

FIRST TIME HOMEBUYERS PROGRAM GUIDELINES
(for Market Rate Units)
Last Revised October 3, 2013

I. Applicant Eligibility

- a. The total household income can be no greater than 120% of area median, adjusted by household size, as published annually by the United States Department of Housing and Urban Development (HUD), unless one of the buyers in the household is an employee of the City of Emeryville.
- b. No individual in the household may have owned a home for past three years unless one of the following criteria is met:
 1. the individual is a single individual or single parent who previously owned a house within the past three years with a previous spouse;
 2. the individual is an employee of the City of Emeryville;
 3. the individual is an employee in the Emery Unified School District; or
 4. the individual previously owned a house with a domestic partner within the past three years but the domestic partnership has been terminated. Proof of the establishment as well as the termination of the domestic partnership as defined by the State of California must be presented to City staff.
- c. Preference will be granted to Emeryville residents (#1), those working in Emeryville (#2), and those living outside Emeryville (#3).
- d. Eligible homes include single family, condominiums, limited equity coop units, and co-housing units. Assistance may be provided for the purchase of duplexes, or a single-family home with a second unit, if both the primary unit and the second unit are affordable to, and occupied by, moderate-income households.
- e. Units shall be owner-occupied.
- f. Underemployed or unemployed borrowers must demonstrate that they have a combination of income and/or assets to purchase at least 50% of the value of the unit. Examples of unacceptable applicants would be students or others in a very low income bracket, whose parents or others are providing the capital or income for a substantial portion of the

purchase price.

- g. Occupancy limits for purchasing unit will be based upon Section 503(b) of the Uniform Housing Code, which specifies allowable minimum and maximum household sizes based upon the number of bedrooms in a unit. Minimum occupancy is one person or the number of bedrooms minus one, whichever is greater. Maximum occupancy of unit is determined as follows: each bedroom may have a maximum of two people, one additional person may live outside of a bedroom within the unit. See table below for occupancy limits by unit type:

Unit Type	Minimum Occupancy/ Maximum Occupancy
Studio	1 Person Minimum/ 2 Person Maximum
1 Bedroom	1 Person Minimum / 3 People Maximum
2 Bedrooms	2 People Minimum / 5 People Maximum
3 Bedrooms	3 People Minimum / 7 People Maximum
4 Bedrooms	4 People Minimum / 9 People Maximum

II. Loan Terms

- a. Deferred payment loan, due upon sale or transfer of property. Recorded as a second deed of trust to the mortgage, unless subordinate to CalHFA High Cost Area Assistance Program (Hicap) or California Housing Assistance Program (CHAP) loans. At the end of the 30-year term, the accrued interest and principal is completely forgiven. Reasonable and customary non-recurring sales costs may be deducted prior to repayment of this loan, if the total outstanding loan balances exceed the current fair market value at the time of sale.
- b. Buyer must provide downpayment funds. Downpayment funds may be from any source other than loan funds, such as borrower's own funds, gift funds, or grant.

- c. Simple fixed interest rate of 75% of the rate of the first mortgage, or 5%, whichever is less, if the property has not appreciated from the date of purchase to the date of repayment. In the event there is no other mortgage on the property aside from the City's loan, the interest rate shall be 3%.
- d. If the property has appreciated from the date of purchase to the date of repayment, Promissory Note and Deed of Trust include Shared Appreciation provisions so that the Agency recoups a percentage of the profit made from selling the home in direct proportion to the dollars loaned at the time of purchase. If the property has depreciated from the date of purchase to the date of repayment, the principal and interest due under the Agency's loan are reduced by a depreciation share. The depreciation share is equal to the appreciation share percentage. The principal and interest due under the City's loan are reduced by an amount equal to the product of the depreciation share multiplied by the depreciation amount.
- e. The First Time Homebuyers Program loan amount will be no greater than the 150% of the buyer's downpayment, with a maximum loan amount no greater than 20% of the price of the home or 20% of the maximum sales price for the unit type (e.g. Studio, 1 bedroom, etc.) as indicated in the current City of Emeryville Housing Affordability Table, whichever is less.
- f. For employees of the City of Emeryville and teachers in the Emery Unified School District, no downpayment is required and the First Time Homebuyers Program loan may be up to 20% of the purchase price of the residence or 20% of the maximum sales price for the unit type (e.g. Studio, 1 bedroom, etc.) as indicated in the current City of Emeryville Housing Affordability Table, whichever is less .
- g. Homebuyers with a rental unit will be required to execute a Rental Restriction Agreement restricting the rent for the rental unit for the duration of the City's loan. Annual reporting of the income from the rental unit will be required. Rental income will not be counted as part of the qualifying income for the homebuyer.

III. Senior Loan Restrictions

- a. The senior purchase mortgage must be no more than a 30-year, fully amortizing fixed-rate mortgage. It may not have negative amortization, principal increases, balloon payments, or deferred interest payments.
- b. The senior mortgage may not be an adjustable rate mortgage.
- c. The maximum total loan to value ratio cannot exceed 98%

IV. Refinance /Short Sale Policy

- a. Borrowers may refinance their first mortgage loans without requiring repayment of the City loan under the following condition: if the new first mortgage is for an amount equal to, or less than, the original first mortgage. All other requirements for senior financing under Section III apply to new first mortgage.
- b. While the City has the ability to require repayment of the City's loan upon refinancing the primary loan, as established in the program's promissory note and deed of trust, the Agency may agree to subordinate to a new first mortgage, under the condition stated above, in order to help borrowers stabilize or reduce their housing costs.
- c. For First Time Homebuyers Program loan recipients who own property in the Watergate development, borrowers may refinance their first mortgage loans, or take out a new equity loan, through a private mortgage lender to cover the cost of the special assessment (levied by the Watergate Community Association in the year 2000), plus any non-recurring closing costs.
- d. For First Time Homebuyers Program loan recipients who own property in the Emery Bay Village development, borrowers may refinance their first mortgage loans through a private mortgage lender to cover the cost of the special assessment (levied by the Emery Bay Homeowners Association in September 2004), plus any non-recurring closing costs.
- e. The City will consider approving a short sale on the loan, based on an appraisal or other documentation of recent comparable sales data to determine the fair market value of the property. Non-recurring seller's costs and a reduced total real estate broker's commission of 5% may be deducted prior to the repayment of the City's loan.

V. Owner-Occupancy Waivers

- a. Owner-occupancy waivers for more than a year shall only be granted, in no more than one-year increments, if the current documented fair market value of the property is less than the outstanding balance on the first mortgage lien, if the property is in foreclosure, if litigation related to the development precludes a first time homebuyer from obtaining mortgage financing, or if the program participant or member of the program participant's household is on active military duty.
 - 1. Owner-occupancy waiver recipients requesting an extension to the owner-occupancy waiver must have made the request and provided supporting documentation at least 60 days prior to the expiration of the owner-occupancy waiver period. If the extension is granted, the property may be rented during the City-approved owner-occupancy

waiver period.

2. At the end of the owner-occupancy waiver period, if the unit owner does not reoccupy the unit, the City's loan must be repaid.
- b. Program participants who have purchased a principal residence elsewhere shall not be eligible for owner-occupancy waivers.
- c. Owner-occupancy waiver recipients shall provide copies of executed lease/rental agreements to the City for the entire rental period.

VI. Home Buyer Training

- a. Borrower is required to provide certification of completion of a home buyer training prior to the close of escrow. Homebuyer education course must be certified by HUD, and issue certificates of completion.