



City of Santa Clara Below Market Purchase (BMP) Ownership Program Guidelines

01/06/2025

These Guidelines are the City's Official Program Homeownership Guidelines per Title 17 of the Code of the City of Santa Clara adopted December 7, 2017.



Below Market Purchase Ownership Program Guidelines

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Below Market Purchase Ownership Program Guidelines

1. INTRODUCTION

The City of Santa Clara (City) has operated a Below-Market Price Purchase Program (BMP) since 1995 to help low- and moderate-income families achieve the goal of homeownership and to fulfill State mandates for the production of housing across all income levels.

The City established Chapter 17.40 titled “Citywide Affordable Housing Requirements” to Title 17 of the Code of the City of Santa Clara to codify inclusionary Housing Requirements and establish Housing Impact Fees for Residential developments that was adopted December 7, 2017. The Ordinance includes an affordable housing policy that requires "developers of residential developments of 10 or more units to provide at least 15 percent of their units at ... or prices affordable to very low, low and moderate-income households. Residential ownership projects of fewer than ten (10) units may either provide one affordable dwelling unit at an affordable housing cost or pay an in-lieu fee subject to the Affordable Housing Master Fee Schedule for ownership projects. Specifically, for-sale housing developers are required to designate at least fifteen percent of the total units in an approved project as BMP units to be sold to qualified buyers.

The City of Santa Clara Below Market Purchase Program (the “Program”) Homeownership Guidelines set forth the eligibility criteria and application requirements for prospective Below Market Purchase (BMP) home buyers, as well as long-term BMP homeownership requirements and related Program requirements as listed below. These Guidelines are established by the City of Santa Clara Community Development Department and may be revised and/or updated periodically, as determined necessary by the Housing Manager, to accomplish the objectives of the Program and to guide Program administration. The City of Santa Clara Housing and Community Services Division, part of the Community Development Department, is the agency authorized to administer the Below Market Purchase program.

Buying, owning, and selling an Affordable Below Market Purchase (BMP) Ownership Unit differs in many ways from buying, owning, and selling a market rate unit. It is important that the buyers and sellers of BMP Ownership Units understand the rules and procedures of the Program fully.

The City works with a designated third-party Housing Program Administrator to administer the program on its behalf. These Program Guidelines includes the policies, and procedures that comprise the affordable homeownership program for Below Market Purchase (BMP) homes.

ALL GUIDELINES ARE SUBJECT TO CHANGE WITHOUT NOTICE.

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1A. DEFINITIONS

As used in the Below Market Purchase (BMP) Program Guidelines and Policies and Procedures, the following words and terms have the meaning set forth:

Affordable Sales Price: The City and developer will enter into an agreement and establish a Low to Moderate Income limit and the Maximum Sale Price for the BMP Units. The price shall be a purchase price which is affordable to a Low to Moderate Income Household, as adjusted by the assumed household size determined based on the number of bedrooms in the BMP Unit. For each BMP unit in a project, the City establishes an Affordable Sales Price for which the BMP unit will be sold. The Affordable Sale Price is known as the BMP Purchase Price.

Affordable Housing Cost: Refers to a monthly housing expense that does not exceed one-twelfth (1/12) of thirty-five percent (35%) of the median income (100% AMI) for the area, adjusted for household size. Additionally, it must be no less than one-twelfth (1/12) of twenty-five percent (25%) of the borrower's actual gross income.

Applicant/Co-Applicant: a Head of Household and any adult members of his/her household over the age of 18 years ("Co-Applicant(s)") who is/are interested in purchasing and residing in a BMP home, as evidenced by their signature(s) on a BMP program application submitted to Program Administrator and the City of Santa Clara.

Applicant may be used to refer to the Applicant's entire Household and/or all adults in the Household, as the context requires. Primary Applicant refers to the first-named party on the application form, who must be the Head of Household, as defined herein.

Approved First Mortgage Lender – a designated lender that reviewed the City's BMP Guidelines and Loan Documents and has obtained participation approval from the City of Santa Clara's Housing and Community Services Division.

BMP Program Procedures Manual: is a City maintained manual that contains information on the application process and BMP Program eligibility review process.

BMP Program Administrator: Hello Housing is the designated BMP Program Administrator overseeing the day-to-day activities of the BMP Program.

Co-Applicants are all other adult members of the Household over the age of 18 years.

Area Median Income: the median household/family income for Santa Clara County, adjusted for actual household size, as determined annually by the California Department of Housing and Community Development (HCD). The Area Median Income for BMP units and developments may vary. Households must not exceed the determined AMI income for the BMP unit.

Asset: a cash or non-cash item that can readily be converted to cash. The value of ordinary (i.e., non-investment) personal or household items, such as furniture and personal vehicles, are not considered assets for the purpose of BMP Program eligibility. *Refer to Section 2.4.*

Below Market Purchase (BMP) Home: a home developed and provided for sale to moderate- or lower-income households pursuant to the Housing Policy, at a price affordable to low- and moderate-

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income households, as specified in the Housing Policy and each Developer Agreement.

Borrower Contribution: Applicants are required to contribute at least 3% of the purchase/sales price towards down payment and closing costs from their own funds. This 3% contribution can't be a gift, down payment assistance or grant.

City: The City of Santa Clara, a municipal corporation and political subdivision of the State of California.

Down Payment: The borrower must contribute a minimum of 3% of the purchase price for the down payment utilizing their own funds. However, approved BMP lenders may require at least 5% or more of the purchase price for down payment from the borrowers to qualify for the first mortgage. The maximum down payment allowable for the BMP Program is 30% of the affordable sales price of the BMP unit.

Eligible Household: a Household (see definition below) that is eligible to purchase a BMP home, as follows:

- A Household which is living together in the same dwelling unit at the time and has been living together in the same dwelling unit for at least six full months (180 days) prior to the date of Program application. Valid Third-party documents listed as required attachments in the Program applications forms must be provided, to verify that each member of the Household resides, and has been residing for six months, at the same dwelling unit and street address; and
- A verified Low- or Moderate-Income Household: Total gross (pre-tax) annual income and assets of all adult Household members over the age of 18 combined do not exceed the Program's income and asset limits provided in *Section 2.3 and 2.4*, adjusted for the size of the Household; and
- All adult Household members must provide satisfactory evidence of membership in the Household, which includes sharing financial resources and responsibility for basic housing expenses, including rent and utilities. Such evidence shall be provided with the Program Eligibility application, as described in application forms and/or instructions.
- All of the current members of Applicant's household must individually meet all Program eligibility requirements applicable to individuals, as explained in subsequent sections throughout these Guidelines.

First Time Home Buyer: An individual, or a couple (including an individual and their spouse), who has not owned a home in the three years preceding their application to purchase a BMP Home. However, the following individuals are not excluded from being considered first-time home buyers under this definition:

- 1) An individual who has not worked full-time, full-year in the labor force for at minimum two-years, worked primarily without remuneration to care for the home and family, is unemployed or underemployed, is having trouble in obtaining or upgrading employment, and, while a homemaker, owned a principal residence with a previous spouse.
- 2) A single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or
- 3) An individual or individuals who owns or owned, as a principal residence during the three-

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year period before the purchase of a BMP Home, a dwelling unit whose structure is:

- Not permanently affixed to a permanent foundation in accordance with local or state regulations; or
- Not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure. From Title 25, California Code of Regulations §8201(l)

Gift Funds: Funds received as a personal gift from an acceptable family donor. The gift must be a bona fide gift with no repayment required. Gift letter signed by donor must be accompanied by a current bank statement where the funds will be drawn from. Applicants must meet the BMP lender's guidelines for gift funds and required documentation must be delivered to the lender and BMP Program Administrator when requested.

Gross Household Income: the gross (pre-tax) amount of income of all adult household members that is anticipated to be received during the coming 12-month period, as further defined in Code of Federal Regulations Title 24, Part 5 (the "Part 5 method"). The Part 5 definition of gross household income is based on a list of "Gross Income as defined by Title 25, Section 6914 is used to determine gross annual income. Program staff will follow the most current edition of the "Technical Guide for Determining Income and Allowances for the HOME Program" (currently the Third Edition, January 2005), published by HUD, to calculate and determine applicants' income eligibility for the City of Santa Clara Below Market Purchase Program.

Guidelines: these City of Santa Clara Below Market Purchase Program Guidelines.

Head of Household: an adult who is the primary tenant (i.e., first listed lessee) on a current lease for a rental dwelling or mobile home park space that is the adult's primary residence and is financially and/or legally responsible in full or part for all members of his/her household, if any.

In the case of households headed by a couple (married, domestic partners, common law spouses, etc.), the adult who files federal tax returns on behalf of most or all of the dependents in the household is generally considered the head of household. However, either member of the couple may apply as the household head, as long as he/she meets Program eligibility requirements and can obtain the financing and down-payment needed to purchase a BMP home. The Head of Household shall be listed as the Primary Applicant on the application to purchase a BMP home.

Household: all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements (Code of Federal Regulations Title 24, Section 570.3). Household, for the purposes of determining Household eligibility and establishing Gross Household Income and assets, includes any and all owner-occupants, temporary occupants, and other occupants, regardless of such household member's interest in purchasing or occupying a BMP home, as explained in these guidelines.

HCD: the California Department of Housing and Community Development.

Homebuyer Education class: The Homebuyer Education class must be an eight (8) hour class given by a certified HUD counseling agency unless government issued restrictions make it impossible to complete, then an online class will be acceptable. A list of HUD approved Counseling Agencies can

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be found on the BMP Program Administrator's website (www.hellohousing.info/below-market-rate/santa-clara/eligibility-criteria) and will also be provided to participants as part of the application process. Applicants and co-applicants, who are co-borrowers and/or placed on title, must attend the class. Non-borrowing spouses must also attend. A Certification of Completion is required for application submission. The certificate must be less than 2 years old at the date of application.

Online Classes and Webinars: Many agencies are offering some online classes. All BMP Program workshops and orientation classes will be held online.

HUD: the United States Department of Housing and Urban Development.

Initial Market Value: For each BMP unit, the City sets an Initial Market Value (IMV) based upon an independent appraisal prior to the initial sale. The IMV reflects each unit's unrestricted initial market value. The IMV is used to establish the difference between the market value and the Affordable Sales Price for which the BMP unit will be sold.

Living in Santa Clara: is defined as occupying and renting, at time of application and for at least six full months (180 days) prior to application date, a bona fide rental dwelling unit (or owning and occupying a manufactured home and renting a mobile home space in a mobile home park) within the Santa Clara city limits, as evidenced by Valid Third-party Documentation (lease, a California driver's license or identification card showing street address (not post office box) of such residence, current California vehicle registration card, or gas/electric/water bills). For residency-based preferences the applicant must currently meet the criteria and for at least the past 6 months at the time of submitting a pre-application. Evidence of payment of a lease and rental contract for the 6-month period will be required.

Loan Pre-approval: a loan pre-approval involves a comprehensive evaluation leading to a conditional commitment from a mortgage lender about loan terms based on verified financial details. To obtain a pre-approval from a lender, borrowers must submit detailed financial documents such as pay stubs, tax returns, bank statements, and permission for a hard credit inquiry. A Pre-approval is required as part of the Purchase Application process.

Loan Pre-qualification: a loan pre-qualification is an initial assessment of a borrower's creditworthiness based on self-reported financial information, including income, debts, assets and credit score. A Loan Pre-qualification is required as part of the Pre-Application process.

Low to Moderate Income Household: a Household with total income of all Household members combined, that does not exceed the Program's income limits, which is 120% of Area Median Income for Santa Clara County adjusted for actual Household size; and whose total combined assets do not exceed the Program's asset limits.

Minimum Borrower Contribution: Applicants are required to contribute at least 3% of the affordable sales price towards down payment and closing costs from their own funds.

Monthly Housing Cost: the total monthly amount that a household would pay for housing, which includes the future mortgage payment, insurance, property taxes, HOA fees and other housing-related costs.

Occupancy Standards: the minimum and maximum number of household members eligible to

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purchase and occupy a BMP home consisting of a certain number of bedrooms. (*refer to Section 5*) in these guidelines.

Primary Applicant: the Head of Household (see definition) of any Household which has submitted a Program Eligibility application of any kind. The Primary Applicant is the first listed Applicant on a Program Eligibility application, must be the primary borrower on the first mortgage loan, must take title to the BMP home, and will be the primary point of contact with the BMP Program Administrator when communicating with the Household during the application process and (if approved) escrow period.

Priority Household: Refer to *Section 4* of these guidelines.

Purchase-Ready: able to qualify for adequate financing to purchase a BMP home; able to provide a minimum down-payment of at least 3% or greater amount if required by the first mortgage lender, plus closing costs; certified attendance of the BMP Orientation and Application Workshop; and completion of a HUD-certified eight (8) hour homebuyer education course. Adequate financing shall include a conventional first-mortgage loan provided by an established residential lender that meets the requirements described in *Section 7* of these guidelines, and may also include public-sector or non-profit junior loans, such as down-payment assistance loans or grants secured by the Applicant and approved by the City and the first mortgage lender. Down-payment may include gift funds if seasoned and documented as explained in these guidelines. Applicants with recent foreclosures, bankruptcies, credit scores below 640, or inadequate down-payment funds do not qualify as Purchase-Ready.

Reasonable Accommodation: accommodations in Program rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person, or a household with a disabled member, equal opportunity to apply for, use and enjoy a BMP home, including public and common use areas, as would be available to non-disabled persons or households in similar circumstances. The requested accommodation must be reasonably related to the disability of the household member and must be necessary in order to provide the household with equal access to housing. For instance, if a disabled household member requires a separate bedroom due to their disability, when the Occupancy Standards would otherwise require them to share a bedroom with another household member; they may request a Reasonable Accommodation to the Program Occupancy Standards to purchase a BMP home with an adequate number of bedrooms.

Restricted Resale Price: For the first five years after the unit is purchased, if the unit is sold, it must be sold by the homeowner to a BMP qualified new homebuyer at a Restricted Resale Price. The homeowner is required to notify the City and the City will determine a newly established Restricted Resale Price (RSP). The RSP shall be the Affordable Sales Price adjusted by any percent change in the Area Median Income from the date of the original BMP home purchase but not to exceed the current Affordable Sales Price that has been established for the bedroom size of the home. The City may increase the RSP to account for any City- approved individual capital improvements valued at greater than \$2,000. No amounts are owed by the homeowner to the City if the home is sold at the Restricted Resale Price. A new BMP promissory Note is executed between the new buyer and the City of Santa Clara.

Unrestricted Resale Price: After the five-year resale restriction period ends, the homeowner may sell the home at an unrestricted resale price (fair market value), subject to the conditions outlined in *Section 10*.

Valid Third-Party Documentation: documents issued directly by a public agency, private utility

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company, taxing entity, creditor, financial institution, school, employer, business, or Certified Public Accountant on such entity's own letterhead, verifying one or more eligibility criteria of any Applicant, Co-Applicant, or their dependents. Such documentation may be verified by Program staff through direct contact with such agency/issuer by phone, email, or written inquiry to verify accuracy of document's contents. Written statements of parties with any direct or indirect interest in the BMP home purchase (i.e., persons related to Applicant by blood/family relationship, marriage, business ties (other than Certified Public Accountant, in the case of self-employment income) or other close personal relationship, do not qualify as Valid Third-party Documentation.

Working in the City of Santa Clara: earning one's primary source of annual income (salary, wages, commissions) through employment by a Santa Clara employer licensed and permitted by the City, at a primary work-site in the City of Santa Clara; or through operation of a Santa Clara-based business that is licensed and permitted by the City. Working in Santa Clara does NOT include volunteer or unpaid work, or self-employment consisting solely of operating a business entity established solely for the purposes of investment in a rental property. Income earned in Santa Clara must be verified by your paycheck stubs, tax returns, and/or other documentation described in the application forms. The qualifying household applicant must be the person whose name will appear on title and who will use the unit as their primary residence. For employment-based preferences the applicant must currently meet the criteria and for at least the past 6 months at the time of application.

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2. PROGRAM REQUIREMENTS

2.1 FIRST-TIME HOME BUYER

All adults living in the same dwelling unit as the Primary Applicant (“Applicant’s Household”) at time of application must individually and collectively qualify as a First Time Home Buyer, pursuant to the definition provided in *Section A1* and adapted from Title 25 of the California Code of Regulations §8201- First-time home buyer status is verified by each adult’s federal and state tax returns, and current lease/ rental agreement of the Applicant’s primary residence. All members of the Applicant’s Household must be on the lease/rental agreement.

If Applicant resides in an owner-occupied home, whether as guest, family member of owner, or as a boarder/renter of a portion of the home, Applicant must provide:

- a. a formal rental agreement
- b. documentation of last six to twelve months of paid rental payments (cashed checks only) and share of utilities (copies of utilities bills required)

If any member of Applicant’s current household owns any home (residential real property), Applicant and his/her household shall not be eligible for the Program unless such household member (the homeowner) meets one of the exceptions listed in the definition of first-time homebuyer (displaced homemaker, mobile homeowner, etc.) provided in *Section 1A under First Time Home Buyer*.

The Program is intended to provide those prospective first-time home buyer households who could not otherwise afford to buy any home in Santa Clara and have demonstrated the ability to rent a bona fide rental dwelling unit and pay all household expenses independently for at least six months with an opportunity to purchase a home in Santa Clara for long-term occupancy.

Applicants who own a home meeting the description provided in Exception 3 of the First Time Home Buyer definition (*Section 1A*) must sell such home prior to or concurrent with closing escrow on the BMP home purchase. The home must have a ratified sales contract and proof of initial deposit (receipt from Title Company) within 5 days of Program Eligibility notification. Additional documentation may be required. If the Applicant is unable to ratify a sales contract for the home, the applicant will be ineligible. Selected applicants will not be allowed to execute the purchase agreement until the documentation has been reviewed and approved. If Applicant’s net proceeds of the sale would cause Applicant’s Household to exceed the Program’s asset limits as shown in *Section 2.4* the household will not be eligible for the Program.

To verify FTHB status, BMP Program Administrator will review 3 years of federal tax returns to confirm that the applicant has not claimed any of the tax deductions associated with homeownership (e.g. deductions of mortgage interest or property tax payments). If not legally obligated to file, the applicant must complete a Program Affidavit explaining the reason along with supporting documents. The BMP Program Administrator will also review a credit report for mortgage loans and perform title searches to confirm the applicant is not an owner of record on any existing properties for at least 3 years.

Notwithstanding the foregoing, the following interest shall not, by themselves, disqualify an applicant from being considered a first-time homebuyer: 1) ownership of timeshares; 2) appearing on title solely in the capacity as a trustee for a trust, where the trustor is living at the time and in the residence, and 3)

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being a named beneficiary of a trust that includes a housing unit amongst the trust assets, but only if the trustor is living at the time and in the residence.

2.2 ELIGIBLE HOUSEHOLD

The United States Census Bureau uses a series of terms to determine the definition of a household. The basic meaning of Household is an occupied housing unit. A Householder (Primary Applicant) is the person whose name the housing unit is rented to or owned by. Members of the household share familial ties, living space, expenses, debts and/or assets with the Householder.

To be determined eligible for the BMP Program, the Applicant must demonstrate in its application that it is an Eligible Household as defined in *Section 1A* and must verify the household composition and other eligibility requirements.

Verification of Household Composition

The Program eligibility application requires submittal of Valid Third-Party Documentation, as defined in *Section 1A*, to prove that each member of Applicant's Household resides and has resided at the same residential address for at least six months prior to submitting a BMP Program Application. Documents which show only a post office box as an address are not acceptable for the purpose of verifying an applicant's primary residence.

The documents required are listed in Program application forms. In the event an applicant is not able to provide a particular document, Program staff may agree to accept a legitimate alternative form of Valid Third-Party Documentation, or in the absence of a legitimate alternative, may determine that applicant has not provided sufficient documentation and therefore will not be considered part of the Household.

Program Staff is authorized to make the final determination of what constitutes "legitimate alternative" documentation to substantiate primary residential address or any other eligibility criteria, consistent with these Guidelines.

Only those household members who have adequately verified their membership and residency in the Household will be counted for the purpose of determining the size(s) of BMP home (number of bedrooms) the Applicant may purchase, although the income and assets of all household members listed by Applicant on application form (including any temporary or unverified occupants) must be counted toward the Household's gross income. To be considered part of Applicant's household, any children under the age of 18 (including foster children) must be under full or partial (at least 50%) physical custody of Primary Applicant or another Co-Applicant taking title to the Affordable home, as indicated on valid court custody documents and current school registration documents, and/or must be listed as a dependent child on that party's tax returns.

2.3 INCOME ELIGIBILITY CRITERIA

To qualify as an Eligible Household to purchase a BMP home, Households must qualify as Low to Moderate Income Households, which means that the total combined income and assets of all adult household members does not exceed the Program's income and asset limits. Units within developments have assigned maximum income limits as determined by the City of Santa Clara.

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The City uses the California Department of Housing and Community Development's "Low to Moderate Income Limits" as the household income limit for the BMP Program. Low Income is defined as a Gross Household Income that does not exceed eighty percent (80%) of the Area Median Income (AMI) for Santa Clara County, adjusted for household size. Moderate income is defined as a Gross Household Income that is at least eighty-one percent (81%) of the AMI and does not exceed one hundred twenty percent (120%) of the Area Median Income (AMI) for Santa Clara County, adjusted for household size. Gross Household Income is computed using the Part 5 method described in *Section 1A*. Income earned (or imputed) from assets, such as dividends, interest, rental income, etc., is included in the household's annual income pursuant to the Part 5 Method.

These income limits are generally updated by the California Department of Housing and Community Development (HCD) on an annual basis. The Program income limits are updated annually on the City of Santa Clara program website and the website of the BMP Program Administrator shortly after HCD publishes the latest Low to Moderate Income Limits. Applicants must meet the income limits in effect on the date of their application to purchase a BMP home.

- "Low-Income Household" means a household whose household income does not exceed the low-income limits applicable to the County.
- "Moderate-Income Household" means a household whose household income does not exceed the moderate-income limits applicable to the County.

Income earned from assets, such as dividends, interest, rental income, business income, etc., is included in the household's annual income pursuant to the [Code of Federal Regulations](#), Title 24, Part 5 income inclusions (§ 5.609). Income calculation is also guided by [California Code of Regulations](#), Title 25, Chapter 6.5 Program Operations, Gross Income (§ 6914). To qualify for the City BMP Program, your household's combined gross annual income cannot exceed the maximum income limit for your household size, as established by the HCD. All household members ages 18 or older must have their income verified. Household members that do not work or will not have any income in the next 12 months must complete a Zero-Income Affidavit.

Note: The maximum income limits or categories for a development may vary in accordance with their Affordable Housing Agreement.

The Household Income Limits used for the BMP Program are the Low to Moderate Income Limits established annually by HCD. These are maximum, not minimum, income limits, and include the incomes of all adults in the Household. An Applicant's gross (pre-tax) annual household income, at the time of application, may not exceed the then-current Low to Moderate Income Limits for Applicant's actual household size and the designated Area Median Income for the BMP unit and the development.

2.4. ASSET LIMITATION CRITERIA

In addition to meeting the income limit, there are restrictions on the amount of assets that a household may have to be eligible for the City BMP Program. An Applicants' total combined household assets may not exceed \$100,000 post-closing. However, if the specific BMP Unit is designated for low-income households, the maximum post-closing combined household assets may not exceed \$60,000.

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City of Santa Clara BMP Designated Unit Program Asset Limits

Designated Unit Status	Maximum Gross Household Assets Allowed (Post-Closing)
Low Income Unit	\$60,000
Moderate Income Unit	\$100,000

Assets in IRS-recognized retirement accounts (IRA's, 401-k's, 403-b's, etc.), and future/potential pension benefits or insurance proceeds held in accounts not currently owned and controlled by the Applicant or Co-Applicant(s), are not counted toward the BMP Program Asset Limits (but must be listed on Application for determining gross household income).

In determining whether Household's assets are within the Asset Limits, Program staff will require three months of the most current statements for each monetary asset (bank, credit union, non-retirement investment account statements) to determine current value of each asset. Non-monetary assets, such as stock options, mobile homes, commercial real estate, etc., will be valued based on a current valuation (not less than 90 days old) to be provided by a qualified third-party appraiser or estimator, which must be included in Applicant's eligibility application as required asset documentation. The Household's current total combined household assets, both on the application date (most recent monthly statements/valuations in application) less the down payment and estimated closing costs must be within these asset limits.

2.5 PURCHASE READY

The BMP Program requires that applicant Households who meet the basic requirements for being considered eligible, must also prove that the home purchase fits within their household budget and they are able to successfully obtain mortgage financing.

a. Mortgage Qualification

The applicant is required to submit a current loan pre-qualification letter from a conventional residential lender for a thirty-year, fixed-rate mortgage. This letter must indicate an amount between 70% and 97% of the Affordable home price. The pre-qualification letter should be provided as part of the pre-application process prior to being entered into the Application Lottery. Additionally, the applicant must secure final loan approval that meets the financial criteria outlined in *Section 7* by the close of escrow.

b. Down Payment

The BMP Program requires borrowers to have a minimum of 3% of the purchase price for the down payment. The minimum 3% of the purchase price must come from the applicant's own funds and be present in the applicant's account for at least 3 months. The maximum down payment allowable for the BMP Program is 30% of the affordable sales price of the BMP unit.

c. Gift Funds

Gift funds can be utilized to cover a portion of the down payment (excluding the minimum 3% required contribution from the applicant), as well as closing costs or financial reserves. It is

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essential that the gift is a true donation with no expectation of repayment. All gift funds must be documented in the Program Application, accompanied by a gift letter and donor statement that demonstrate sufficient available funds at the time of application. Gift funds shall be transferred by the donor directly to the title company.

d. Credit Score

A credit report is required for all applicant household members over the age of 18. If any co-Applicant(s), due to his/her poor credit history or low credit score would adversely affect the Primary Applicant's ability to qualify for a mortgage, such co-Applicant may be exempted from the requirement to jointly apply for the first mortgage as a borrower. However, such co-Applicant will be required to execute the BMP Loan documents and take joint title to the home with the Primary Applicant upon close of escrow.

e. Homebuyer Education

Primary applicant must have taken a HUD-certified home buyer course. Various online and in-person, HUD-approved home buyer education providers can be found on the BMP Program Administrators website. Applicants and co-applicants, who are co-borrowers and/or placed on title, must attend the class. Non-borrowing spouses must also attend. Evidence of course registration is required for application submission and a Certification of Completion is required prior to the close of escrow. The certificate must be less than 2 years old at the date of application.

3. HOMEBUYER APPLICATION PROCESS

To be considered for a Below Market Rate (BMP) unit, applicants must follow a four-step application process that includes attending a mandatory BMP Application Workshop. Interested individuals/households should first complete a Pre-Application to qualify for entry into the Application Lottery. Those who submit an eligible Pre-Application by the deadline will receive an invitation to attend this workshop, where they will learn about the BMP Program, the unit(s) that are available, the Application Lottery and how to properly submit a Purchase Application. The Purchase Application requires supporting documentation for evaluation as to whether applicants meet the eligibility criteria for purchasing a BMP unit. This streamlined four-step approach is designed to efficiently assess initial eligibility based on basic household information. By establishing these preliminary criteria at the Pre-Application stage, we aim to respect both applicants' and the BMP Program Administrator's time, ultimately reducing the burden on potential program participants who may be found ineligible before advancing to the full application phase.

Step #1 Pre-Application

When a BMP unit becomes available for sale, interested households will be directed to submit a Pre-Application form by a specific due date, in order to determine initial eligibility for the BMP Program. This document assesses initial household eligibility and preferences based on the information provided by the applicant. Applicants who meet the preliminary eligibility criteria and satisfy the household size requirements for the offered BMP unit(s) will be invited to a mandatory Application Workshop. Following confirmed attendance at the Application Workshop, attendee's will be entered into an Application Lottery, which establishes a ranked order for submitting Program Applications. The Pre-Application will request that applicants indicate the following information:

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- Total gross household income
- Total assets
- Household size
- Lender Pre-qualification letter from an “Approved First Mortgage Lender”
- Preference Priority Criteria (Live/work preference criteria established by the City)
- Household demographic information (for the purpose of tracking who is accessing the program)
- Desired Unit (if more than one BMP units is being offered)

Applicants will not be required to submit supporting documentation to verify the information indicated at the Pre-Application stage. Applicants who submit completed Pre-Applications by the due date and are deemed eligible at this stage in the application process will be issued a Unique ID number which will be utilized to place the Applicant into the Application Lottery.

Step #2 Application Workshop

The BMP Program Administrator will invite applicants who submitted an eligible pre-application by the deadline to attend a mandatory workshop where households will learn important information about the program, the unit(s) that are being offered, and how to submit a Purchase Application. The workshop will be hosted and led by the BMP Program Administrator and is a separate requirement from the First-Time Homebuyer Education requirement. All registered and confirmed attendees at the Application Workshop shall be entered into the Application Lottery.

Step #3 Application Lottery

The BMP Program Administrator will conduct a lottery to assign rankings for all Preference/Priority categories. In lottery ranking order, applicants will be invited to submit a Purchase Application for an opportunity to purchase the BMP Unit(s) being offered. The following guidelines shall be applicable to the lottery process for the BMP Program:

- At least thirty (30) calendar days prior to a lottery, the BMP Program Administrator starts to accept complete Pre-Applications.
- All households that submit an eligible Pre-Application will receive a unique identifying number (Unique ID) and following attendance at a mandatory workshop, shall be included in the lottery that fits their Preference/Priority category.
- At the lottery, the BMP Program Administrator will use an electronic system to randomly rank the Unique ID within each Preference/Priority category. Each Applicant will subsequently be notified of their ranking position (“lottery position”).
- The lottery for the BMP Program shall be held in the presence of City staff.
- Lottery results shall be emailed and posted on the program website. The list will not include the names of applicants but will include the lottery numbers and corresponding lottery positions.
- The top ranked lottery positions will be invited to move forward in the application process and given the opportunity to submit a Program Application for review.
- The BMP Program Administrator reserves the right to move to a First Complete First Served process if a sufficient number of applications are not received during the Pre-Application process.

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The City has established a priority system for allocating the limited number of affordable Homeownership BMP units. Priority shall be given to income eligible households/applicants who meet the City of Santa Clara Preference Criteria. (*refer to Section 4 -Preference Criteria for Ownership*)

Step #4 Purchase Application

The fourth step in the application process is for applicants, who are invited by their ranked lottery position, to submit a Purchase Application. The Purchase application requires more detailed household information and the submission of supporting documentation for each household member to verify that all household members meet the program eligibility criteria.

Households who are invited by their ranked lottery position will be sent a link to the online Purchase Application, to complete a Purchase Application (or a paper version upon request) and submit supporting documents. When all supporting documents are complete, the BMP Program Administrator will underwrite applicants in ranked priority position to determine eligibility.

An Applicant's Program Application supporting documents packet must include ALL of the following for:

- Purchase Application completed and signed
- Documentation verifying the Preference/Priority Criteria (including verification letters from an employer, 6 months of utility bills indicating residential address within the city, evidence of 6 months of lease payments and a lease agreement)
- Verification of Homebuyer Education completion (at a minimum evidence of registration to for a HUD certified course for all adult household members)
- First mortgage loan pre-approval letter from an "Approved First Mortgage Lender"
- Applicant(s) two months' most current and consecutive paystubs
- Award letter or two months' documentation for all other income sources including child support, social security, pension and disability income.
- Applicant(s) Driver License or California Identification Card
- Applicant(s) signed & dated federal tax returns for the past 3 years with all schedules & W-2s OR IRS Verification(s) of Non-Filing
- Applicant(s) three most current and consecutive months of financial account statements
- Gift letter and evidence of donor availability of funds (if applicable)
- For self-employed Applicant: a) copies of Applicant's Federal Income Tax Returns (both individual return and business returns) that were filed with the IRS for the past three years with all schedules; b) YTD profit & loss statement; and c) copies of all invoices and payments made to the Applicant as a part of self-employment in the current calendar year (if applicable)
- Additional documents as requested by the BMP Program Administrator e.g. Zero Income Affidavit

Underwriters evaluate Program Eligibility Criteria to determine if households "check eligibility boxes" that include, but are not limited to, residence address, employment address, household size requirements, total household income requirements, and whether an applicant meets the legal standard to be defined as a first-time homebuyer. Program Underwriters need to consider program eligibility for up to three years before the application date and up to a year after the estimated close of escrow date. Due to the unique nature of household income sources as well as household configurations, additional documents may be requested throughout the application process.

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4. PREFERENCE CRITERIA FOR OWNERSHIP OF BMP UNITS

The City has established a priority system for allocating the limited number of affordable Homeownership BMP units. Priority shall be given to income eligible households/ applicants who meet the City of Santa Clara Preference Criteria below. **The priority must be met by one of the applicants that will be listed as owners on title to the subject property for the Home Buyer Program.**

The preference system will be used to establish a ranking of applicants. Households that meet priority 1, will be reviewed first, then 2nd priority, so on so forth. Preferences will be evaluated at the time of the pre-application submittal and application lottery and verified during the application process. If it's discovered that an applicant does not meet the preference or lacks evidence that they meet the preference, they will lose their lottery priority ranking number.

PREFERENCE/PRIORITY CRITERIA	
1st Priority Level (Live AND Work)	At least one applicant who will be listed as an owner on the title of the property who both currently lives within the City Limits of Santa Clara AND currently operates a business or is currently employed by a business or a public agency or quasi-public agency in the City of Santa Clara and for at least the past 6 months at the time of application.
2nd Priority Level (Lives)	At least one applicant who will be listed as an owner on the title of the property who currently lives within the City Limits of the City of Santa Clara and for at least the past 6 months at the time of application.
3rd Priority Level (Works)	At least one applicant listed as an owner on the title of the property who currently operates a business or is currently employed by a business or a public agency or quasi-public agency in the City of Santa Clara and for at least the past 6 months at the time of application.
4th Priority Level (All others)	Any other qualified applicant household without regard to residency or employment.
NOTE	The qualifying household applicant must be the person whose name will appear on title and who will use the unit as their primary residence. For residency and employment-based preferences that applicant must currently meet the criteria and for at least the past 6 months at the time of the pre-application.

5. OCCUPANCY STANDARDS FOR BMP UNITS

Applicant/Co-Applicants must occupy the property as their principal residence. This means that the Applicant/Co-Applicants must use the property as their primary place of residence and the property must be owner-occupied upon purchase for the life of the deed restrictions. Use of the property for additional ownership purposes, including temporary leases, sub-leasing or room rentals are not allowed

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under the program and will trigger immediate action.

The City's BMP Administrator will verify that the BMP unit is the households primary residence once per year for the life of the 20-year BMP Agreement between the City and the homeowner(s).

To ensure that the City's limited BMP homes are used efficiently, a household must be of a size equal to the number of bedrooms in the BMP unit. Pursuant to fair housing laws, the maximum occupancy allowed in a BMP unit is two people per bedroom, plus one additional person who can reside outside of the bedroom. Thus, to be eligible to purchase a three-bedroom unit, a household must contain at least three members, but no more than seven members. The table below shows the minimum and maximum household size based on the number of bedrooms. Reasonable accommodations to these standards may be requested in the case of medical or disability needs and will be considered on a case-by-case basis.

BMP OCCUPANCY STANDARDS		
Number of Bedrooms	Minimum Household Size	Maximum Household Size
One	1	3
Two	2	5
Three	3	7
Four	4	9
Five	5	11

6. AFFORDABILITY STANDARDS

Housing is considered affordable by the City of Santa Clara Housing and Community Services Division when total monthly housing costs do not exceed approximately 30-35% of a household's gross monthly income. This ratio varies slightly depending on the household's income level. These affordability standards apply at time of BMP home purchase and upon any proposed refinancing by a BMP homeowner.

The BMP Program affordability standards, used to review proposed home financing for overall affordability and risk avoidance, are shown on the table below:

INCOME LEVEL	MAXIMUM PERCENTAGE OF GROSS INCOME	
	Monthly Housing Costs	Total Monthly Debt
Very Low (30-50% of AMI)	30	45
Low (51-80% of AMI)	38	45
Moderate (81-120% of AMI)	40	45

The BMP Program standards outline the maximum allowable Debt-to-Income (DTI) ratios for homebuyers. The "front-end DTI ratio" refers to the percentage of a buyer's income allocated to monthly housing costs, while the "back-end DTI ratio" includes total debt, combining housing expenses with any other personal debts. Qualification for purchasing a BMP home is based on these ratios. It is important to note that the applicable front-end ratio depends on the buyer's actual income level, rather than the income figure used to price the BMP home, which may differ slightly from their actual earnings. Program

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staff will assess and confirm the buyer's real income during their application review. Additionally, lenders may define "front-end ratio" differently for their underwriting requirements.

The front-end ratio is determined by dividing the total housing payment by the applicant's monthly income. The BMP Program includes the following expenses to calculate a buyer's monthly housing costs, based on information provided in the purchase application, lender data, or on customary costs for the area:

- Principal and Interest Payments of First Mortgage Lender
- Principal and Interest Payments of Subordinate or Second Lender (if applicable)
- Property Taxes
- Homeowner's insurance
- Allowance for utilities and maintenance
- Monthly Homeowner Association dues (if applicable)

The back-end ratio, or total debt-to-income ratio, is calculated by adding all existing long-term debt payments (debts with remaining terms of 10 months or more) to the total monthly housing payment. This sum is then divided by the applicant's monthly income.

Total monthly debt includes housing costs plus any secured debts such as car loans, student loans, child support/alimony, credit card balances, medical debts, etc., as reflected in the applicant's credit report and loan application. Regular expenses that have not yet been incurred—such as childcare/healthcare costs, food bills, or utilities—are not considered debt and are therefore excluded from this calculation.

7. FINANCING REQUIREMENTS

The following financing requirements apply at both the time of home purchase and any subsequent refinancing:

- a. Total encumbrances (including liens, mortgages, loans, or debts secured by the home) must not exceed 97% of either the maximum restricted BMP home price or the actual appraised value (whichever is lower) at the time the encumbrance is established (i.e., when the loan is issued to the buyer). In other words, the combined loan-to-value (CLTV) ratio for a BMP home cannot surpass 97% of the current BMP home price as determined by Program staff. Encumbrances include tax liens, court judgments, and other involuntary liens imposed by third parties.

No mortgage or other residential loan secured by a BMP home (including home equity loans or lines of credit, etc.) may include any of the following terms or rates:

1. Prepayment penalty
 2. Balloon payments
 3. Negative amortization (such as interest-only payments, etc.)
 4. Adjustable and/or non-prime interest rate
- b. Home equity lines of credit (HELOCs) are prohibited.
 - c. Front and back ratios may not exceed the limits set forth above in the *Section 7, Affordability Standards*, using the ratios corresponding to the borrower's actual income level at time of loan application.

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- d. All first mortgage loans must be a 30-year fixed rate mortgage provided by a conventional residential lender (including credit unions). The mortgage must be fully amortizing.

7.1 INITIAL PURCHASE FINANCING

All of the financing requirements listed above apply at time the BMP home is purchased, in addition to the following:

- Applicant must buy the home using a first mortgage loan equal to at least 70% and not more than 97% of the purchase price, provided by an Approved First Mortgage Lender with standard underwriting and loan servicing capabilities. Private-party, family member, or seller/agent loans, gifts, etc. may not be used in full or in part as a substitute for a first mortgage equal to at least 70% of the home price.
- Public sector and/or non-profit loans or grants may be used (FHA, Housing Trust Silicon Valley, WISH, Cal-HFA, VA, etc.) for any combination of the following: first mortgage, junior financing, or down- payment/closing cost assistance, as long as CLTV does not exceed 97%.
- Any loans requiring repayment and secured by a deed of trust against the BMP home, including non-profit or public sector “soft loans”, whether deferred or forgivable in full or in part, are considered loans, not grants. Such loans are included in the CLTV and subject to the 97% limit on CLTV noted above. Actual bona fidegrants and/or gifts (no deed of trust and no repayment due) are not included in the 97% CLTV limit.
- Any junior loans must be subordinate to the City’s deed of trust.

7.2 REFINANCING

The owner may not refinance the first mortgage or encumber the unit without written approval from the City. Any attempt to refinance or encumber the property without such approval will be considered as a breach of contract as outlined in the Promissory Note. The City, at its sole discretion, may consent to a refinancing of the first mortgage or encumbrance of the unit in hardship situations or allow the homeowner to access lower interest rates. No cash out financing is allowed. Any such new first mortgage must meet of the requirements listed under *Section 7*, Financing Requirements, in addition to the following:

- a. Homeowners must obtain the City’s written approval to refinance prior to refinancing or encumbering their BMP home with any new debt at any time after their purchase of the home. In order to obtain written approval, homeowners must complete and submit a Subordination request form with the required documents at least 30 business days before City approval is needed. Submittal of the request form does not guarantee approval of the homeowner’s proposed loan. Effective July 2018 the City will require payment of an administrative fee to be submitted with the Subordination Request Form. The amount of the fee will be indicated on the Subordination Request form.
- b. Refinancing may not cause the total combined loan-to-value (CLTV) ratio of all encumbrances on the home to exceed 97% of the initial BMP purchase price.
- c. Proposed refinanced loans must meet all of the Financing Requirements listed in *Section 7*, which prohibit terms such as negative amortization, adjustable interest rates, balloon payments,

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reverse mortgages, and lines of credit.

- d. Homeowners are strongly encouraged to contact City staff for current Program refinancing requirements prior to paying any loan application fees, appraisal fees, credit check fees, or other non-refundable fees, to find out whether their desired refinancing is allowable on a BMP home. Current information on refinance approval procedures, loan requirements, Program forms, and fees, is available upon request from Program staff. Lenders may also contact the City staff for this information.

8. TITLE & INSURANCE REQUIREMENTS

8.1 TITLE REQUIREMENTS

All adult Household members must appear as an owner or co-owner on the BMP Unit title. They also must co-sign for any purchase loan and sign all affordable housing documents for the BMP Unit with the following exceptions:

- a. Legal dependents of titleholders as claimed on the most recent federal income tax return or legal minor children of titleholders. Spouses or Domestic Partners are not considered dependents.
- b. Household members younger than age 24 who are the child of a titleholder who will reside in the BMP Unit as their primary residence, regardless of being named as a dependent on the federal tax form of a titleholder; and
- c. Recent immigrants with insufficient credit history as defined as a person who has been in the United States for 2 years or less as supported by entrance documentation or a sworn statement and lender documentation of the reason for a loan denial, including a copy of applicant's credit report.
- d. If any co-Applicant(s), due to his/her poor credit history or low credit score, would adversely affect Primary Applicant's ability to qualify for a mortgage, such co-Applicant may be exempted from the requirement to jointly apply for the first mortgage as a borrower. However, such co-Applicant will be required to execute the BMP loan documents and take joint title to the home with Applicant upon close of escrow.
- e. Co-Applicants who are listed as financial dependents on the Applicant's or a co-applicant's tax returns need not be listed as borrowers on the loan application, nor take title to the home (unless desired by Applicant). The exception will be a non-borrowing spouse who is required to at least take title as community property or joint tenants.

8.2 INSURANCE REQUIREMENTS

All BMP Borrowers, per the Promissory Note and Deed of Trust, it is required the homeowner's insurance policy lists the City as the "Loss Payee" pursuant to a Lender's Loss Payable Endorsement, which provides that any policy proceeds and benefits arising from losses covered by the insurance are to be paid to the City. The policy should provide full replacement of the property. A copy of the insurance certificate, including all endorsements, must be provided as follows:

City of Santa Clara
Housing and Community Services Division
1500 Warburton Ave.
Santa Clara, CA 95050

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This will be an annual requirement, or whenever the coverage is modified. The insurance coverage should be maintained until the promissory note is paid in full.

9. BMP PURCHASE – CLOSING AND FINAL APPROVAL

9.1 EXECUTION OF BMP HOME PURCHASE AGREEMENT

Upon completion of the selection process, the BMP Program Administrator will arrange for execution of a Purchase Agreement between the developer and the approved buyer. The Purchase Agreement will be subject to the buyer completing the arrangements for financing the home purchase, and the sale price shall be the Affordable Sale Price set by the City. The executed Purchase Agreement will be followed with an appraisal and final loan approval by the lender prior to estimated closing date.

9.2 FIRST LOAN CLOSING PACKAGE

The BMP Program First Loan Package is required to be submitted by the Lender on behalf of the Applicant. The following documents must be submitted to the BMP Program Administrator by the mortgage lender:

- Lender Checklist (listing all the loan documents)
- Mortgage Loan Commitment Letter
- Copy of all Applicants' credit report(s)
- Property Appraisal
- First Residential Mortgage Loan Application - Form 1003 (signed and dated)
- Underwriting Transmittal Summary - Form 1008
- Loan Estimate & Disclosure
- Preliminary Title Report
- Wire Instructions
- Buyer Vesting Information
- Hazard Insurance Policy or HO6 Insurance Policy (and Flood Insurance Policy if applicable) with a loss payable endorsement to the City of Santa Clara, c/o Community Development Department, as noted in *Section 8.2* above.

The BMP Program Administrator will review the BMP First Loan Package within ten (10) business days of receipt. Upon review, if it is determined that there are discrepancies including but not limited to household composition, Applicant income, assets or debts, additional clarification will be required and may result in disqualification. All missing and additional documents required will be requested of Lender, who will then have forty-eight (48) hours to submit the requested documents. Failure by the Lender to submit all requested additional documents within this timeframe will result in a delayed close of escrow. A determination of ineligibility by the BMP Program Administrator will result in program disqualification and the BMP Program Administrator will issue a disqualification letter.

Examples of program disqualification reasons include:

- Property-Specific Reasons:
 - Back-End Ratio or Front-End Ratio does not meet program requirements
 - Lender documents indicate that household assets will exceed the BMP

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- Program Asset limits after the home purchase
- Any other information is identified that does not meet program eligibility requirements
- Household-Specific Reasons:
 - Additional household income source is identified in the lender documents that causes household income to exceed program limits
 - Additional household assets are identified in the lender documents that causes total household assets to exceed program limits
 - Household member(s) are found to not be first-time homebuyers based on information in credit report
 - Any other information is identified that does not meet program eligibility requirements

9.3 PRE-CLOSING MEETING

Applicants will be required to attend a virtual one-on-one meeting with the BMP Program Administrator to review the program documents that will be executed with the title company and will be provided a summary of loan terms and ongoing program requirements. While the BMP Program Administrator will be available to answer questions at any time throughout the application process, the Pre-Closing Education Meeting will be an opportunity for final questions before the close of escrow.

9.4 CLOSE OF ESCROW

The BMP Program Administrator is responsible for coordinating the close of escrow with the title company, the developer, City Housing Staff, the lender(s), and the homebuyer. The City shall transmit Escrow Instructions to the Title Company. The BMP Program Administrator will ensure that real estate purchase and financing documents are executed correctly and are recorded in the following order of priority:

1. First Deed of Trust for first mortgage lender
2. Deed of Trust securing the City's Promissory Note
3. Covenants, Restrictions, and City Option to Purchase
4. Second Deed of Trust for a down-payment assistance loan or other subordinate financing offered by other public agencies and/or non-profit entities, if applicable
5. Other secondary financing, such as lender loans or grants, if applicable
6. Request for Notice from the City for the senior lender loan

10. BMP OWNERSHIP AND OCCUPANCY REQUIREMENTS

Once a home buyer has purchased a BMP home, they must comply with the requirements of these Guidelines and the BMP Program's "Covenants, Restrictions and Option to Purchase" (the Restrictions) and BMP Deed of Trust recorded against their home, for a term of twenty years or until/unless they sell the home during the twenty-year term. If the home is sold prior to the end of the restricted resale period, the new buyer will be subject to a new twenty-year term. The Restrictions and a disclosure summarizing the requirements are provided to all buyers prior to purchase. This section provides a brief summary of the short and long-term Program requirements contained in the Restrictions. In case of any difference between these Guidelines and the buyer's recorded BMP Restrictions, the Restrictions recorded against buyer's home shall prevail.

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a. Terms of Restrictions.

BMP homes are restricted for 20 years, as stated in the recorded Owner's Covenants, Restrictions and Option to Purchase.

- Year 1 through 5 of ownership: Known as the Restricted Resale Period. A BMP homeowner who decides to sell their home must sell at a restricted sales price to an eligible homebuyer as defined by the resale restrictions. The principal amount of the BMP Promissory Note is forgiven, and another principal amount is established for the new owner.
- Year 6 through 20 of ownership: A BMP homeowner can resell their home to whomever they choose at the current, unrestricted fair-market price. The BMP homeowner will pay off the principal amount of the BMP Promissory Note at the sale of the home. The BMP homeowner shall pay a share of the increase in equity in the home to the City or the interest on the BMP Promissory Note, whichever is less.
- After the 20th year of ownership: Resale restrictions expire. The homeowner is required to pay back the outstanding principal of the BMP Promissory Note. The homeowner is able to realize all of the market-driven appreciation in the home above its initial market value. No equity share to the City is required and if the outstanding principal is paid back in full, no interest is owed on the City's loan.

b. Primary Residence & Owner Occupancy

Within 30 days of close of escrow, Applicant and his/her entire household ("Owner") must move into and establish the BMP home as their primary residence. Owner and all co-owners listed on title must occupy the BMP home as their primary residence for the entire term or until home is sold. Children aged less than 18 years and any adult household members not on title are not subject to this requirement.

Primary residence consists of living in the home (and not residing in any other home) for at least ten months of each calendar year. Limited exceptions may apply for individual homeowners in case of hardship, such as illness/special needs requiring extended stays in health care facilities, or active-duty military service. Exceptions apply to the individual involved, not the entire household. If the entire household needs to move permanently from the home with no definite date of return, it must be sold pursuant to the Restrictions and these Guidelines.

Owner must maintain a homeowner's property tax exemption on the BMP home and may not claim a homeowner's exemption on any other home, for the duration of their ownership of the BMP home. If Owner fails to maintain a homeowner's property tax exemption for the BMP home, the home will no longer be considered his/her primary place of residence for Program compliance monitoring purposes.

Should Owner or any co-Owner cease to occupy the unit and/or be removed from title, any remaining owner, heir or occupant should notify the City of Santa Clara Housing and Community Services Division immediately in writing. City staff will inform the notifying party about their options for maintaining, transferring, or selling the home in compliance with Program requirements.

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c. Annual Certification of Owner Occupancy

Owners must provide the BMP Program Administrator staff with an annual written certification that they continue to occupy their home as their primary residence, with Valid Third-Party Documentation (such as insurance statement and utility bills) of such occupancy. The BMP Program Administrator staff will provide Owners with an Occupancy Certification form annually for Owner to complete and submit. The BMP Program Administrator staff may request additional documentation from the owner(s) if needed to verify primary residency in the home.

d. Rental of BMP Home Prohibited

Owners may not rent out the home or any portion of it to any party, including family, friends, or other tenants, whether for actual paid rent or gifts, bartered services, assistance or any other form of compensation. Other occupants staying in the home as guest of owner (i.e., for no compensation whatsoever) may not substitute for Owner(s)' required occupancy and primary residence in the home. Total occupancy of the BMP home may not exceed the maximum provided in the Occupancy Standards (*refer to Section 5*) at any time.

e. Unauthorized Sale or Transfer of Home Prohibited

Under the terms of the Restrictions, the City holds the first right of refusal to purchase a home at the current Affordable Sales Price if an Owner chooses to sell during the restricted term. During the unrestricted term, this right extends to purchasing at market rate. If an Owner intends to sell or transfer any ownership stake in the home—whether to another party or into a trust—during the restriction period, they must first contact City staff or their designated representative for written authorization. This step is essential to confirm whether such a transfer is permitted or prohibited. There are limited exceptions where sales or transfers may be allowed, such as in cases of marriage, divorce, or death (only applicable for certain heirs). Further details regarding these conditions can be found in the Covenants, Restrictions and Option to Purchase and Promissory Note. For additional information, including copies of relevant documents like Restrictions and BMP disclosures, please reach out to our Housing and Community Services Division.

Owners are strongly encouraged to contact City staff in case of any desired or necessary transfer, for assistance in determining whether the proposed Transfer is allowable or prohibited, and for written approval if such transfer is allowable. Transfers include selling the home outright to another party, adding or removing any party from title to the home, including actual persons, trusts, and, in the case of refinancing, lenders or other institutions, and leasing of any portion of the home, or leasing the entire home.

11. RESALE PROCEDURES

11.1 YEAR 1 THROUGH YEAR 5 (TRANSFER BY OWNER AT A RESTRICTED RESALE PRICE)

If Owner wishes to sell the BMP home during the Term, Owner shall complete and submit the “Notice of Intended Transfer” (NIT). The form can be found on the BMP Program Administrators website and is available on the City’s website. The NIT must be delivered to the City at least ninety (90) days prior to the intended date for vacating the Residence or executing the Transfer.

Resale Year 1 through Year 5:

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A BMP homeowner who decides to sell their home within this time period must sell to an eligible BMP-qualified, new buyer (a first-time buyer with an income not exceeding the designated area median income of the BMP unit) at a re-established restricted resale price. The principal amount of the City Loan is forgiven and a new principal amount of the City Loan is established for the new homeowner.

Upon receipt of a completed NIT form, City staff will determine the Restricted Resale Price for the home. City will then notify Owner of the current maximum BMP purchase price limit for the BMP home, whether the City is interested in exercising its first right of refusal, whether or not there is currently a waiting list or interest list of interested buyers, and related resale procedures. If City decides to exercise its option, it may designate an Eligible Household and the Owner shall prepare the home for sale as follows:

- a. Within thirty (30) days of delivery of the Owner's Notice of Intended Transfer, the Owner shall: allow the BMP Program Administrator to inspect the Home to determine its physical condition including condition of floor coverings, of the paint, and wear and tear to the home, and observe any repairs to the home.
- b. Within fifteen (15) days of receipt of the request from the City for home inspection and termite reports, the Owner shall obtain and deliver to the City a home inspection report prepared by a licensed home inspector and a termite inspection report of the home by a licensed structural pest control operator;
- c. Within the sooner of (a) Sixty (60) days from the date of receipt of the City's Intent to exercise the Purchase Option or (b) prior to close of escrow on the Transfer, the Owner shall repair the damages noted in the City's inspection reports, the Property Inspection Report and the Termite report including damage caused by water damage, infestation or infection by wood-destroying pests, all plumbing and electrical repairs and any repairs that are necessary to meet City Code requirements and Health and Safety requirements;
- d. Within Sixty (60) days from the date of receipt of the City's Intent to exercise the Purchase Option, the Owner will hold an open house for interested Eligible Households to view the home. Owner will refer any interested and Eligible Household to the BMP Program Administrator for eligibility determination;
- e. If the Home is vacant, the Owner shall maintain the Home, including the exterior landscaping if not maintained by the Homeowners Association, in good condition and shall maintain utility connections until the close of escrow on the Transfer;
- f. In the event of exercise of the Purchase Option by the City, the Owner shall permit a final walk-through of the Home by the City, or the BMP Program Administrator, the Eligible Purchaser (if any) within the final five (5) days prior to close of escrow on the Transfer;
- g. Upon the City's notification of its intention to exercise the Purchase Option it will subsequently complete the purchase of the Residence within one hundred twenty (120) days from receipt of the Notice of Intended Transfer.

11.2 YEAR 6 THROUGH YEAR 20 (TRANSFER BY OWNER AT AN UNRESTRICTED RESALE PRICE)

If Owner wishes to sell the BMP home during the 20-year term and after the expiration of the Resale

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Restriction Period, Owner shall complete and submit the "Notice of Intended Transfer" (NIT) form. The NIT must be delivered to the City at least ninety (90) days prior to the intended date for vacating the Residence or executing the Transfer. A BMP homeowner can resell their home to whomever they choose at the current, unrestricted fair-market price. The BMP homeowner will pay off the principal amount of the City Loan at the sale of the home. The BMP homeowner must also pay a share of the increase in equity in the home to the City or the interest on the BMP Promissory Note, whichever is less.

Upon receipt of a completed NIT form, City staff will notify Owner whether the City is interested in exercising its first right of refusal, and related resale procedures. The Owner shall not contract with a real estate broker to sell the Residence until the Owner has received the City's Response letter pursuant to the Notice of Intended Transfer, as the services of a broker will not be required if the City exercises the Option to Purchase the Residence.

If City decides not to opt to exercise its option, the City will notify the Owner in writing. Upon receipt of this notification, Owner can list the home with a realtor, prepare it for sale and identify a prospective buyer. Once Owner has identified a prospective buyer, the owner is required to send to City staff:

- a. A copy of the Multiple Listing Service Listing Sheet,
- b. A completed Payoff request form that was sent from the City with all requested documents
- c. Effective July 2018 The City will require that an administrative fee be paid in addition to the loan amount that will be due. The amount of the fee will be indicated on the City's Payoff Request Form.

11.3. END OF BMP TERM

Upon the end of the twenty-year term of the BMP unit, the BMP homeowner is required to pay back the principal of the City Loan and is able to realize all of the market-driven appreciation in the home above its Initial Market Value (IMV). Resale restrictions expire and the BMP homeowner is no longer required to pay the City a share in the increase in equity in the home or interest on the BMP loan. Upon receipt of payment for the BMP Promissory Note, the home shall be released from the Covenants and the City Deed of Trust and a Release of Covenants and Reconveyance of the Deed of Trust shall be recorded by the City upon request of Owner. After recordation of such release, home shall be a market-rate home and Owner shall no longer be subject to the Program restrictions, including these Guidelines, the Housing Policy and the Agreement.

12. MAINTENANCE OF THE HOME

The Owner is required to maintain home in a decent, safe and sanitary condition, free of hazards, code violations, and nuisances, in compliance with the Covenants, Deed of Trust, Homeowners' Association covenants, if any, the City of Santa Clara Municipal Code, and other applicable health and safety codes and laws. The home may not be used for any non-residential use, or as a vacation home, vacation rental, or any use other than as Owner's primary residence. Owner may operate a home-based business in the home to the extent permissible according to the City of Santa Clara Municipal Code, if licensed and permitted by the City, and if ancillary to the primary use of the home as Owner's primary residence.

Owner must pay any and all assessments levied against the home when due, including homeowners'

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association dues and special assessments, property taxes, parcel taxes, special district assessments, etc., just as any other property owner must pay such taxes and assessments. The BMP program does not provide Owner any protection, exemption, waiver, or reduction of any such taxes, fees or assessments legally charged to Owner. Owner must adequately budget for such expenses like any other homeowner.

13. DEFAULT AND/OR FORECLOSURE

In the event that Owner receives a notice of default from any entity other than the City, this will be considered a default under the City's BMP deed of trust as well, and the City may pursue any available legal remedies to avoid loss of the home to the Program through foreclosure, including exercising its option to purchase, and/or assigning such option to an eligible buyer prior to foreclosure. City will cooperate with Owner and lender to the extent possible to resolve a default under any other deed of trust, in order to avoid foreclosure and maintain the home in the BMP program. City shall not be obligated to take any actions to preserve Owner's ownership interest in the home, nor to pay any sums owed by Owner or take any legal action in favor of either party related to a default or foreclosure. In the event City does not exercise its option and a foreclosure occurs, the Covenants will be released by the City and such home will no longer be bound by the Program restrictions. Terms of default under the Covenants and BMP deed of trust are defined in more detail in those documents recorded against each home.

14. PROGRAM COMPLIANCE

Burden of Proof of Eligibility

Participation in the Program is a privilege, not a right, as there are not enough BMP homes for all Eligible Households. All applicants bear the burden of proof to demonstrate that their Household meets all of the Program Eligibility Requirements by submitting complete applications with all required Valid Third-Party Documentation. Failure to adequately demonstrate such eligibility, by providing incomplete applications or otherwise not complying with these Guidelines or associated application instructions, will result in a determination of Ineligibility and denial of Program benefits.

Program staff are not required to prove that Applicants are ineligible, only that they failed to adequately demonstrate their eligibility in their application, and/or failed to submit a complete application, failed to secure adequate financing, or failed to deposit required down-payment and closing cost funds into escrow.

The BMP Program Administrator may contact any source provided by Applicant or included in his/her application to verify Applicant information, and/or request information from those sources named or described generally on the Program's Authorization to Release Information Form included in application forms.

False Statements or Misrepresentations

Any false statement(s), intentional misrepresentation of the facts, or false representations submitted as part of any Program application, occupancy certification, or other Program submittal in order to obtain an eligibility determination or verify Program compliance constitutes an act of fraud and may be prosecuted accordingly. Submittal of intentionally false, misleading or incomplete information in a Program application will result in denial of eligibility to participate in the Program, and the applicant(s) will be permanently banned from the Program.

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If the City should discover that a purchase was completed by an owner(s) who intentionally made false statements or misrepresented the facts in order to appear eligible to purchase the property, this will constitute fraud and/or default under the Covenants, and the City will use all available legal remedies to bring the home into compliance, and/or impose any criminal or civil penalties allowed by law.

If the City determines that BMP owner(s) have made intentionally false statements or misrepresentations in their annual occupancy certification in order to appear compliant with Program requirements, it will use any enforcement measures available under the Housing Policy, these Guidelines, the Deed of Trust, and/or Covenants to restore compliance.

Unauthorized Rental, Sale, or Transfer of BMP Home

If any portion of the BMP home is rented out, sold or otherwise transferred in full or part without prior City approval, the City may use all available legal remedies to bring the home into compliance, and/or impose any criminal or civil penalties allowed by law, including possible sale of the property.

Severability

If any one or more of the provisions contained in these Program Guidelines shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provisions shall be deemed severable from the remaining provisions contained in the Guidelines, and the Guidelines shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

Non-Liability for Negligence, Loss, or Damage

Owner acknowledges, understands and agrees that the relationship between Owner and City or its BMP Program Administrator is solely that of borrower and lender, and that City and its assigns neither undertakes nor assumes any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on or inform the Borrower of the quality, adequacy or suitability of the Residence or any matter. City and its assigns owes no duty of care to protect the Borrower against negligent, faulty, inadequate or defective building or constructions or any condition of the Residence and Borrower agrees that neither Borrowers or Borrower's heirs, successors or assigns shall ever claim, have or assert any right or action against the City for any loss, damage or other matter arising out of or resulting from any condition of the Residence and will hold City and its assigns harmless from liability, loss or damage for these things.

14. BMP PROGRAM FEES All Fees Are Non-Refundable and are updated annually and published in the Municipal fee Schedule.

Fee Name	Purpose	Amount
BMP Home Buyer Eligibility Determination fee	Review applicant's Eligibility Application to determine if they are eligible to buy a BMP home and if so, the size(s) of BMP home for which the household qualified.	\$50.00
BMP Purchase Application (Applicant)	Review and verify the applicant's BMP Application and submitted documents for processing and underwriting to include issuing a Program Eligibility and Qualification Certification to applicant that is valid for 180 days. This review also determines if Applicant's household is eligible to purchase the size of home (number of bedrooms) indicated in the Purchase Contract. Preparation of escrow instructions; final coordination with loan and escrow officers, buyer and seller, developer's real estate	\$500 – currently paid by Applicant

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	agents; preparation of the BMP promissory note, deed of trust, and covenants, and other City and closing document legal forms. One on one appointment to coordinate BMP document signing and notarization.	
Loan Payoff Administration Fee paid to City of Santa Clara (Owners)	City staff review of documentation requested on Payoff Request Form required from the borrower, the title company, real estate agent, Payment of potential recording fees paid to County Recorder's Office. Staff administration for calculation of loan payoff amounts, prepare payoff letters, wire information and coordination with outside vendors. Prepare Reconveyance of Deed of Trust and Release of Covenant and Option to Purchase recorded documents. City department review, approval, signature and notarization of legal documents.	\$1,274.00 OR \$980.00
Subordination Request Administration fee paid to the City of Santa Clara at time of refinance request (Owners)	Staff review of documents required on Subordination Request Form. Review new loan application documentation including loan application, underwriting, income and ratios, appraisal review and lender terms. Review of current and proposed loan terms. Coordination with title company, lender and borrower for receipt of documentation and review. Preparation of Subordination Agreement and Request of Notice documents for recording. City department review, approval, signatures and notarization of legal documents. Coordinate close of escrow and final signed loan documents from lender or title company.	\$1,764.00
Transaction Fee for resales of Restricted property paid to BMP Administrator of City	The BMP Program Administrator reviews property inspection reports, determines resale sales price, markets the home, obtains qualified BMP buyer, oversees purchase agreement, loan approval and escrow process.	2.5% of restricted sales price