visually or hearing impaired;
 - (e) Preference status; and
 - (f) Unit size.
3. Waiting lists shall be organized by type of unit (subsidy, physically adapted unit, etc). A separate list is required for every type of unit. "Type of unit" is defined in several ways, including:
- (a) the number of bedrooms, as well as the number of bathrooms, or ancillary rooms, such as a den or dining room;
 - (b) the building structure, such as a town-house versus a garden-style unit;
 - (c) the physical characteristics of the unit, such as accessible features;
 - (d) the type of subsidy attached to the unit, such as project-based subsidy;
 - (e) the distinction between subsidy types such as interest subsidy (basic rent units) and deep subsidy (low rent units); and
 - (f) units which are intended for occupancy by elderly persons.
4. Each applicant must be placed on the appropriate waiting list(s) chronologically according to the date and time of the completed application within the applicable preference categories. Non-preference applicants shall be placed on the waiting list per the date and time of the completed application.
5. If an applicant is eligible for tenancy, but no appropriately sized unit is available, the Agent/Owner shall place the family on a waiting list. Households that are eligible for more than one size of unit (by bedroom size) may choose to be placed on multiple waiting lists, as appropriate, and the Agent/Owner shall respect the bedroom size option chosen by the applicant unless such choice violates the state sanitary code, other applicable laws, or the Development's Occupancy Policy. Persons using a wheelchair or requiring similar accommodations may apply for a standard unit, as well as an accessible unit, in their discretion.
6. The Agent's/Owner's records shall indicate the date the applicant is placed on the waiting list. Whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs, a notation must be made on the waiting list. In instances where the applicant asks to be passed over until the next vacancy (for non-medical reasons), the Agent/Owner may allow applicant to retain his position on



the waiting list. However, an applicant's failure to accept the next available vacancy shall result in the applicant being placed on the waiting list as if the application had been received on the date of the second refusal.

7. The Agent/Owner should contact applicants in writing annually or semi-annually to verify continued interest in remaining on the Development's waiting list. The Agent/Owner may require interested applicants to contact the Development in order to remain on the waiting list, and may remove from the waiting list those applicants who do not respond within thirty (30) days.
8. The waiting list may be closed for a specific unit size or type. Thereafter, the Agent/Owner shall post a notice at the Development that indicates the Development will no longer accept applications and the reasons therefore.
9. When an applicant pool is not large enough to warrant the closure of the waiting list, the list shall be re-opened.
10. Waiting lists shall be updated every twelve months.

NOTE: Prior to removing an applicant's name from the waiting list, the Agent/Owner shall send written notice of the action, or notice in requested alternate format, to the applicant, at the applicant's address of record, or to any person designated by the applicant to receive a copy of such notices as a form of reasonable accommodation.

G. Vacancies

1. Notice of Vacancies

Vacancies in any unit covered by this Plan must be reported.

2. Transfer of Existing Residents

In filling vacant units, the Agent shall first offer current residents the option to relocate to another unit in the Development, provided such residents meet one of the following transfer conditions:

Size of Family or Special Condition.



- Residents who require the features of an accessible unit, or require the features of another unit as necessary to provide a reasonable accommodation, provided that verification of the need has been made by the Agent/Owner; and
- Residents who occupy, but do not need the features, of an accessible unit if another resident or applicant needs an accessible unit (such transfers are not volitional, and refusal to relocate by the household shall result in termination from the subsidy program upon thirty days notice).

Economic Circumstances. Residents who are paying more than fifty percent (50%) of their monthly income for the cost of rent and utilities.

Owner Optional Preferences – Transfers of Existing Residents.

[X] Other - Specify

[X] Preference Description: Administrative Transfer

[X] Effective 1/1/2022, a Security Deposit of one (1) full month’s rent shall be required upon initial signing of a new lease by a new tenant to the development.

- a. A Security Deposit shall not be required for tenants with leases signed prior prior to 1/1/2022;
- b. A Security Deposit shall not be required for an existing tenant transferring to another apartment due to medical reasons.

The Agent/Owner shall maintain a formal waiting list for current residents seeking to relocate to other units pursuant to these conditions. When a vacancy occurs, the

Agent/Owner shall determine if a transfer is warranted from the internal waiting list before proceeding to the external waiting list to select an applicant for the vacant unit.

3. Filling of Vacancies

In the event that there are no current residents of the Development to fill the vacant unit, the Agent/Owner shall offer the vacant unit to the next qualified applicant for that unit type found on the waiting list. If there are no qualified applicants for the unit type on the waiting list, the Agent/Owner shall advertise the unit for rent in accordance with the Development’s AFHMP and/or offer the unit to a qualified applicant for the unit type not on the waiting list.



H. Record-Keeping

1. The Agent/Owner must retain current applications as long as their status on the waiting list is active.
2. Once the applicant is taken off the waiting list, the Agent/Owner must retain the application, initial rejection notice, applicant reply, copy of the Agent's/Owner's final response, and all documentation supporting the reason for removal from the list for three years.
3. When an Applicant moves in, the Agent/Owner must retain the application, supporting documentation (including the Agent's/Owner's verification efforts) for the duration of the tenancy and for three years after the tenant leaves the property.
4. The Agent/Owner must maintain the applicant and tenant information in a way to ensure confidentiality. **The confidentiality of records containing criminal background checks and other personal information are regulated by state and federal law and carry penalties for negligent disclosure and improper use. The Owner should consult with counsel to ensure compliance with state and federal record retention and disclosure laws.**

I. Limited English Proficiency (LEP) Services

The Agent shall determine, as part of its obligation to take reasonable steps to ensure meaningful access to the Development and its programs by persons with Limited English Proficiency (LEP), those Oral Language Services (i.e. Interpretation) and Written Language Services (i.e. Translation) that may be required in connection with the implementation of this Plan.

J. Modification of Tenant Selection Regulations

The Agent acknowledges that HUD may, from time to time, modify the requirements of their respective tenant selection regulations or policies. The Agent/Owner agrees that, upon reasonable notice, the Agent/Owner shall amend the Plan to satisfy such changes.

K. Review and Modification of Tenant Selection Plan

The Agent shall review periodically, but not less than once per calendar year, the Plan for compliance. The Agent/Owner shall send notice of the modification and a description of the changes made to the Plan to applicants on the waiting list within thirty (30) calendar days of the effective date of the modification. Any changes made in a Tenant Selection Plan shall be prospective unless otherwise required by applicable law.



L. Plan Available to Public Upon Request

The Agent/Owner shall make copies of the Plan available to the public, including Applicants and residents of the Development, upon request.

The plan has been reviewed and approved by the Billerica Housing Authority Board of Commissioners on April 7, 2022.

