

Multifamily Tax Exemption Compliance Manual

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<i>(Please refer to direction issued on 6/12/2019, effective 6/17/2019, available on our website.)</i>		
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I. MFTE Compliance Overview

Multifamily Tax Exemption Period and Compliance Period

The Multifamily Property Tax Exemption (MFTE) Program provides a tax exemption on the residential improvements of multifamily projects in exchange for setting aside 20% of the units as income and rent restricted. By participating in the program, property owners commit to a Compliance Period in return for a Tax Exemption Period.

While there is substantial overlap between the Tax Exemption and Compliance Period, the two are not synonymous. The periods are defined as follows:

- **The Multifamily Tax Exemption Period (Tax Exemption Period)** begins on January 1st of the calendar year following the issuance of the Final Certificate of Tax Exemption, and ends on December 31st of year the twelfth calendar year. During this period, the property receives a tax exemption on residential improvements.
- **The Multifamily Tax Exemption (MFTE) Compliance Period (Compliance Period)** begins on the date of the application for the Final Certificate of Tax Exemption and ends on December 31st of the 12th year of the Tax Exemption period.
 - Note that if a household income qualifies and anticipates occupying an MFTE unit on or before 12/31 in year 12 of the Multifamily Tax Exemption Period for, the property must honor the affordable rent even if the lease period falls outside of the MFTE compliance period.

MFTE properties must make all efforts to lease designated MFTE units to income eligible households during the Compliance Period. Typically, this will require leasing units to income qualified tenants at affordable rents prior to applying for the Final Certificate of Tax Exemption. This ensures that the designated units are in compliance at the beginning of the Compliance Period.

Initial Designation of MFTE Units

Per the Multifamily Housing Limited Property Tax Exemption Agreement, a property may request a Final Certificate of Tax Exemption (MFTE) only once all affordable units have been designated, whether rented or held vacant to be rented by income eligible households, and the Office of Housing (OH) has been provided with rents (or offering rents) and application and lease materials. This requirement means that all MFTE units must be designated prior to applying for the Final Certificate, and all households living in an MFTE designated units prior to applying for the Final certificate must be income verified prior to leasing a unit.

MFTE Unit Mix

The MFTE program requires that 20% of all residential units are designated as affordable. OH multiplies the total number of units at the project by 20%, rounding up the required number of MFTE units if there is any fraction of a unit (e.g., 21.2 units is rounded to 22 units). Units are then distributed proportionally across the unit types available. For example, in a 120 unit property of 20 studios, 40 1BR units, and 60 2BR units, MFTE would require that 4 studios, 8 1BR units, and 12 2BR units are income and rent restricted. Property

management may designate as MFTE any unit meeting the unit mix criteria, provided the following considerations are taken into account:

- MFTE units cannot be concentrated on one floor of a multi-floor building.
- For properties with multiple buildings, MFTE units cannot be concentrated in one building.
- MFTE units must not be concentrated in an area of the building that is less desirable, such as facing an alley or a noisy street or land use.
- MFTE units must have substantially similar amenities as market rate units in the building.
- MFTE units must not all be the smallest units of that bedroom type.

Income and Rent Restrictions

All MFTE units are income and rent restricted at a given percentage of the Area Median Income (AMI). The AMI% is determined by two factors- the type of unit (Studio, 1BR, etc.) and the period in which the owner/applicant applied to the program to receive the tax exemption. Refer to your Multifamily Tax Exemption Agreement for more information on which AMI percentages apply to units at your property, or housing@seattle.gov, 206-684-0721 with your property name and address.

MFTE Programs and Associated Affordability Requirements 1998-2015

	Max Duration	Units Setaside as Affordable	Unit Type	Multi-family	Home-ownership
Program 1 1998-2002 SMC 5.72	10 years	25%	Studios	80%	80%
			1-Bedroom		
			2-Bedroom		
Program 2 2004-2008 (3 options) SMC 5.73	10 years	20%	Studios	60%	80%
			1-Bedroom	60%	
			2-Bedroom	60%	
		25%	Studios	65%	
			1-Bedroom	65%	
			2-Bedroom	65%	
		30%	Studios	70%	
			1-Bedroom	70%	
			2-Bedroom	70%	
Program 3 2008-2010 SMC 5.73	12 years	20%	Studios	80%	100%
			1-Bedroom	80%	100%
			2-Bedroom	90%	120%
Program 4 2011- SMC 5.73	12 years	25%	SEDU	40%	
		20%	Studios	65%	100%
			1-Bedroom	75%	100%
			2-Bedroom	85%	120%

“Floating” MFTE Unit Designations

The MFTE unit designation may “float” during the Compliance Period. For example, at lease-up, unit 101 is designated for MFTE and a household qualifies and resides in the unit for two years. Upon move out, unit 101 and another unit, 207, are both available. Both are substantially similar, so unit 207 could be designated as the MFTE unit in place of 101. Alternatively, if the market rate household in unit 207 did not move out and met the

income criteria of the MFTE program, they could income qualify and have their unit designated as the MFTE unit once 101 moves out.

The MFTE unit designation cannot float from one household to another while the initial qualifying household is still present. Under current program rules, once a household income qualifies, it keeps the MFTE designation until move-out, and has the first right to requalify if the household size increases in the first six months of the initial lease or transfers to a unit with a lower AMI%.

Advertising Units

OH maintains lists of all properties that have approved applications to the MFTE program and regularly responds to prospective applicants' requests for information on active and upcoming properties. While there are no program advertising requirements, OH requests that units be listed specifically as participating in the MFTE program to aid potential applicants in their search. OH also recommends advertising on www.housingsearchnw.org to reach low to moderate income applicants that will likely qualify for the program. Properties are encouraged to update MFTE staff when any leasing or pre-leasing activities are scheduled to begin.

Change of Ownership or Property Management

Owners must communicate with OH prior to any transfer of ownership or change in property management companies. Similarly, property management companies must update OH with current contact information should positions change.

II. MFTE Income Verification

Please refer to direction issued 6/12/2019, effective 6/17/2019, available on our [website](#).

III. MFTE Rent Calculation

Calculating the MFTE Rent

Maximum rents for the MFTE program are calculated yearly by the Seattle Office of Housing based on income limits provided by HUD. Starting in 2015, HUD is expected to publish income limits in February or March of each year, and the Office of Housing will calculate rents soon after their release. **The rent limit that will be associated with the unit for the duration of the lease is the one that is effective at the time of the anticipated first day of occupancy.** Upon lease renewal, the property may adjust the rent to the maximum effective at that time, provided that the limit has increased. Month-to-month leases can use the most current effective rents after the first full month following the notice of the increase to the tenant. For example, if the effective date for the new MFTE rent limit is April 1st, and a month-to-month tenant is notified on the April 15th of a potential rent increase, the new MFTE rent can be used starting June 1st, one full month after the notice.

The Office of Housing publishes maximum MFTE rent tables on our [website](#) annually. Note that the figures provided on the table represent maximum gross rents, and are not necessarily what the property can charge the tenant. This is due to the fact that the definition of rent in MFTE includes all mandatory recurring housing costs that are a condition of tenancy. The maximum gross rent therefore takes into account utilities paid by the tenant (in the form of a utility allowance), renters insurance if required, and any non-optional fees, to determine the actual rent that may be charged by the property.

It is important to incorporate the utility allowance and all mandatory recurring fees into the rent calculation to avoid overcharging MFTE tenants. Failing to incorporate required renters insurance and the Sewer Capacity Charge are the most common errors in calculating rents. If OH discovers that one or more tenants is charged a gross rent that exceeds the maximum allowable, a reimbursement will likely be required for the property to continue to be in compliance with its MFTE Agreement. If there is any question as to whether rents are being calculated correctly, contact the Office of Housing at housing@seattle.gov, 206-684-0721.

Utility Allowances

If an MFTE tenant is expected to pay for any portion of their utilities, they must receive a utility allowance.

[Utility Estimate Schedules](#) are updated approximately every two years by the Seattle Housing Authority and are the basis for utility allowances adjustments that are required to be deducted from the maximum gross rent charged under MFTE program rules.

While a 3rd party billing service may be used, or the property may otherwise bill the tenant for utilities, tenants who pay out of pocket for utilities must receive a utility allowance. The utility allowance will be received by the tenant as an adjustment to the maximum rent chargeable in all cases. For example, if a tenant moves into a studio unit after July 1st, 2015, and they are expected to pay for all utilities, the maximum rent charged would be \$1,020(max rent)- \$125 (utility allowance)= **\$895**.

The Office of Housing will send out a notice to all property management contacts when the utility allowance changes- owners and property managers are expected to use the new allowance whether or not they receive notice. The Office of Housing recommends checking in with the Seattle Housing Authority website at least once every 90 days to see if limits have been updated.

New utility allowances must be implemented immediately for new residents after the effective date and within 90 days of the effective date for existing residents. Utility allowance increases will often require an adjustment (decrease) to rents, even if mid-lease. There is no conflict with the Landlord Tenant Act provided the tenant agrees to the change in terms.

The King County Sewer Capacity Charge and similar charges do not meet the definition of being a utility consumed by the tenant, and are therefore not covered by the utility allowance. While the fee may be passed on to the tenant, it must be deducted from the maximum gross rent in addition to any required utility allowance adjustment. The Sewer Capacity Charge is separate from wastewater treatment, which is usually billed by the Seattle MFTE Compliance Manual

gallon- wastewater treatment is covered by a corresponding utility allowance, if charged to the tenant. More information about the Sewer Capacity Charge can be found [here](#).

For example, if the maximum rent allowable under MFTE is \$1,020 (max rent) - \$125 (utility allowance) -\$35 (Sewer Capacity Charge), the rent that could be charged would be \$860.

Recurring Fees

The MFTE program counts as rent all mandatory recurring fees that are a condition of tenancy. These fees, regardless of who collects them, count as rent towards the maximum gross rent allowable. Common examples of mandatory recurring fees are renter's insurance, King County Sewer Capacity Fee, required parking or amenity fees, etc.

Optional Fees

The MFTE program does not count as rent any optional recurring fees that are not required as a condition of tenancy. Common examples of optional fees are pet fees, optional parking spaces, or optional recreational amenities. To be considered optional, the tenant must have a reasonable alternative available and the ability to turn down the fee and reside at the property.

One-time Fees

MFTE is silent on one-time fees, however, all fees charged to MFTE tenants must be customary, reasonable, and similar to fees charged to market rate tenants. There can be no additional fees charged for covering the administrative aspect of the MFTE program.

Required Lease Provisions

The lease or a lease addendum for MFTE units should clearly state the following:

- All one-time fees and recurring fees, and whether they are refundable or non-refundable, required or optional
- All utilities paid for by the tenant and the method through which they are expected to pay (directly, through 3rd party, etc.)
- Whether renter's insurance is recommended, required, or not required to live at the property
 - Note- If renter's insurance is required, the rent must be adjusted accordingly regardless of who collects the premium
- The final rent amount, adjusted by the utility allowance and presence of any recurring fees that are a condition for living at the property

- Subleasing is strictly prohibited in MFTE and this should be stated in the lease or lease addendum. **MFTE units are intended for residential use by the income eligible occupant only.** Receiving income from renting the unit, whether directly by the tenant or through a service such as AirBnB, may result in loss of MFTE status for the unit.
- Month-to-month lease fees may be charged, however, the rent cannot go over the maximum gross rent allowable by MFTE.

The full lease must be signed by the tenant and property management/owner agent before the tenant occupies an MFTE designated units. All fees and charges must be in writing in either the lease, lease addendum, or a notice on company letterhead. All documentation must be made available to the Office of Housing upon request and within a reasonable timeframe.

IV. MFTE Property Reporting

Properties participating in the MFTE program are expected to submit compliance reports at lease-up and annually for the duration of the Compliance Period. Lease-up and Annual Property Compliance Reports will only be accepted electronically in the original Excel format. A scanned copy of the Annual Report Certification containing the owner's signature should be emailed to the Office of Housing.

Lease-up Reporting

At or after the application for the Final Certificate of Tax Exemption, the property owner and/or manager is encouraged to submit a Lease-up Report. The Lease-up Report uses the same reporting form as the Annual Property Compliance Report, and will contain the same information. The due date is dependent on when MFTE units are fully leased:

- If 100% of MFTE units are leased prior to the property applying for the Final Certificate of Tax Exemption, the Lease-up Report will be due with the application.
- If 100% of MFTE units are leased after the application for Final Certificate of Tax Exemption, the report will be due within two weeks.
- If 100% of MFTE units have not been leased-up by January 15th of the first year of Tax Exemption, the report is due no later than January 31st of the Tax Exemption Period regardless of the percentage of MFTE units that have been leased.

Annual Property Compliance Reporting

Owners and/or property managers must submit the Annual Property Compliance Report to the Office of Housing each year by October 31. The report covers all rental activity at the property for the period of October 1 of the previous year to September 30th of the current year, and the information presented must be able to be corroborated by the tenant files located on-site.

The Annual Property Compliance Report will be reviewed by OH staff within three months of the October 31st report due date (November 1st – January 31st). During this time, staff will make a determination of compliance with program requirements based on a review of the report(s) that, at minimum, addresses the following criteria:

- On-site MFTE designated units corresponds with the required MFTE unit mix during the reporting period.
- MFTE designated units should not be concentrated in one building on a multiple building property.
- MFTE units are comparable to the market rate units of a similar type in terms of quality and amenities.
- Household incomes fall under the correct Area Median Income percentage (AMI%) and are adjusted for household size.

The Property will receive a Performance Letter detailing any findings, areas of concern and follow up necessary.

V. On-site File Review

The Office of Housing will schedule the first on-site tenant file review within the first six months of the Multifamily Tax Exemption Compliance Period. The primary purpose of this initial file review is to ensure that new properties are correctly qualifying and documenting income eligible households. Deficiencies will be corrected earlier on related to:

- Tenant backup documentation
- Inconsistencies with annual report
- Incorrect income verification determinations

Projects will then be placed on a review cycle dependent on level of compliance and accuracy of annual report and initial on-site file review, at OH's discretion. Criteria used to determine the on-site review cycle appropriate for an individual property includes, but is not limited to:

- Failing to submit Lease-up Report
- Lease-up Report submitted does not reflect tenant files (if requested)
- Failing to income verify MFTE units
- Tenant files missing required supporting documentation
- Failing to properly designate appropriate number of MFTE units and leasing to market rate, non-MFTE tenants.
- Unit mix differs from what is called for in the agreement
- MFTE units are substantially different in quality or amenities than market rate units
- Units are segregated to one area of the building/property
- Failing to charge rents to MFTE tenants that are at or below the maximum allowable

If issues arise during the course of the year, an interim on-site reviews or request for tenant file documentation may be required as often as the MFTE program staff deem necessary to ensure compliance with the Multifamily Tax Exemption Agreement

On-site Review Scope

- For the first on-site review (occurring in first 6 months), all MFTE tenant files will be reviewed.
- For in-cycle on-site reviews, a minimum 50% or 15 current MFTE tenant files will be reviewed, whichever is higher. For properties with less than 15 MFTE units, all MFTE tenant files will be reviewed. The Office of Housing may review more files at their discretion, but not less.
 - Interim on-site files reviews do not require that a minimum number of current tenant files be reviewed.
- In cases where a percentage of MFTE units are reviewed, a representative sample of units will be chosen through a random sample stratified by unit type (studio, 1 bedroom, 2 bedroom, etc.).

On-site File Compliance Review

Property Managers must have the following documents available on site:

- All current MFTE resident files, containing:
 - A signed REA on file that demonstrates the household has declared all sources of income
 - Income verification forms that support the income disclosed in the REA
 - A signed HEC that shows all final figures from the income verification process
- All current MFTE resident leases
- Copy of current lease template and addendums given to residents
- All files for MFTE applicants that were denied (did not income qualify or were otherwise turned down)
- **While properties were encouraged to use WSHFC's compliance forms in the past, these forms are required as of 10/1/2015. As long as adequate income documentation is available for units leased prior to this date, there is no need to request additional documentation from current tenants. Please collect this documentation going forward.**

The on-site tenant file compliance review will focus on the following areas:

- Household incomes in MFTE designated units incorporate all sources of income, as evidenced through Resident Eligibility Application or equivalent
- Required forms of income documentation are available in files
- Correct # of MFTE affordable units
- Correct unit mix (by bedroom type)
- Correct income and rent maximums are used
- MFTE units are well distributed throughout the building and there is no identifiable MFTE "wing"
- Units are correctly designated by bedroom type in accordance with MFTE program interpretation of bedroom type based on floorplan at Final Certificate of Tax Exemption
- Utilities are being deducted appropriately in accordance with SHA utility schedule

- Obtain lease/addendum backup for utility allowances
- Mandatory fees are being accounted for in the rent calculations
- Most recent report (Lease Up or Annual) information is accurate based on contents of tenant file
- Annual reports submitted to OH should reflect documentation available in the HEC.

Compliance Questions?

All questions related to MFTE project related compliance should be directed to the City of Seattle Office of Housing, housing@seattle.gov, 206-684-0721.