



Resident Selection Criteria

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RESIDENT SELECTION CRITERIA.....	3
<i>I. Introduction</i>	3
<i>II. Mission</i>	3
<i>III. Non-Discrimination</i>	3
A. Equal Opportunity Housing	3
B. Additional Protection for Individuals with Disabilities	4
C. Additional Protection for Individuals with Limited English Proficiency	4
<i>IV. Privacy Notices</i>	4
A. HUD PRIVACY ACT NOTICE	4
B. COMMUNITY PRIVACY POLICY	5
<i>V. Definitions</i>	6
A. ACCESSIBLE UNIT	6
B. ELDERLY FAMILY	6
C. FAMILY.....	6
D. LIVE-IN AIDE.....	7
E. VIOLENCE AGAINST WOMEN ACT (VAWA).....	7
<i>VI. Eligibility</i>	8
A. Program Requirements	8
a) Income Limits	8
b) Social Security Number	8
c) Consent and Verification Forms.....	9
d) Residency/Assistance Requirements	9
e) Rent Formulas	9
f) Drug Abuse and Criminal Activity Requirements.....	10
g) Citizen/Non-Citizen Requirements	10
h) Student Eligibility	10
I. LIHTC Eligibility.....	10
II. HUD Eligibility.....	11
III. Section 8 Eligibility.....	12
B. Community Requirements	13
a) Identification	13
b) Landlord History.....	13
c) Interference/Fraud.....	14
d) Occupancy Standards.....	14
e) Income Requirements.....	14
f) Credit Requirements	14
g) Background Screening Requirements.....	15
<i>VII. Application Procedures</i>	16
A. Complete an Application for Housing	16
B. Submit Application	16
C. Interview.....	16
D. Ineligibility	17
E. Application Decision	19
F. Appeal Procedure	19
<i>VIII. Waiting List Policy</i>	20
A. Admissions.....	20
B. Waiting List Administration	20

IX. Reasonable Accommodation Policy..... 21
X. Unit Transfer Policy 21
XI. Pet Policy 21
XII. Revision of Resident Selection Criteria 22
Exhibit A – Community Eligibility..... 23
Exhibit B -- Community Preferences..... 25
Exhibit C – Income Limits and Rents..... 28
Exhibit D – Special Waiting List Policy 29
Exhibit E – Reasonable Accommodation Policy..... 30
Exhibit F – Transfer Policy..... 32
Exhibit G – Pet Policy 34
Exhibit H – Oakland Housing Authority Project Based Section 8 Policy..... 37
Exhibit I – Fair Chance Housing Ordinance..... 45
Exhibit J – Mitigating Circumstances Policy..... 46

RESIDENT SELECTION CRITERIA

I. Introduction

This community is funded through the Department of Housing and Urban Development (HUD) Office of Multifamily Housing and the Internal Revenue Service's Section 42 Low Income Housing Tax Credit Program. There may be other programs that restrict eligibility requirements for this community. Please see Exhibit A for additional criteria. The policies and procedures established in this document are used in the selection of residents for this community. All procedures will be implemented in conjunction with HUD Handbook 4350.3 REV-1, Occupancy Requirements of Subsidized Multifamily Housing Programs, as amended, the IRS Section 42 regulations, as amended, and other applicable federal statutes and regulations, including but not limited to the following:

- Federal Register Notices/Final Rules
- Code of Federal Regulations (CFR)
- The Fair Housing Act (Title VIII of the Civil Rights Act of 1968)
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- State of California Fair Housing Laws
- HUD Handbook 4350.1 REV-1
- The Federal Fair Credit Reporting Act and state/local credit reporting laws

II. Mission

It is the mission of all MidPen Housing communities to provide safe, affordable housing of high quality to those in need; to establish stability and opportunity in the lives of residents; and to foster diverse communities that allow people from all ethnic, social and economic backgrounds to live in dignity, harmony and mutual respect.

We are committed to providing the best apartment management services to our residents. Each community has an on-site staff whose main goal is to serve our residents. We take pride in our ability and desire to provide our residents with well-maintained, professionally managed apartment communities.

III. Non-Discrimination

A. Equal Opportunity Housing

This community fully adheres to applicable federal, state, and local fair housing and civil rights laws, which provide that it is illegal to discriminate against any person due to race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, physical or mental disability, genetic information, age or any other arbitrary personal characteristic in all housing related activities.

If an applicant believes that they have been discriminated against or treated unfairly in the application process, they may contact us in writing at MidPen Housing Management Corporation, 303 Vintage Park Drive, Suite #250, Foster City, California 94404.

B. *Additional Protection for Individuals with Disabilities*

This housing community follows the requirements of Section 504 of the Rehabilitation Act of 1973 and does not discriminate on the basis of disability status in the admission or access to, or treatment or employment in our federally assisted programs and activities.

The community will seek to effectively communicate with applicants, residents, and members of the public who are individuals with handicaps or disabilities. The use of auxiliary aides, such as readers, interpreters, large print documents, or recordings, will be implemented when necessary. The community asks for three (3) business days' notice if an applicant requires us to provide any auxiliary aids to ensure effective communication in any meeting, interview or appointment.

This community also allows Reasonable Accommodations and Modifications when requested by applicants or residents with disabilities to enable equal opportunity to use and enjoy the unit and/or the common areas, to participate in our program or have access to activities sponsored by this community in accordance with the Reasonable Accommodation Policy (Exhibit E).

C. *Additional Protection for Individuals with Limited English Proficiency*

Executive Order 13166 requires all recipients of federal funds to take reasonable steps to ensure that persons with limited English proficiency (LEP persons) have meaningful access to federal programs and activities. In response to this executive order, this community has created a Language Access Plan which details the steps taken to ensure meaningful access including but not limited to providing for oral translation services for applicants who need language assistance. Copies of the Language Access Plan are available for review in our leasing office.

IV. *Privacy Notices*

A. *HUD PRIVACY ACT NOTICE*

The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.), by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and by the Fair Housing Act (42 U.S.C. 3601-19) The Housing and Community Development Act of 1987 (42 U.S.C. 3543) requires applicants and participants to submit the social security number of each household member.

Purpose: Your income and other information are being collected by HUD to determine your eligibility, the appropriate bedroom size, and the amount your family will pay toward rent and utilities.

Other Uses: HUD uses your family income and other information to assist in managing and monitoring HUD-assisted housing programs, to protect the government's financial interest, and to verify the accuracy of the information you provide. This information may be released to appropriate federal, state, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law.

Penalty: You must provide all of the information requested by the owner, including all social security numbers you, and all other household members, have and use. Giving the social security numbers of all household members is mandatory, and not providing the social security numbers will affect your eligibility. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

B. COMMUNITY PRIVACY POLICY

The community endeavors to protect the privacy of the applicants/residents and their information/documents/records that are in the Landlord's/Owner's possession. The Community collects and maintains within its possession information/documents/records pertaining to the applicants/residents, including but not limited to personal, financial, background, criminal, residential history, lease compliance, information. This information/documents/records may be collected and/or maintained by the community in physical and/or electronic format. The community may use this information/documents/records in its operations, including but not limited to income verification, housing eligibility, determining rent, landlord/tenant relations and disputes, compliance with regulatory obligations, reporting to regulatory agencies, law enforcement, lenders and investors. The community may share the information/documents/records pertaining to the applicants/resident with third parties including but not limited to Federal, state and local regulatory agencies; law enforcement agencies; lenders, investors when required or requested.

The community shall not use or disclosure the information/documents/records pertaining to the applicants/residents in violation of applicable Federal, state and local laws.

V. Definitions

A. ACCESSIBLE UNIT

A unit that is located on an accessible route and when designed, constructed, altered or adapted can be approached, entered, and used by individuals with a physical impairment.

B. ELDERLY FAMILY

Elderly families are:

- (1) Families of two or more persons, the head of which (or their spouse) is 62 years of age or older;
- (2) The surviving member or members of a family described in paragraph (1) living in a unit assisted under 24 CFR part 891, subpart E (Section 202 loans) with the deceased member of the family at the time of their death;
- (3) A single person who is 62 years of age or older; or
- (4) Two or more elderly persons living together, or one or more such persons living with another person who is determined by HUD, based upon a licensed physician's certificate provided by the family, to be essential to their care or well being. (24 CFR 891.505)

C. FAMILY

A family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person (at least 50 years old but below the age of 62), or any other single person; or
- (2) A group of persons residing together, and such group includes, but is not limited to:
 - (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (ii) An elderly family;
 - (iii) A near-elderly family (head, co-head, spouse, or sole member is at least 50 years old but below the age of 62);
 - (iv) A disabled family;

- (v) A displaced family; and
- (vi) The remaining member of a resident family.

D. LIVE-IN AIDE

A Live-In Aide is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

1. Is determined essential to the care and well-being of the persons;
2. Is not obligated for the support of the persons; and
3. Would not be living in the unit except to provide the necessary supportive services.

A relative may be a Live-In Aide but must meet all of the above requirements, and sign a statement to that effect. Adult children are not eligible to move into a Section 202/8 community after initial occupancy as a live-in aide. An adult child may only move into an existing Section 202/8 household if they are essential for the care of the resident; however, the adult child will be counted as a family member, their income will be included in family income, and the adult child will need to sign a document which acknowledges that they do not have the right to remain in the unit should the resident leave.

The need for the live-in aide will be verified before move-in. Prior to acceptance as a Live-In Aide, all candidates must be screened for drug abuse, criminal activity and status as a state lifetime sex offender following the same requirements used for applicants. A Live-In Aide qualifies for occupancy only as long as the individual needs support services and cannot qualify for continued occupancy as a remaining household member. It is the resident's responsibility to ensure that the Live-In Aide follows the Community House Rules.

E. VIOLENCE AGAINST WOMEN ACT (VAWA)

The VAWA protections apply to households applying for or receiving rental assistance payments ***under any HUD or LIHTC housing assistance program. The law protects victims of domestic violence, dating violence, sexual assault, or stalking, as well as their immediate household members, from eviction or denial of housing assistance if an incident of violence is reported and confirmed.***

The Landlord will request in writing that the victim, or a household member on the victim's behalf, certify that the individual is a victim of abuse and that the Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking, Form HUD-5382, or other documentation as noted on the certification form, be completed and submitted within 14 business days, or an agreed upon extension date, to receive protection under VAWA. If the applicant needs alternative arrangements regarding the delivery of these documents, management will work with the applicant on other acceptable

ways for providing the information. All information regarding the victim's status will be kept confidential and in a separate file in a secure location in accordance with MidPen's Housing Policies and Procedures pertaining to Victims of Domestic Violence, Dating Violence, Stalking, Human Trafficking, Sexual Assault, or Abuse of Elder or Dependent Adult.

VI. Eligibility

A. Program Requirements

a) Income Limits

The household's annual income must not exceed the applicable income limit for the community as established by HUD and/or the IRS. Current Income Limits are attached as Exhibit C.

b) Social Security Number

All household members must disclose and provide verification of the complete and accurate Social Security Number (photocopy may be kept on file) assigned to them unless the household member meets one of the following exceptions:

- Household members who do not contend eligible immigration status
- Household members who were age 62 or older on January 31, 2010 and whose initial determination of eligibility was begun before January 31, 2010

Applicants are not required to disclose or provide verification of a social security number at the time of being placed on the Waiting List however, they must disclose and provide verification of a social security number for all non-exempt household members before they can be housed. If all non-exempt household members have not disclosed and/or provided verification of their social security number at the time a unit becomes available, the next eligible applicant will be offered the available unit. Applicants will have 90 days from the date they are offered the available unit to disclose and/or verify the social security number. During this 90-day period, the applicant may retain their place on the Waiting List. After 90 days, if the applicant is unable to disclose and/or verify the social security numbers of all non-exempt household members, the applicant will be determined ineligible and removed from the Waiting List.

If a child under the age of 6 is added to the household within the 6-month period prior to the household's date of admission and the child's social security number and verification are not available, the household will have

90 days after the date of admission to provide the number and documentation. An extension of one 90-day period would be allowed under certain circumstances.

c) Consent and Verification Forms

The head of household, the spouse and/or co-head and all other adults (18 and older) in each applicant household must sign an Authorization for Release of Information and as necessary, verification documents, prior to being approved and every year thereafter.

d) Residency/Assistance Requirements

Applicants must agree that their rental unit will be their only place of residence. Applicants are allowed to own real estate, whether they are retaining it for investment purposes as with other assets, or have the property listed for sale; however, they may never use this real estate as their residence while they live in an affordable housing unit.

Applicants must disclose if they are currently receiving HUD housing assistance in another location. Nothing prohibits a HUD housing assistance recipient from applying to this community; however, the applicant must move out of the current property and may need to forfeit any Housing Choice Voucher before HUD assistance at this community can begin. The Housing Authority will use the Enterprise Verification System's Existing (EIV) Tenant Search to determine if the applicant or any member of the applicant's household is currently receiving HUD assistance.

Special consideration applies to:

- 1) Minor children where both parents share 50/50 custody
- 2) Recipients of HUD assistance in another unit who are moving to establish a new household when other family/household members will remain in the original unit

This information will be reviewed on an ongoing basis. If any household member receives assistance in another HUD assisted unit while receiving assistance at this community, the household member will be required to reimburse HUD for the assistance paid in error. This is considered a material lease violation and may result in penalties up to and including eviction and pursuit of fraud charges.

e) Rent Formulas

The applicant family must agree to pay the rent required by the programs regulating this property.

f) Drug Abuse and Criminal Activity Requirements

HUD regulations require that we deny admission to applicant households if:

- a) Any household member was evicted in the last three years from federally assisted housing for drug-related criminal activity;
- b) Any household member is currently engaged in illegal use of drugs or for which the owner has reasonable cause to believe that a member's illegal use or pattern of illegal use of a drug may interfere with the health, safety, and right to peaceful enjoyment of the property by other residents;
- c) Any household member is subject to a State sex offender lifetime registration requirement; or
- d) Any household member if there is reasonable cause to believe that the member's behavior, from abuse or pattern of abuse of alcohol, may interfere with the health, safety, and right to peaceful enjoyment by other residents.

g) Citizen/Non-Citizen Requirements

By law, only U.S. citizens and noncitizens with eligible immigration status as determined by HUD may receive assistance under the HUD Section 8, Section 236, Rent Supplement, Rental Assistance Payment (RAP) and Section 202/8 programs. All family members who wish to be considered for one of these programs, regardless of age, must declare their citizenship or immigration status. U.S. Citizens must sign a declaration of citizenship. Eligible noncitizens, under the age of 62, must sign a declaration of eligible immigration status, provide documentation of their status, and sign a verification consent form to verify eligible status with the Department of Homeland Security. Eligible noncitizens age 62 or older must sign a declaration of eligible immigration status and provide proof of age. Ineligible noncitizens must sign a declaration stating that they do not claim eligible immigration status. Mixed households with one or more ineligible family member(s) are eligible for prorated assistance.

h) Student Eligibility

I. Tax Credit Program Eligibility

Applicant Households containing full-time students must meet the IRS Section 42 regulations regarding full-time student households at all times or they are not eligible to move in or remain as a tax credit eligible family.

The IRS defines a full-time student as one who attends an educational institution with regular facilities, other than a correspondence or night school, during at least five months of the calendar year for which application for housing has been made. The educational institution determines whether a student is full or part-time.

If a household is comprised entirely of full-time students, they must meet one of the following criteria in order to be eligible for a Tax Credit unit:

- a) All members of the household are married and either file or are entitled to file a joint tax return;
- b) The household consists of a single parent and their minor children, and both the parent and children are not a dependent of a third party other than the parent of such children;
- c) At least one member of the household receives assistance under Title IV of the Social Security Act. (AFDC, TANF, CalWORKS, etc. Please note: SSA or SSI do not qualify.)
- d) At least one member is enrolled in a job training program receiving assistance under the Work Investment Act (WIA) formerly known as the Job Training Partnership Act, or similar federal, state, or local laws as defined by HUD 4350.3 REV-1;
- e) The household consists of a tenant under the age of 24, who has exited the Foster Care system within the last 6 years.

II. HUD Eligibility

A student must meet all of the following criteria in order to be eligible for HUD assistance programs:

- a) Be of legal contract age under state law;
- b) Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy,
or
- c) Meet the U.S. Department of Education's definition of an independent student as follows:
 - (i) The individual is 24 years of age or older by December 31 of the award year;
 - (ii) The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
 - (iii) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as

determined by a court of competent jurisdiction in the individual's State of legal residence;

(iv) The individual is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of HEA) or is currently serving on active duty in the Armed Forces for other than training purposes; (v) The individual is a graduate or professional student;

(vi) The individual is a married individual;

(vii) The individual has legal dependents other than a spouse;

(viii) The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 et seq.), or as unaccompanied, at risk of homelessness, and self-supporting, by— (a) a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act; (b) the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director; (c) the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or (d) a financial aid administrator; or (ix) The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

- d) Not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations; and
- e) Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided. This certification is not required for vulnerable youth populations, including individuals who are orphans, in foster care, wards of the court, emancipated minors, unaccompanied homeless youth, and youth at risk of becoming homeless.

III. Section 8 Eligibility

In addition, an individual cannot reside in a Section 8 unit if that individual:

- a) Is enrolled as either a part-time or full-time student at an institution of higher education for the purpose of obtaining a degree, certificate, or other program leading to a recognized educational credential; and
- b) Is under the age of 24; and

- c) Is not married; or
- d) Is not a veteran of the United States Military; or
- e) Does not have a dependent child; or
- f) Is not a person with disabilities, as such term is defined in 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(E)) and was not receiving Section 8 assistance as of November 30, 2005; or
- g) Is not living with their parents who are receiving Section 8 assistance; or
- h) Is not individually eligible to receive Section 8 assistance or has parents (individually or jointly) who are not income eligible to receive Section 8 assistance.

If a student becomes ineligible after move-in, their assistance may be terminated in accordance with program guidance. The household's rent may be increased to the market rate rent for the unit. In a Tax Credit unit without HUD assistance, tenancy can be terminated if the household does not meet the student requirements.

B. Community Requirements

a) Identification

Positive identification with a picture will be required for all adult applicants (photocopy may be kept on file). Applications must include the date of birth of all applicants to be considered complete.

b) Landlord History

Applicants must have an acceptable landlord history that demonstrates a history of cooperation with management regarding house rules and regulations; abiding by lease terms; and care of property. Landlord history must show that the applicants' conduct in present or prior housing has been such that the admission to the property would not negatively affect the health, safety, or welfare of other residents, or the physical environment, or financial stability of the property.

Landlord history must include a minimum of two (2) years rental history from a minimum of two landlord references. One (1) reference from the applicant's current landlord will be accepted from applicants who have resided in one location for two (2) or more years.

If the applicant or any member of the applicant household fails to fully and accurately disclose rental history, the application may be denied based on the applicants' misrepresentation of information.

The absence of previous rental history by itself will not be reason to deny an applicant household.

c) Interference/Fraud

Any applicant whose conduct interferes with, hinders, delays, obstructs or otherwise prevents the application process from being completed may be denied. Any information provided by the applicant that is later proven to be untrue by verification may be used to disqualify the applicant for admission on the basis of attempted fraud. Fraud is defined by HUD as an applicant or resident knowingly providing inaccurate or incomplete information.

d) Occupancy Standards

The occupancy standard is the minimum and maximum number of household members that may reside in a specific size unit. When counting household members, every member listed on the application, HUD-50059, TIC, or lease is counted including all full-time members, persons temporarily absent from the unit, children anticipated to live with the family, children away at school, live-in aides, foster children and foster adults.

In the event an applicant household member, or someone associated with that household, has a physical or mental disability, which requires a variance from these occupancy standards, the applicant should make a request for accommodation which may be granted if it does not create an undue financial and administrative burden or create a fundamental change to the nature of the property. As with all accommodation requests, whether the request is reasonable will be evaluated on a case-by-case basis.

The Occupancy Standards for this community are found in Exhibit A-Community Eligibility.

e) Income Requirements

For units not subsidized under the Section 8 or PRAC programs, applicants must meet the minimum income requirements for the unit. The minimum monthly income is set at two (2) times the rent for the unit. Management may review and amend this requirement if deemed necessary. Minimum income is not applicable to applicants with a Section 8 voucher from the Housing Authority.

f) Credit Requirements

This property evaluates each person applying to live at its community with a credit-risk scoring system that is provided by an independent consumer-reporting agency and consistently applied to all of the applicants. This scoring system uses a statistical model to estimate the credit risk that an applicant may not satisfactorily fulfill their lease obligations. The statistical model was developed from data regarding actual residents and their payment performance of their lease obligation. Prior to final acceptance of each applicant, this property will use this system to provide a numerical score that represents a relative measure of the credit risk associated with that applicant. The acceptance policies include having no more than 35% of past due negative accounts and no more than \$2,500 maximum balance of unpaid collections (including past due accounts). Bankruptcies are permitted if they have been cleared. Each applicant's credit-risk score will be compared to the acceptance policies to determine whether or not the applicant may be accepted. If the application is denied based on the credit-risk score, the applicant will be advised what factors most adversely affected the score and the applicant will be given the name, address, and telephone number of the consumer reporting agency that provided the credit-risk score to this property. An applicant who is denied based on their credit-risk score may obtain a copy of the consumer report(s) on which the credit-risk score was based, and may initiate an investigation to have any erroneous information contained in such reports corrected. The consumer-reporting agency will advise the applicant of the actions that they may take in order to do so. Available units will not be held open during any such investigation by the applicant. The absence of credit history by itself will not be reason to deny an applicant household.

g) Background Screening Requirements

In accordance with the Ronald V. Dellums Fair Chance to Housing Ordinance, Oakland Municipal Code, Article 1, Chapter 8.25 ("Fair Chance Housing Ordinance"), it is unlawful for a housing provider to inquire about an applicant's criminal history, require an applicant to disclose criminal history, require an applicant to authorize the release of criminal history or, if such information is received, base an Adverse Action in whole or in part on an applicant's criminal history. Therefore, MidPen Housing will not be conducting a criminal background screening on any of its applicants for this community.

Please note, however, that applicants who are also applying for the City of Oakland's Project Based Section 8 voucher program will be required to follow the eligibility requirements of the City of Oakland Housing Authority and a

criminal background screening will be conducted by that agency in accordance with City of Oakland's Fair Chance Ordinance.

Please refer to the full Ordinance attached hereto and incorporated herein by this reference as Exhibit G, which includes administrative remedies for an aggrieved person who believes an adverse action was based on a violation of this Ordinance. Oakland Municipal Code, Article 1, Chapter 8.25.060.

VII. Application Procedures

A. Complete an Application for Housing

To apply to live at this community, an applicant family must complete an application and certify that the supplied information is complete and accurate. Based on the household size, the applicant must designate the number of bedrooms requested. The applicant may request more than one unit type at the time of the initial application provided the household meets the occupancy standards or an accommodation has been requested (entitlement to the accommodation and the reasonableness of the accommodation requested will be determined when a unit is available), and the specific bedroom size Waiting List is open.

In addition to the application, applicants are offered the opportunity to complete the HUD Form 92006, Supplement to Application for Federally Assisted Housing. This form gives the applicant the opportunity to identify an individual or organization that may be contacted to assist in resolving any issues that may arise during the application or tenancy process. If the applicant requires assistance in completing the application, please contact the Community Manager/Leasing Office.

B. Submit Application

The pre-application must be signed and dated by digital signature if submitted electronically, or if a physical copy is submitted, by **all adult members** for the application to be considered. Applications can be submitted electronically, by mail or in person at the community leasing office during normal business hours.

Applications will be preliminarily screened for application completeness, legibility, and to determine that the household meets the basic requirements to qualify for this housing program. If it appears that the applicant household meets the basic requirements, the applicant will be added to the Waiting List for the requested unit size(s). Being added to the Waiting List does not automatically qualify the applicant for a unit.

C. Interview

As an applicant's name approaches the top of the Waiting List, an interview will be scheduled. All members of the applicant household must attend the interview. Two

failures to schedule and/or attend an agreed-upon time for an interview will be grounds for denial. For applicants with limited English proficiency, language assistance can be requested. Please make a request at least three business days prior to the interview.

During the interview, the applicant household will be asked to update the information on their original application. All sources of income and assets must be disclosed. During the interview, all items on the application will be discussed and confirmed, and third-party verification of each factor will be attempted, per HUD and IRS regulations and procedures. Until all items are verified, eligibility cannot be determined, nor any housing offered. Third party verification includes original or authentic documents generated by a third party source that are dated within 120 days from the date of receipt by the owner, verification forms sent by the owner directly to the source and returned to the owner through mail, email, or fax, and oral verification.

Eligibility for housing can only be confirmed after all sources of income, assets, household composition, etc., which may have any bearing on the rent that is paid or subsidy received, are verified.

D. Ineligibility

Households may be ineligible for occupancy for various reasons including, but not limited to, the following:

1. The applicant/household does not meet the program/community eligibility requirements listed in Exhibit A of this plan;
2. The household gross income (using the HUD definition of income) is over the applicable income limit published by HUD (Exhibit C);
3. The applicant/household's monthly income does not meet the minimum income standard established for this community and the household will not receive Section 8 or PRAC assistance (if available);
4. The applicant/household has an unacceptable credit history as reported by a consumer-reporting agency;
5. The applicant/household contain a student enrolled in an Institute of Higher Education who does not meet the criteria specified on pages 10 through 12 of this plan;
6. There is submission of false or untrue information on the application;
7. Failure to cooperate in the verification process including failure to provide requested information;
8. Failure to schedule and/or attend two interviews;
9. The applicant/household has refused two offered apartments and does not have a valid medical reason, or the household has refused three offered apartments with a valid medical reason;

10. The applicant/household has an unacceptable criminal background as reported by a consumer-reporting agency in accordance with the City of Oakland's Fair Chance Ordinance;
11. The applicant/household has an unacceptable reference from a current or previous landlord;
12. Household size does not conform to the stated minimum and maximum sizes as described in Exhibit A;
13. Failure to sign designated or required forms and/or documents upon request;
14. Failure to disclose and document Social Security numbers on all non-exempt household members within 90 days of the date the household was first offered an apartment;
15. This will not be the only residence for the applicant/household;
16. The applicant/household is not willing to pay the rent as calculated under the subsidy program.
17. Failure to present all applicants during the interview with the Community Manager;
18. Blatant disrespect or disruptive behavior, or demonstrable history of such behavior, towards management, the property, or other residents exhibited by an applicant or household member or friend any time prior to move-in;
19. Misrepresentation of any information related to eligibility, allowance, household composition or rent.
20. Other cause, including, but not limited to, failure to meet any of the selection criteria in this document.

E. *Application Decision*

If the application is approved and the applicant accepts an offered available apartment, the applicant will be asked to schedule a time to come and sign the lease. All household members must attend this session. During this meeting, the applicant will be required to sign a lease agreement in which they will agree to abide by all the rules and regulations. We will also conduct a unit inspection with the applicant. The applicant is encouraged to read all leasing documents in advance of this appointment. Upon request, they will be mailed to the applicant.

If the application is denied, the applicant will be notified of this decision in writing. This written statement will include the reason(s) for the denial, and state that the applicant has the right to request an appeal of this denial decision and present any extenuating circumstances the applicant would like to have considered.

F. *Appeal Procedure*

Applicants have fourteen **[14]** days after the date of denial letter to notify management in writing or request a meeting if they would like to appeal the denial

decision. If a denial letter is sent to an applicant, and no response or new evidence is received within fourteen **[14]** days, the file will be closed permanently.

If the applicant submits a written notice of appeal or requests an appeal meeting within fourteen days after the date of the denial letter, a management representative who was not a party to the original decision to deny will handle the appeal. This representative will review the application and any new facts or information that the applicant feels would have an effect on their application. Management will notify the applicant of their final decision within five **(5)** business days of receiving the applicant's written appeal or the date of the appeal meeting. Persons with disabilities have the right to request reasonable accommodations to participate in the appeal process.

Available units will not be held open during the appeal procedure. If a unit is not available at the completion of the appeal procedure and the appeal is granted, the applicant will be put back on the Waiting List in its original position.

A complete Grievance Procedure and Policy is available for anyone who wishes to file a grievance and/or requires detailed information about this subject. This policy is included with the denial letter.

The applicant has the right to dispute the accuracy of any information provided to property by the Consumer Reporting Agency or Screening Company. If the application is denied due to unfavorable information received during the screening process the applicant may contact the Consumer Reporting Agency that provided the information to the Property. The contact information will be contained in the denial letter. The applicant also has the right to obtain a free copy of the consumer report from the consumer reporting agency that provided the information if the applicant requests it within 60 days of application denial.

VIII. Waiting List Policy

A. Admissions

Applicants will be considered in the order of priority as follows: in accordance with the community-specific preferences (Exhibit B of this plan), by lottery number (if such process is implemented), or by chronological order: date and time of application. Priority for units will be given to applicants who meet any applicable community preferences. Applicants at the top of a Waiting List will be notified of upcoming vacancies of apartments that meet their selected unit preference and will be given the opportunity to set up an appointment for an interview to determine current eligibility. After the interview, the application will be screened and verified prior to being offered a lease. Participating in an interview does not guarantee that the applicant will be eligible or that an apartment will be offered to the applicant.

Apartments designed specifically for a person with disabilities, whenever possible, will be rented to a household or individual needing that specific apartment type. These apartments will be offered first to current residents, and then to applicants, who have noted the need for such an apartment on their application, based on their chronological order on the Waiting List. In all instances, an apartment designed specifically for a person with disabilities should be rented to a household with a member needing that type of unit. Outreach will be done with community agencies and organizations to accomplish this.

In the unlikely event that no resident or applicant requires that apartment type, the next applicant on the Waiting List can be housed there temporarily only after signing a lease addendum that they will move at their own expense within 30 days of written notification by management that there is a need for their particular apartment and an appropriate sized apartment is available.

B. *Waiting List Administration*

This community periodically opens the Waiting Lists by bedroom size based on community needs. The community announces the opening of the Waiting List and provides information where and when to apply. The community's Affirmative Fair Housing Marketing Plan, which is available in the rental office, provides further details on the marketing and outreach efforts employed. When the Waiting List applicants exceed the number of vacancies for a specific unit size for the average unit turnover for one year, the Waiting List will be closed. Potential applicants will be notified of the closure, a sign will be prominently posted in the rental office, and no applications will be accepted when the Waiting List is closed.

The applicant is responsible for keeping the community updated with any changes in their contact information. The applicant may designate a third party contact person or agency to contact us on their behalf to provide us with current contact information. Failure of the applicant to provide current contact information will remove the applicant from the Waiting List. Management will typically update the Waiting List every 6 months or at least once a year by contacting the applicant at the last known address requesting an update status. If the applicant does not respond to this update request, management will remove the applicant from the Waiting List. During the status update, management will also request information that helps determine likely eligibility for the housing program; however, eligibility will not be confirmed until the applicant's file has been processed, verified and certified at the time of expected occupancy.

If an applicant on the Waiting List is offered an apartment, they may refuse the offered apartment once and maintain their place on the Waiting List. The applicant will not be contacted again for a 120-day period. If a second apartment is offered and refused, the applicant will be denied unless a valid verifiable medical reason exists.

Vacant units will be filled on an alternating basis between in-place residents requesting transfer and applicants from the external Waiting List as defined in Exhibit F – Transfer Policy. VAWA Transfer Requests and approved Reasonable Accommodation transfer requests will take priority over other in-house transfer requests or applicants on the outside Waiting List. In this manner, management will be able to avoid displacing, through eviction or other actions, current residents whose housing needs have changed since admission. Unit transfer requests will be done in chronological order, based upon the date the Transfer Application was submitted.

IX. Reasonable Accommodation Policy

This community is committed to making the apartment community readily accessible and usable by individuals with disabilities. Property will consider any request by or on behalf of a disabled resident or applicant for:

- a) A reasonable accommodation requesting a change in its rules and/or policies; or
- b) A reasonable modification relating to alteration of the common areas or an individual unit.

Any such request should be made in writing in conjunction with the Reasonable Accommodation Policy (Exhibit E). Requests should be forwarded to the Section 504 Coordinator located at MidPen Housing, 303 Vintage Park; Suite #250, Foster City, CA 94404. If it is not possible to make the request in writing, the Property Community Manager will assist the person making the request and provide the necessary information.

X. Unit Transfer Policy

All unit transfers will be processed in accordance with the Transfer Policy (Exhibit F). No preference will be given to residents wishing to be relocated to other communities owned or managed by MidPen Housing.

Vacant units will be filled on an alternating basis between in-place residents requesting transfer and applicants from the external Waiting List as defined in Exhibit F – Transfer Policy. VAWA Transfer Requests and approved Reasonable Accommodation transfer requests will take priority over other in-house transfer requests or applicants on the outside Waiting List. In this manner, management will be able to avoid displacing, through eviction or other actions, current residents whose housing needs have changed since admission. Unit transfer requests will be done in chronological order, based upon the date the Transfer Application was submitted.

XI. Pet Policy

Pets will be admitted in accordance with the Pet Policy (Exhibit G). Service animals are managed under the Reasonable Accommodation Policy (Exhibit E).

XII. Revision of Resident Selection Criteria

We reserve the right to make modifications to this plan, as necessary. When the plan is revised, the effective date of the new plan will be noted on the cover page. In addition, anytime a new plan is implemented, all applicants on the Waiting List and current residents will be provided with notice that a revised plan is being implemented and that they may request a copy from the management office.

Exhibit A – Community Eligibility- Foon Lok West

This community is funded under the following programs and adheres to all regulatory requirements, income and rent restrictions:

- IRS Section 42 Low Income Housing Tax Credit Program – California Tax Credit Allocation Committee (CTCAC)
- City of Oakland Housing Authority Section 8 Project-Based Voucher Program
- Department of Housing and Community Development (HCD) - No Place Like Home Loan (NPLH)
- California Municipal Finance Authority (CMFA) - California Debt Limit Allocation Committee Bond
- City of Oakland – City Regulatory Agreement
- County of Alameda A1 Bond Agreement
- Federal Home Loan Bank of San Francisco - Affordable Housing Program

To live at Foon Lok West, the applicant must be:

- 18 years of age or older (Head of Household) or legally emancipated;
- For the Project Based Section 8 Voucher program, at least one member of the applicant household must be a citizen or national of the United States, or an eligible non-citizen as defined by HUD (24 CFR part 5, subpart E);
- At or below **20% of AMI**;
- At or below **25% of AMI**;
- At or below **30% of AMI**;
- At or below **50% of AMI**;
- At or below **60% of AMI; (Non PBV Units)** and
- Within the Occupancy Standards for our unit sizes using the chart below.

Occupancy Standards (Non Project Based Section 8 Units)

UNIT SIZE	MINIMUM HOUSEHOLD SIZE	MAXIMUM HOUSEHOLD SIZE
1 bedroom	1 person	3 persons
2 bedroom	2 persons	5 persons
3 bedroom	4 persons	7 persons

Occupancy Standards – Project Based Section 8 Units

- Refer to Exhibit H for occupancy standards and policies for Oakland Housing Authority Project Based Section 8 Units.

Exhibit B -- Community Preferences

City of Oakland Resident/Worker Preferences - Preference will be given on 53 of 64 of the non-Project Based Section 8 Voucher units, as follows:

1. **First Preference: To Displaced Households.** A “displaced household” means a household in which at least one adult member has been displaced from a housing unit in Oakland as a result of any of the following:
 - a. City code enforcement activities, if the displacement has occurred within one year prior to the date of application.
 - b. A City-sponsored or City-assisted development project, if the displacement has occurred within one year prior to the date of application.
 - c. A “no fault” eviction from a rental unit in Oakland, if the eviction was completed eight (8) years or less prior to the date of application. For purposes of this paragraph, a “no fault” eviction means an eviction that is evidenced by an eviction notice from the property owner that does not state cause and that gives the tenant thirty (30) days or longer notice to vacate the unit; a “no fault” eviction shall include, but not be limited to an eviction as a result of an owner move-in under Municipal Code Subsection 8.22.360.A.8 or 8.22.360.A.9, owner repairs under Municipal Code Section Subsection 8.22.360.A.11 or Municipal Code Chapter 8.22, Article III, but shall not be limited only to evictions from units that are covered by any of the above laws. This preference shall apply to the initial rental or sale of a project unit and any subsequent rental or sale of a unit during the applicable affordability period established by the City.
2. **Second Preference (Only applied to 39 of the 53 units): To neighborhood residents.** For purposes of this Section, a “neighborhood resident” means a household with at least one adult member whose principal place of residence on the date of application is either within the Council District where the project is located or within a one mile radius of said project. This preference shall apply to thirty percent (30%) of all units in the project. This preference shall apply only to the initial rental or sale of a project unit after the City’s development assistance has been given to the project.
3. **Third Preference: To Oakland residents and Oakland Workers.** For purposes of this Section, an “Oakland resident” means a household with at least one adult member whose principal place of residence on the date of application is within the City of Oakland. An “Oakland worker” means a household with at least one adult member who is employed by an employer located within the City of Oakland, owns a business located within the City of Oakland, or participates in an education or job training program located within the City of Oakland. This preference shall apply to the initial rental or sale of a project unit and any subsequent rental or sale of a unit during the applicable affordability period established by the City.

County of Alameda Local Preferences – Preference will be given on 11 of 64 non-Project Based Section 8 units to households in which at least one member lives or works in the County of Alameda on the date of the application.

Oakland Housing Authority Local Preferences - Preference will be given on the 65 Project Based Section 8 Voucher units, as follows:

1. **A Residency preference.** Applicants who live or work in the City of Oakland at the time of the application interview and/or applicants that lived or worked in the City of Oakland at the time of submitting their initial application and can verify their previous residency/employment at the applicant interview, qualify for this preference.
2. **A Family preference.** Applicant families with two or more persons, or a single person applicant that is 62 years of age or older, or a single person applicant with a disability, qualify for this preference.
3. **A Veteran.** A Veteran and active members of the military preference.
4. **A Homeless preference.** Applicant families who meet the McKinney-Vento Act definition of homeless qualify for this preference.

After the Oakland Housing Authority preferences above have been exhausted, preference will be given on 15 of the 39 Project Based Section 8 units to households in which at least one member lives or works in the County of Alameda on the date of the application.

Preference for Chronically Homeless – Preference will be given on 26 of the 65 Project Based Section 8 Voucher units to Chronically Homeless households to be referred by Alameda County CES. Priority will be given to referrals currently homeless in the City of Oakland. Second Preference will be given to those households in which at least one member lives or works in the County of Alameda. Eligible applicants must be at or below 20% AMI.

- “Chronically Homeless” for this Program means an adult or older adult with a Serious Mental Disorder or Seriously Emotionally Disturbed Children or Adolescents who meet the criteria below according to 24 Code of Federal Regulations Section 578.3, as that section read on May 1, 2016:
 - a. A “homeless individual with a disability,” as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who
 - i. Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - ii. Has been Homeless and living as described in paragraph (1) (A) of this definition continuously for at least 12 months, or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months, and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1). Stays in institutional care facilities for fewer than 90 days will not constitute a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
 - b. An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for

fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

c. A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been Homeless.

Exhibit C – Income Limits and Rents

Project Based Vouchers – Section 8 Contract Rents

Bedroom	1 BR	2 BR	3 BR
50%	\$1,743	\$2,189	\$3,040

Contract rent without utility allowances

HUD Income Limit Table 1 – Alameda County

HH #	1	2	3	4	5	6	7
50%	\$47,950	\$54,800	\$61,650	\$68,500	\$74,000	\$79,500	\$84,950

Income limits published 4/1/2021

MTSP & MHP/HCD Alameda County Income limit Table 2

HH #	1	2	3	4	5	6	7
20%	\$19,180	\$21,920	\$24,660	\$27,400	\$29,600	\$31,800	\$33,980
30%	\$28,770	\$32,880	\$36,990	\$41,100	\$44,400	\$47,700	\$50,970
40%	\$38,360	43,840	\$49,320	\$54,800	\$59,200	\$63,600	\$67,960
50%	\$47,950	\$54,800	\$61,650	\$68,500	\$74,000	\$79,500	\$84,950
60%	\$57,540	\$65,760	\$73,980	\$82,200	\$88,800	\$95,400	\$101,940

Income limits published 4/1/2021

MTSP Alameda County Rent Limit Table 2

Bedroom	1 BR	2 BR	3 BR
30%	\$770	\$924	\$1,068
40%	\$1,027	\$1,233	\$1,425
50%	\$1,284	\$1,541	\$1,781
60%	\$1,541	\$1,849	\$2,137

Rent limits published 4/1/21

City of Oakland Housing and Community Development Department Income Limit Table 3

HH #	1	2	3	4	5	6	7
25%	\$23,904	\$27,307	\$30,710	\$34,113	\$36,852	\$39,591	\$42,330
30%	\$28,800	\$32,900	\$37,000	\$41,100	\$44,400	\$47,700	\$51,000
50%	\$47,950	\$54,800	\$61,650	\$68,500	\$74,000	\$79,500	\$84,950
60%	\$57,540	\$65,775	\$73,987	\$82,200	\$88,800	\$95,362	\$101,962

Income limits published 8/13/21

**Note All income and rent limits listed above are subject to change.*

Exhibit D – Special Waiting List Policy

N/A

Exhibit E – Reasonable Accommodation Policy

Management recognizes its obligations to reasonably accommodate individuals with disabilities in all phases of its operations. This includes employees, applicants for housing and residents currently in housing operated by MidPen Housing.

The Reasonable Accommodations requirements are expressed in the Fair Housing Act Amendment of 1988 as promulgated by the Department of Housing and Urban Development (24 CFR Parts 14 et seq.) with respect to applicants for occupancy in our housing and current residents of our properties.

In accordance with these regulations, and in recognition of our obligations, MidPen Housing hereby puts forth this Reasonable Accommodations Policy as follows:

1. Management will make reasonable accommodations, which are changes, exceptions, or adjustments to a program, service, building, dwelling unit, or workplace that will allow a qualified person with a disability to participate fully in a program, take advantage of a service, live in a dwelling, or perform a job.
2. Management will make accommodations that are both reasonable and necessary to afford an individual with disabilities equal opportunity. In order to show that a request is necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.
3. Management will determine whether a request for accommodation is reasonable and may propose an alternative that is equally as effective in affording equal opportunity.
4. In order to be eligible for a reasonable accommodation, an individual must be considered disabled as defined by Federal Law. *A person with disabilities is defined as someone who has a physical or mental impairment that substantially limits one or more major life activities; is regarded as having such an impairment; or has a record of such an impairment.*

Major life activities include but are not limited to: seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking and working.

5. Normally a reasonable accommodations request should be submitted in writing, but whenever a resident, applicant, or employee makes it clear that a request is being made for an exception, change, or adjustment to a rule, policy, practice, service, or physical structure because of their disability, management will consider the request. Reasonable Accommodation requests can be made by the person with the disability, a family member, or someone else acting on the individual's behalf.

It is usually helpful for both the individual with the disability and management if the request is made in writing. If the individual with a disability requires assistance in providing a written reasonable accommodation request, management will assist the individual with disabilities with this request.

6. Upon receiving the request, management will attempt to verify that the applicant/resident/employee meets the definition of a person with disabilities listed above,

and needs the accommodation in order to benefit from the programs, or services offered at this community unless the disability is obvious or otherwise known to the provider and the need for the accommodation is readily apparent or known, in which case no verification is required.

7. Management will respond in writing, and in a manner deemed most understandable to the applicant/resident/employee.
8. Management does not, by law, have to honor a reasonable accommodation request that would result in:
 - a. A fundamental alteration in the nature of the program. This means that management does not have to provide services that are not presently being provided. In such case, the individual may obtain the service(s) on their own.
 - b. An undue financial burden. This determination will be made on a case-by-case basis, involving various factors, such as the cost of the reasonable accommodation, the financial resources of the property, the benefits the accommodation would provide the requester, and the availability of alternative accommodations that would adequately meet the requester's disability-related need.
 - c. An undue administrative burden. This means the accommodation would not easily be accomplished with existing staff and would require the hiring of additional staff or would result in a reduction in services to other residents.
9. If an accommodation request falls into one of the three categories in (8) above, management will endeavor to identify an equally effective means of meeting the individual's needs. Reasonable accommodations are based on need, not a preference. Management may also, where a request is denied for reasons permitted by law, allow the individual to make modifications at their own expense.
10. Management will allow assistance and companion animals. Management will verify the need for the assistance or companion animal (unless the need is readily apparent or already known), and the resident is responsible for the conduct of the animal at all times in a manner consistent with the lease.
11. This Reasonable Accommodation Policy also applies to employees with disabilities who meet the definition of disabled contained in this policy. Employees with disabilities shall, subject to the limitation described in (8) above, be eligible for reasonable accommodations that will permit them to perform the essential functions of the job.
12. Consideration of all accommodation requests shall be made on a case-by-case basis.
13. Individuals who believe they have been discriminated against in connection with this policy should contact the Section 504 Coordinator at MidPen Housing, 303 Vintage Park; Suite #250, Foster City, CA 94404.

Exhibit F – Transfer Policy

It is MidPen’s policy to manage our buildings with particular attention and sensitivity to the needs of our residents. Management’s intention is to provide and service quality housing, offer flexibility with regard to changing personal and family needs, and administer our housing programs fairly to everyone. Transfers are made without regard to race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, physical or mental disability, genetic information, age or any other arbitrary personal characteristic.

In-place residents awaiting transfer with an approved Violence Against Women’s Act emergency transfer will have priority and be transferred prior to all other in-place resident transfers and applicants from the Waiting List. Once emergency transfers have been resolved, in-place residents with approved Reasonable Accommodations will be transferred before all remaining in-place residents awaiting transfer or applicants from the community Waiting List. Transfer requests requested as a result of an approved Reasonable Accommodation have priority over all other in-place resident transfer requests and applicants from the external Waiting List. All transfer requests must be made and submitted in writing to management at the site using the **Transfer Request Form**. Transfer requests will be considered in the order received within each category below.

In-place residents with an approved unit transfer request (including approved Reasonable Accommodation requests) may refuse the first unit offered for the transfer. If the resident refuses a 2nd unit, they will lose their current position, and will be taken off the Transfer Waiting List. If they still wish to transfer, they must request a new unit transfer (or a new Reasonable Accommodation request for unit transfer) in order to be placed in the Transfer Waiting List. Extenuating circumstances may be considered to grant an exception to this policy.

Management-initiated transfers for reasons including under-occupancy or over-occupancy of a unit, or a non-disabled household living in a unit designed for a person with disabilities, are NOT eligible to refuse a unit transfer (refer to Waiting List Policy: Admissions).

Transfer Categories

Transfers will be considered for the following reasons:

1. **VAWA Emergency Transfer:** VAWA Emergency Transfers will be made in accordance with MidPen’s VAWA Emergency Transfer Plan (copy of policy available upon request).
2. **Reasonable Accommodation Requests:** Individuals with disabilities may require transfer to a unit designed specifically for persons with disabilities, to a unit that allows them equal opportunity to use and enjoy access to their housing, or to a unit that can accommodate a live-in attendant; this must be approved through the Reasonable Accommodation process.
3. **Change in Household Composition:** Changes such as an increase or decrease in family size may cause a household to be out of compliance with the specific community or program

occupancy standards. Households under or over occupying a unit will be required to transfer to the appropriate sized unit within 30 days of notification of availability.

4. HUD/Tax Credit Compliance: When necessary to remain in compliance with regulatory requirements, residents will be required to transfer to a unit with a specific income set-aside that coincides with household's income.
5. Other Compelling Reason: When management determines that a move is necessary, the reason will be documented, verified and approved by management (either by the Property Manager or Director of Property Operations) prior to initiating the transfer.

Residents who request to transfer under Category 4 must be in good standing and have no serious lease violations.

Good standing is defined as current on all rent and other charges and having no housekeeping deficiencies as verified on the most recent unit inspection.

Serious lease violations include, but are not limited to damage of property, failure to pay rent on a timely basis, and violating the peaceful enjoyment of neighbors.

This policy is subject to revision pending any change to HUD or Civil Rights regulations.

Exhibit G – Pet Policy

A pet is a “small domesticated animal commonly kept in residential settings.”

Pursuant to California Health and Safety Code 50466, a resident will be permitted to own or otherwise maintain one or more common household pets within the resident’s dwelling unit, subject to applicable state laws and local government ordinances related to public health, animal control, and animal anticruelty.

These Pet Rules do not apply to service animals, which are animals specifically trained to aid persons with disabilities. A separate agreement governs those animals.

1. **Inoculation.** Every pet shall be inoculated in accordance with state and local law. Inoculation shall be the responsibility of the Tenant. Inoculations shall be current at all times, and evidence of current inoculation shall be provided to management as soon as the inoculation(s) is/are administered. It shall be the responsibility of the Tenant to provide evidence of inoculation on a timely basis. Failure of management to notify Tenant of the need for inoculation shall in no way relieve Tenant of the responsibility to obtain inoculations for their pet and to provide evidence of same to management. **California State Law states that all dogs and cats over the age of four months must receive the rabies vaccine every 3 years.** MidPen Housing requires the following vaccines:
 - a. Dogs: Rabies, Canine Distemper, Hepatitis, Parvovirus, and Bordatella for animals living in communities with other dogs.
 - b. Cats: Rabies, Feline Distemper, Feline Calicivirus, and Feline Herpes.
2. **Registration.** Pet owners must register their pets with the management before the pet is permitted to be brought onto the property and must update the registration annually. Registration is the responsibility of the Tenant and failure of the management to remind the Tenant of the annual registration does not relieve the Tenant of the responsibility for registration. Pet owner’s failure to register pet may result in a Lease Violation and the animal’s immediate removal from the community. Registration includes the following information:
 - a. Certificate of inoculation.
 - b. Information concerning height, weight, breed and appearance of the pet and confirmation that it is a common household pet – caged bird, fish in a tank not larger than 20 gallons, or cat or dog meeting the adult weight limitation of 30 pounds. Any animals larger than 30 pounds must be permanently removed.
 - c. A picture of the animal.
 - d. Name, address, and phone number of at least one responsible party who will care for pet if owner is deceased or otherwise unable to care for pet.
3. **Pet Size and Type.** Pets shall be limited to common household pets, here defined as a

domesticated cat, dog, or a caged bird – none of which may exceed 30 lbs. when fully grown. No Pit Bulls, Rottweilers, or Doberman Pinschers. Prohibited breeds of birds include Macaws, Cockatoos, Parrots, and Conures. One fish tank may be kept so long as the tank does not exceed 20 gallons. No reptiles or rodents shall be permitted.

4. Number of Pets Permitted. Only one pet is permitted per household. There are no exceptions.
5. Neutering Requirement. Cats and dogs must be neutered before bringing onto the property. Evidence of neutering must be provided to management prior to acceptance/approval of pet.
6. Pet Restraint. All pets shall be on a leash, effectively and appropriately restrained under the control of a responsible household member while in the common areas of the property. Pet restraint includes effective control to insure that pets do not scratch, claw, or bite any person(s) on the property and do not scratch, claw, or bite furniture, walls, doors, plants, and plant materials. Pets shall be on a leash and supervised at all times when outside a Tenant's apartment. Pets shall be restrained in the Tenant's apartment during any inspections.
7. Sanitary Requirements and Standards. The following sanitary standards govern the disposal of pet waste. Failure to comply with these requirements constitutes a violation of the Lease and may result in a requirement to remove pet from premises permanently or termination of the tenant's Lease.
 - a. Pet owners shall immediately and appropriately dispose of pet waste deposited anywhere in the property. Appropriate disposal includes wrapping waste in paper or plastic and depositing in appropriate trash containers. Wrapping or bag must not be wet on the outside when deposited into the trash.
 - b. Pets may under no circumstances be permitted to deposit waste on the lawns, planting areas, flowerbeds, side of buildings or any other area that is not specifically for the deposit of pet waste. Failure to restrain the pet from this activity is a violation of the Pet Rules and will be grounds for removal of the pet from the property.
 - c. Once per day, pet owners shall remove waste from litter boxes and wrap in paper or plastic, immediately depositing same into appropriate trash containers. Wrapping or bag must not be wet on the outside when deposited into the trash.
 - d. At least twice per week, pet owners shall clean birdcages and/or change litter boxes. Refuse shall be placed into appropriate container, immediately depositing same into appropriate trash containers. Birdcage or litter box wrapping must not be wet on the outside when deposited into the trash.
8. Pet Care Standards. The following pet care standards shall be observed.
 - a. Tenants shall not take pets into recreation/community rooms, kitchens, offices, or public restrooms.
 - b. Tenants shall not permit pets to climb or sit on any furniture in common areas.
 - c. Tenants shall control and limit noise and odor caused by pets. Complaints by other Tenants shall result in a Notice of Pet Violation, which must be resolved, or the pet must

be removed from the property.

- d. All pets shall be licensed in accordance with state and local requirements and shall wear appropriate identification at all times.
- e. No pet may be left unattended in a Tenant's unit for extended periods of time.
- f. All pets shall be restrained during unit inspections and when work is performed in the unit.
- g. No Tenant may keep any pet on a temporary basis. "Pet-sitting" shall not be permitted and no visiting pets are allowed.
- h. Pet burials are prohibited within the property.

Exhibit H – Oakland Housing Authority Project Based Section 8 Policy

The following policies will apply to units Project based Section 8 units at Foon Lok West. All Project Based units will be subject to rules and policies as written in the 2019 Oakland Housing Authority Administrative Plan and the Housing Choice Voucher (HCV) Handbook.

1. Identification and Social Security Number Policy

The following will apply to all applicants being processed for an Oakland Housing Authority Project Based Section 8 unit.

Oakland Housing Authority Identification Criteria

OHA Policy

OHA will require families to furnish verification of legal identity for each household member.

Primary Verification Documents	
Verification of Legal Identity for Adults	Verification of Legal Identity for Children
<ol style="list-style-type: none">1. Current, valid driver's license or California identification card or2. Current U.S. passport or3. U.S. Military Identification Cards or4. Permanent Residence ID	<ol style="list-style-type: none">1. Certificate of birth or2. Permanent Residence ID or3. Adoption papers or4. Custody agreement or5. Health and Human Services ID or6. Certified school records

Social Security Numbers for Project Based Section 8 (Oakland Housing Authority)

All family members must provide documentation of a valid Social Security Number (SSN). Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is as follows:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

If a new member is over the age of 18, that person must provide SSN documentation as a part of the eligibility determination and prior to being added to the lease.

Note: The requirements above do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed a SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

HUD permits an exception if a child under the age of 6 years is added to the applicant household within the 6-month period prior to the household's date of admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 calendar days from the date of admission to the program.

HUD further regulates that OHA must grant an extension of one additional 90-day period if OHA determines that, in OHA's discretion, the applicant's failure to meet the first timeline was due to circumstances that could not reasonably be foreseen and were outside the control of the applicant. If the applicant family fails to provide the required documentation within required time period, OHA must deny eligibility of the applicant family.

OHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation and verification, or certification requirements contained in 24 CFR 5.216.

2. **Citizenship or Eligible Immigration Status**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the OHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family

members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit a signed 214 declaration form that claims their status. However, HUD regulations permit OHA to request additional documentation of their status, such as a passport.

Family members who declare citizenship or national status will not be required to provide additional documentation unless OHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with OHA's efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Freely Associated States or FAS are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504]. The FAS are comprised of the Marshall Islands, the Federated States of Micronesia, and Palau.

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. OHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

OHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible non-citizen.

When OHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the OHA. The informal hearing with OHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process.

The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16 of the OHA administrative plan.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the resident family, OHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, OHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

OHA will verify the status of applicants at the time other eligibility factors are determined.

3. **Occupancy Standards**

OVERVIEW

OHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. OHA also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

For each family, OHA determines the appropriate number of bedrooms under OHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when OHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family member who is temporarily away from the home to attend school is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a family that has an additional family member.
- Any live-in aide (approved by OHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size.
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be a one-bedroom unit.
- OHA will assign one bedroom for each two persons within the household, except in the following circumstances:

- The Head of Household, if single, will be assigned their own bedroom and then one bedroom will be assigned for each remaining two persons within the household.
 - Live-in aides will be allocated a separate bedroom.
 - Single person families will be allocated one bedroom.
-
- OHA will reference the following charts in determining the appropriate voucher size for a family:

A family with a Head of Household and no spouse/significant other would be allocated a subsidy size in the following manner:

<u>Family Size</u>	<u>Voucher Size</u>
1	1 Bedroom
2	2 Bedrooms
3	2 Bedrooms
4	3 Bedrooms
5	3 Bedrooms
6	4 Bedrooms
7	4 Bedrooms
8	5 Bedrooms

A family with a Head of Household and a spouse/significant other would be allocated a subsidy size in the following manner:

<u>Family Size</u>	<u>Voucher Size</u>
2	1 Bedroom
3	2 Bedrooms
4	2 Bedrooms
5	3 Bedrooms
6	3 Bedrooms
7	4 Bedrooms
8	4 Bedrooms
9	5 Bedrooms

EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, OHA may grant an exception to its established subsidy standards if OHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR982.402(b)(8)]. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment

- A need for a separate bedroom for reasons related to a family members disability, medical or health condition.
- Enhanced Vouchers due to housing conversion actions including preservation prepayments and Section 8 project-based contract opt-outs (PIH-2016-02)

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability related request for accommodation is readily apparent or otherwise known.

OHA will notify the family of its determination within 15 business days of receiving the families request. If a participant families request is denied, the notice will inform the family of their right to request an informal hearing.

4. **Reasonable Accommodations**

All Project Based Section 8 units are subject to Oakland Housing Authorities reasonable accommodation policies as stated in the OHA administrative plan, chapter 2, part II. Please note that the City of Oakland Housing Authority has a separate reasonable accommodation process. If you are being processed for a Project Based Section 8 voucher, please inquire with the Housing Authority for further information.

5. **Unit Transfer Policy**

For the Project Based Section 8 Units, with approval from the Executive Director of OHA, on a case-by-case basis, OHA may allow inter-program moves and transfers, if there are PBV units or HCV available and the resident is eligible for the relevant program. OHA may also allow participants of local non-traditional programs to transfer to the PBV program provided that the family has met the program guidelines specified in the local program.

- OHA Policy

A PBV site-based waiting list may use the same selection preferences that are used by OHA for the HCV tenant-based voucher program or may establish selection criteria or preferences independently for occupancy of particular units in a PBV development.

OHA may also refer a family to an OHA contracted PBV development where the owner is authorized to administer a PBV site-based waiting list. The owner must

provide the family with absolute preference for the next available appropriately sized PBV assisted unit. A family granted an absolute preference to move is still subject to owner screening requirements and offer of a PBV assisted unit.

Exhibit I – Fair Chance Housing Ordinance

Please see attached Fair Chance Housing Ordinance.

Exhibit J – Mitigating Circumstances Policy

Due to additional requirements provided in Exhibit B, Homeless applications referred through Alameda County CES may be handled separately per the local housing authority, Oakland Housing Authority. Documentation of the existence of special needs may be included with the application. Applicants with problematic tenant or credit histories may request consideration based on disability status and/or issues relating to mitigating circumstances, therefore the above Resident Selection Criteria will be considered in conjunction with the following Mitigating Circumstances Policy.

Mitigating Circumstances Policy

In the event an applicant fails to meet one or more of the Resident Selection Criteria and the application is rejected, management may consider admitting the applicant and approving the application through consideration of mitigating circumstances or by applying reasonable accommodations if requested by applicant. Upon request, an applicant will meet with a consideration committee made up of property management and resident services representatives. Applicant's primary case manager/FSP may also attend the meeting with the consideration committee. During the consideration meeting an applicant will then have the opportunity to explain why their history or credit problem occurred and what has changed so that similar incidents will not recur. Decisions will be based on the committee's assessment of the applicant's ability to comply with the lease.

Mitigating circumstances are verifiable facts that would overcome or outweigh information gathered in the resident selection process. The verifier must corroborate the reason(s) given by the applicant for the disqualifying circumstances, and indicate that the prospect for lease compliance in the future is good because the reason for his/her disqualifying circumstances is either no longer in effect or otherwise controlled.

Available units will not be held open during the consideration process. If a unit is not available at the completion of the consideration process and the consideration is granted, the applicant will be placed on the Wait List.

INTRODUCED BY PRESIDENT PRO TEMPORE
DAN KALB, VICE MAYOR LARRY REID,
COUNCILMEMBER NIKKI FORTUNATO BAS, AND
CITY ATTORNEY BARBARA J. PARKER

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CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

FAIR CHANCE HOUSING ORDINANCE ADDING OAKLAND MUNICIPAL CODE CHAPTER 8.25 PROHIBITING CONSIDERATION OF CRIMINAL HISTORIES IN SCREENING APPLICATIONS FOR RENTAL HOUSING

WHEREAS, mass incarceration is a national crisis and restoring the rights of people affected by mass incarceration is a national priority;

WHEREAS, the U.S. Department of Justice has estimated one in every three adults in the United States has either an arrest or conviction record; and

WHEREAS, the Center for American Progress reports that nearly half of all children in the United States have at least one parent with a criminal record; and

WHEREAS, studies have found that private criminal databases pull source information from inadequate records and lack accountability procedures to ensure that the database records provided to Housing Providers are accurate. Many housing providers in conducting criminal background checks are relying on such inaccurate information in evaluating housing applications; and

WHEREAS, formerly incarcerated persons face barriers to access to both private rental and publicly subsidized affordable housing; and

WHEREAS, homelessness is a critical issue in Oakland and formerly incarcerated people are disproportionately affected by homelessness, which can prevent a formerly incarcerated person from getting a job, from visiting with their children, and from fulfilling other needs that are fundamental to reintegrating with community after incarceration; and

WHEREAS, the unmet housing needs of formerly incarcerated people in Oakland are an acute challenge to the dignity, public health and safety, and equal opportunity for this population and the broader community; and

WHEREAS, research has found that access to housing reduces recidivism, and the lack of housing can be a significant barrier to successful reintegration after incarceration; and

WHEREAS, reliance on criminal history to select tenants impedes formerly incarcerated persons from gaining access to housing in the City of Oakland, to the detriment of health, welfare, and public safety of the City's residents; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Addition of Chapter 8.25, Article I to the Oakland Municipal Code. The City Council hereby adopts the addition of Chapter 8.25, Article I to the Oakland Municipal Code, as follows:

Article I – Ronald V. Dellums Fair Chance Access to Housing Ordinance

8.25.010 – Title, Purpose, and Application

- A. This Article I shall be known as the "Ronald V. Dellums Fair Chance Access to Housing Ordinance" and may be shortened to the "Fair Chance Housing Ordinance." (The term "this Article" and "this Ordinance" may be used interchangeably to refer to the Ron V. Dellums Fair Chance Access to Housing Ordinance as set forth in this Article.)
- B. The purpose of this Article is to limit the use of criminal history in tenant selection policies in order to give previously incarcerated persons or other persons with a criminal history a fair opportunity to compete for rental housing and to be able to reside with family members and others, thus putting them in a better position to reintegrate into the community and to obtain gainful employment. Such housing opportunities should also reduce the incidence of homelessness for persons with a criminal history. Further, the recitals set forth in the adopted form of this Ordinance, are incorporated into this Article as if fully set forth herein.

8.25.020 – Definitions

- A. "Adverse Action" means (1) to fail or refuse to rent or lease Housing to an individual; (2) to fail or refuse to continue to rent or lease Housing to an individual; (3) to reduce the amount or term of any tenant subsidy for Housing; (4) to treat an individual differently from other applicants or tenants such as requiring higher security deposit or rent; (5) to treat an individual as ineligible for a tenant-based rental assistance program, including, but not limited to, the Section 8 Housing Choice Voucher Program, or (6) to fail to permit the addition of a tenant's Close Family Member to occupy a rental unit while the occupying tenant remains in occupancy, based on Criminal History.

- B. "Aggrieved Person" means an Applicant who believes they were subject to an Adverse Action; a tenant who believes they or their Close Family Member was subject to an Adverse Action at their rental unit based on the application of an Applicant to reside in such family member's rental unit; and a tenant who believes they were subject to an Adverse Action based on the application of a person to reside in such tenant's rental unit to replace an existing tenant, add a new tenant, or to sublet.
- C. "Applicant" means a person who seeks information about, visits or applies to rent or lease Housing, who applies for a tenant-based rental assistance program, including, but not limited to, the Section 8 Housing Choice Voucher Program, who seeks to be added as a household member to an existing lease for Housing or, with respect to any Criminal History that occurred prior to the beginning of the person's tenancy, who currently rents or has a lease for Housing.
- D. "Arrest" means a record from any jurisdiction that does not result in a Conviction and includes information indicating that a person has been questioned, apprehended, taken into custody or detained, or held for investigation by a law enforcement, police, or prosecutorial agency and/or charged with, indicted, or tried and acquitted for any felony, misdemeanor or other criminal offense.
- E. "Background Check Report" means any report regarding an Applicant's Criminal History, including, but not limited to, those produced by the California Department of Justice, the Federal Bureau of Investigation, other law enforcement agencies, courts, or by any consumer reporting or tenant screening agency.
- F. "Close Family Member" means a spouse, domestic partner, child, sibling, parent, grandparent, or grandchild.
- G. "Conviction" means a record from any jurisdiction that includes information indicating that a person has been convicted of a felony or misdemeanor or other criminal offense and for which the person was placed on probation, fined, imprisoned and/or paroled.
- H. "Criminal History" means information transmitted orally or in writing or by any other means, and obtained from any source, including, but not limited to, the individual to whom the information pertains, a government agency or a Background Check Report, regarding: one or more Convictions or Arrests; a Conviction that has been sealed, dismissed, vacated, expunged, sealed, voided, invalidated, or otherwise rendered inoperative by judicial action or by statute (for example, under California Penal Code sections 1203.1 or 1203.4); a determination or adjudication in the juvenile justice system; a matter considered in or processed through the juvenile justice system; or participation in or completion of a diversion or a deferral of judgment program.

- I. "Housing" means any residential rental housing, building, or unit, whether legally permitted or not, in the City of Oakland, with the exception of the following:
 - 1. Single-family dwellings where the owner occupies the dwelling as his or her principal residence;
 - 2. A dwelling unit in a residential property that is divided into a maximum of three (3) units, one of which is occupied by the owner as his or her principal residence;
 - 3. Units where the owner has previously occupied the rental unit as his or her principal residence and has the right to recover possession for his or her occupancy as a principal residence under a written rental agreement with the current tenants; and
 - 4. Tenant-occupied units where an occupying tenant seeks to replace an existing co-tenant, add an additional co-tenant, or sublet the unit, provided that the occupying tenant remains in occupancy.

- J. "Housing Provider" shall mean any Person that owns, master leases, manages, or develops Housing in the City. For the purpose of this definition, "Person" includes one or more individuals, partnerships, organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or any political or civil subdivision or agency or instrumentality of the City. In addition, any agent, such as a property management company, that makes tenancy decisions on behalf of the above-described Persons, and any government agency, including, but not limited to, the Oakland Housing Authority, that makes eligibility decisions for tenant-based rental assistance programs, including, but not limited to, the Section 8 Housing Choice Voucher Program, shall also be considered a "Housing Provider".

8.25.030 Use of Criminal History in Housing Decisions

- A. Except as provided in paragraphs B and C of this section, a Housing Provider shall not, at any time or by any means, whether direct or indirect, inquire about an Applicant's Criminal History, require an Applicant to disclose Criminal History, require an Applicant to authorize the release of Criminal History or, if such information is received, base an Adverse Action in whole or in part on an Applicant's Criminal History.

- B. It shall not be a violation of this Ordinance for a Housing Provider to comply with Federal or State laws that require the Housing Provider to automatically exclude tenants based on certain types of criminal history, e.g. Ineligibility of Dangerous Sex Offenders for Admission to Public Housing (42 U.S.C. Sec. 13663(a)) and Ineligibility of Individuals Convicted for Manufacturing Methamphetamine on

Premises of Federally Assisted Housing for Admission to Public Housing and Housing Choice Voucher Programs (24 C.F.R. Sec. 982.553)), provided that if such a requirement applies, the Housing Provider shall not inquire about, require disclosure of, or, if such information is received, review an Applicant's Criminal History until the Housing Provider has first:

1. Determined that the Applicant is qualified to rent the Housing under all of the Housing Provider's criteria for assessing Applicants except for any criteria related to Criminal History;
2. Provided to the Applicant a conditional rental agreement that commits to providing the Housing to the Applicant as long as the Applicant meets the Housing Provider's Criminal History criteria; and
3. Informed the Applicant in advance that the Housing Provider will be checking for certain types of criminal history and requested written consent, or if the Applicant objects provided the opportunity to withdraw the rental application.

The denial of Housing may only be based on State and Federal requirements.

C. In compliance with state law, in order to protect persons at risk pursuant to Penal Code Section 290.46(j)(1), the Housing Provider may review the State registry of lifetime sex offenders operated by the State of California Department of Justice, provided that (1) the Housing Provider has stated the lifetime sex offender screening requirement in writing in the rental application; and (2) the Housing Provider may not inquire about, require disclosure of, or, if such information is received, review an Applicant's Criminal History until the Housing Provider has first:

1. Determined that the Applicant is qualified to rent the Housing under all of the Housing Provider's criteria for assessing Applicants except for any criteria related to Criminal History; and
2. Provided to the Applicant a conditional rental agreement that commits to providing the Housing to the Applicant as long as the Applicant meets the Housing Provider's Criminal History criteria with respect to the registry of lifetime sex offenders.
3. Informed the Applicant in advance that the Housing Provider will be checking the sex offender registry and requested written consent or if the Applicant objects provided the opportunity to withdraw the rental application.

D. If any Adverse Action is based in whole or in part on the Applicant's Criminal History, the Housing Provider shall provide a written notice to the Applicant regarding the Adverse Action that includes, at a minimum, the reason(s) for the Adverse Action; instructions regarding how to file a complaint about the Adverse Action with the City, a list of local legal services providers including contact

information; and a copy of any Criminal History, Background Check Report, or other information related to the Applicant's Criminal History that served as a basis for the Adverse Action. The Housing Provider shall not require reimbursement or payment from the Applicant for providing any Criminal History or Criminal Background Check Report.

8.25.040 Requirements for Housing Providers

- A. It shall be unlawful for any Housing Provider, to produce or disseminate any advertisement related to Housing that expresses, directly or indirectly, that any person with Criminal History will not be considered for the rental or lease of real property or may not apply for the rental or lease of real property, except as required by State or Federal law.
- B. The City shall publish and make available to Housing Providers, in English, Spanish, and all languages spoken by more than five percent (5%) of the City's population, a notice suitable for posting that informs Applicants for Housing of their rights under this Ordinance. The notice shall contain the following information:
 - 1. A description of the restrictions and requirements of this Ordinance;
 - 2. Instructions for submitting a complaint to the City regarding a violation of this Ordinance; and
 - 3. Information about community resources available to assist an Applicant in connection with a violation of the Ordinance.
- C. Housing Providers shall include the notice described in Section 8.25.040.B prominently on their application materials, websites and at any locations under their control that are frequently visited by Applicants.
- D. Housing Providers shall maintain a record of any Criminal History obtained for any Applicant for Housing for a period of at least three years. To the maximum extent permitted by law, any information obtained regarding an Applicant's Criminal History shall remain confidential.
- E. Nothing in this section shall prohibit a Housing Provider from complying with a request by the City to provide records for purposes of demonstrating compliance with the requirements of this Ordinance.

8.25.050 Retaliation Prohibited

It shall be a violation of this Article to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Chapter, or to take any Adverse Action against any Person because the Person exercised or attempted in good faith to exercise any right protected under this Article.

8.25.060 Remedies

- A. Administrative Remedies. For any violation of this Ordinance the City may take the following administrative actions:
1. Issue a civil penalty of up to \$1,000 for each violation.
 2. Recover the costs of any investigation or issuance of civil penalties.
 3. Issue a warning letter and assess costs in lieu of issuing a civil penalty for a violation.
- B. Any Aggrieved Person who believes an Adverse Action was based on a violation of this Ordinance shall have the right to submit a complaint to the City. The City shall review the complaint and any evidence submitted by the Aggrieved Person. The City may, at its sole discretion, conduct an investigation that may include interviewing witnesses, reviewing documents and records, and any other lawful and reasonable investigative actions.
- C. If, upon review of the evidence submitted by the Aggrieved Person and any other evidence discovered during the course of review or investigation, the City finds that a violation occurred, the City may take administrative action pursuant to paragraph A.
- D. All records submitted to or obtained by the City containing any criminal history or background check report of any Aggrieved Person shall be kept confidential to the extent permissible by law.
- E. Penalties and costs assessed under this Ordinance may be recovered by all appropriate legal means including but not limited to civil and small claims action brought by the City.
- F. Civil Remedies. A civil action to enforce the provisions of this Ordinance may be brought by:
1. Any Aggrieved Person;
 2. The City Attorney; or
 3. Any organization that:
 - a. Has tax exempt status under 26 United States Code Section 501(c)(3) or 501(c)(4); and
 - b. Has a mission of protecting the rights of tenants or incarcerated persons in Oakland or Alameda County; and

- c. Will fairly and adequately represent the interests of the Aggrieved Person.
- G. Equitable Relief. Any Housing Provider who commits, proposes to commit, or aids another in committing an act that violates this Ordinance may be enjoined therefrom by any court of competent jurisdiction. The court may also award any further relief it deems proper.
- H. Civil Damages. Any Housing Provider who violates, and any person who aids a Housing Provider to violate, any provision of this Ordinance shall be liable for the following monetary damages:
 - 1. In any action brought by any Aggrieved Person or entity authorized to bring such action under subsection F.3., above, the Housing Provider shall be liable for three times the greater of either: a) actual damages, including damages for mental or emotional distress, b) one month's rent that the Housing Provider charges for the rental unit in question, or c) the HUD Small Area Fair Market Rent of such Rental Unit.
 - 2. The court may award punitive damages in a proper case as set out in Civil Code Section 3294 and pursuant to the standards set forth in that Code Section or any successor thereto, but may not award both punitive damages and treble damages.
 - 3. Attorney's Fees and Costs. The Aggrieved Person or entity authorized to bring such action under subsection F.3., above, may recover costs and reasonable attorney's fees. The Housing Provider may recover attorney's fees if the action brought is found by the Court to be frivolous and without merit.
 - 4. The City Attorney may file an action against a Housing Provider that the City Attorney believes has violated provisions of this Ordinance. Such an action may include requests for civil penalties of up to \$1,000 per violation, equitable relief (e.g., injunctions and restitution), and recovery of costs and reasonable attorney's fees. The City Attorney has sole discretion to determine whether to bring such an action.
- I. Criminal Penalties
 - 1. Infraction. Any Housing Provider who violates, or any person who aids a Housing Provider to violate, any provision of this Ordinance shall be guilty of an infraction for the first offense.
 - 2. Misdemeanor. Any Housing Provider who knowingly and willfully violates, or any person who knowingly and willfully aids a Housing Provider to violate, any provision of this ordinance shall be guilty of a misdemeanor.

J. General Remedies. The remedies available in this Ordinance are not exclusive and may be used cumulatively with any other remedies in this Ordinance or at law.

SECTION 2. Effective Date. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

SECTION 3. Notice to Housing Providers. The City Administer is directed to cause notice of this Ordinance to be mailed to all residential rental property owners, according to the business tax certification records of the Revenue Management Bureau, within 90 days of final adoption of this Ordinance.

SECTION 4. Enforcement. A Housing Provider shall not be liable under Section 8.22.060 for a violation within 180 days after final adoption of this Ordinance, unless the Housing Provider has first received a warning letter from the City regarding a violation of the Ordinance.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 6. CEQA Exemption. This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to, but not limited to, the following CEQA Guidelines: § 15378 (regulatory actions), § 15061(b)(3) (no significant environmental impact), and § 15183 (consistent with the general plan and zoning).

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

FAIR CHANCE HOUSING ORDINANCE ADDING OAKLAND MUNICIPAL CODE CHAPTER 8.25 PROHIBITING CONSIDERATION OF CRIMINAL HISTORIES IN SCREENING APPLICATIONS FOR RENTAL HOUSING

This Ordinance adds a new Oakland Municipal Code Chapter 8.25 that prohibits the consideration of criminal histories in screening applications for rental housing.