



Portland Housing Bureau

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Proposed Administrative Rule Changes to Portland Policy Document HOU-3.04.VII.B. For-sale units

Language to be **added** is underlined

Language to be **deleted** is shown in ~~strikethrough~~

B. For-sale units

For developments that will sell IH Units as condominiums for homeownership opportunities (“IH Homeownership Units”), the following restrictions apply:

1. ~~Sale price cap. For sale IH Units must sell for less than the sale price cap established annually by PHB, both at the initial sale and for any subsequent sales during the affordability period set forth in the Regulatory Agreement. Condominium units must be sold at no more than the higher of the annually calculated amount affordable to a household earning 80 percent of AMI or 50 percent of the market price of other units, as supporting by a market comparison study.~~
2. ~~First right of refusal. The Regulatory Agreement will provide that PHB has a right of first refusal (or an equivalent right) to purchase the IH Units.~~
3. ~~Homebuyer income verification. All homeownership IH Units will be sold to buyers meeting the affordability requirements. Homebuyers (who will be both on title to the property and occupying the home) must earn no more than 80 percent of AMI. Measurement of income is determined using the U.S. Department of Housing and Urban Development’s, or its successor agency’s annually published Median Family Income and Rent chart for the Portland Metropolitan Area.~~
 - a. ~~Homebuyers must submit a verification form and supporting documentation at least 10 business days prior to closing on the home purchase and must not close without PHB review and response. The verification form must be signed by all homebuyers; income documentation should be submitted for all homebuyers who will both be on title to the property and living in the home.~~
 - b. ~~Supporting income documentation includes the last two years of W2s, the most current month’s worth of paystubs, and documentation of any additional income received such as social security, child support, alimony, or unemployment; self-employed homebuyers must submit two years of filed federal tax returns with all schedules and a current year to date profit and loss statement. PHB may require additional documentation in order to fully verify current income of the homebuyers including letters of~~

explanation or affidavits.

4. Owner occupancy. Homebuyers must occupy the IH Unit as their primary residence. After initial sale, the IH Unit must be owner occupied (or listed for sale and vacant) throughout the affordability period. Homeownership IH Units may not be rented at any time (both prior to initial sale and after initial homebuyer qualification); IH Units which are rented are subject to a penalty as described under Remedies below, and removal of any incentives.

5. Verification of closing. Homebuyers must send PHB documentation of the final sale price and title holders within 30 days of closing by submitting a copy of the recorded Warranty Deed or the Final HUD-1 Settlement Statement.

1. **Eligibility.** Applicants for IH Homeownership Units must meet the following requirements to participate:
 - a. Be a first-time homebuyer as defined by not holding title to real property in the last three (3) years.
 - i. Exceptions to the first-time homebuyer rule:
 1. Head of household is a survivor of domestic violence
 2. Head of household is a single parent with primary custody of dependents
 3. Buyers may not currently be on title to a property
 - b. Applicants may submit a request for a waiver of the first-time homebuyer rule to the bureau director
 - c. Must income qualify at time of application based on household income at or below:
 - i. 80% MFI for a 60% MFI development option IH Homeownership Unit
 - ii. 100% MFI for an 80% MFI development option IH Homeownership Unit
 - d. Not hold liquid assets after closing that total more than \$20,000
 - i. Applicant may submit a request for a waiver of the asset rule to the bureau director
 - e. Must maintain the IH Homeownership Unit as the applicant's primary residence throughout the ninety-nine (99) year affordability term
 - f. Attend a PHB approved, HUD-certified homebuyer education course prior to loan closing. PHB strongly suggests that applicants attend the homebuyer education course in person.
2. **Income verification.** IH Homeownership Units must be sold to buyers earning no more than 80% MFI for a 60% MFI development option or 100% MFI for an 80% MFI development option as determined using HUD's annually published Median Family Income and Rent chart for the Portland Metropolitan Area. PHB may require additional documentation to fully verify current income of the homebuyers including letters of explanation or affidavits.
 - a. **Income documentation.** Documentation to verify income includes but is not limited to: last two years of W-2s, most recent thirty (30) days-worth of paystubs, and any social security, child support, alimony, and unemployment currently being received. Income

- documentation should be submitted for all homebuyers who will be on title to the property.
- b. **Self-employed buyers.** Self-employed homebuyers must submit the last two years of federal tax returns with all schedules and a current year-to-date profit and loss statement in addition to applicable household income.
 - c. **Document submission.** Homebuyers must submit a verification form and income documentation at least 30 days prior to closing on the home purchase and must not close without PHB review, response and approval. The verification form must be signed by all homebuyers.
 - d. **Verification of closing.** Lender must send PHB documentation of the final sale price and title holders within thirty (30) days of closing by submitting a copy of the recorded Warranty Deed or the Final HUD-1 Settlement Statement. Real estate agent and homebuyer must coordinate the signing of mortgage documents with the IH regulatory agreement and PHB.
 - e. **Cash purchases.** Cash purchases of IH Homeownership Units are not allowed.
 - f. **Cosigners.** Cosigners that will not be occupying the unit as their primary residence are not allowed.
3. **Primary residence.** Purchasers of IH Homeownership Units must maintain the IH Homeownership Unit as their primary residence. The IH Homeownership Unit must be owner occupied or listed for sale and vacant throughout the ninety-nine (99) year affordability period.
- a. **Primary residence exception.** Active service members who are called for tour of duty may apply to PHB for an exception to rent their IH Homeownership Unit. Active service members applying for a rental exception must submit the following information to PHB:
 - i. Documentation indicating the length of tour at least thirty (30) days prior to their deployment
 - ii. Documentation of renting their IH Homeownership Unit to an income qualified tenant, earning no more than 80% MFI
4. **Renting IH homeownership units.** Owners of IH Homeownership Units may rent a single room in their IH Homeownership Unit. IH Homeownership Units that are rented without the homeowner occupying the IH Homeownership Unit as their primary residence are subject to the penalties described in B.21.b, Penalties: Homeowner.
5. **Initial sale price.** IH Homeownership Units selling for the first time must follow the formula established for generating the Initial Sale Price. The formula includes the following information and assumptions:
- a. Actual IH Homeownership Unit bedroom count used with household size as determined by HUD's Median Family Income and Rent Chart at:
 - i. 60% MFI for a 60% MFI development option, or
 - ii. 80% MFI for an 80% MFI development option
 - b. Monthly mortgage payments at 30% of household income, inclusive of:
 - i. Principal and interest. Mortgage assumptions for calculating the principle and interest payment:

1. 30 year, fixed rate FHA mortgage. Interest rate is established at PHB point of approval to permit
 2. 3.5% down payment
 - ii. Property taxes based on the MULTE tax exemption annual average from the previous year
 - iii. Monthly homeowner association fees
 - iv. homeowner's and mortgage insurance
6. **Resale price.** Subsequent sales of IH Homeownership Units will use a resale price formula based on changes in MFI. The Maximum Resale Price uses the Initial Sale Price formula as a base for calculation. Approved credits from Special Assessments and Capital Improvements, Section B.13. Major Improvements, will be added to the product of the resale price to determine the Maximum Resale Price. At the time of sale, homeowners may list the IH Homeownership Unit for the Maximum Resale Price, however, they are not guaranteed this price.
7. **Sale or Transfer.** For the purposes of this policy, the terms "sale", "sell, and "transfer" refer to conveying the IH Homeownership Unit or interest in the IH Homeownership Unit between parties and are used interchangeably. The following shall all be considered a sale of the IH Homeownership Unit:
 - a. Selling the IH Homeownership Unit to an eligible buyer as defined in Section B.1.
 - b. Selling the IH Homeownership Unit to a buyer under one of the waiver processes
 - c. Transferring the IH Homeownership Unit in to a trust
 - d. Filing for bankruptcy
 - e. Short sale
 - f. Foreclosure
 - g. Adding or removing a name from the title
8. **Intent to sell.** Owners of IH Homeownership Units must notify PHB of their intent to sell in writing at least 30 days prior to placing the IH Homeownership Unit on the market for sale or before entering in to a contract with another party. Refer to Section B.23, Communication, for contact and mailing address. Homeowner's that do not inform PHB of their intent to sell as described by this rule may be subject to the penalties listed under Section B.20.b, Penalties: Homeowner.
9. **First right of refusal.** The Inclusionary Housing Second Mortgage Documents will provide PHB with the first right refusal to purchase IH Homeownership Units intended for sale throughout the duration of the IH Homeownership Unit's affordability period, however, the City is not obligated to purchase any IH Homeownership Units.
10. **Inspection.** Prior to the sale of an IH Homeownership Unit, the seller or buyer must order a home inspection to be performed by a certified home inspector. Seller or buyer must provide documentation to PHB that the inspection has been performed.

11. **Appraisal.** Prior to the sale of an IH Homeownership Unit, the IH Homeownership Unit must receive an independent appraisal that will be reviewed and approved by PHB. Appraisers must be certified and licensed in the State of Oregon.
12. **Property tax assessment.** It is the intention that the property taxes for IH Homeownership Units will be assessed at their restricted value for the duration of the ninety-nine (99) year affordability period.
13. **Major improvements.** Special assessments and capital improvements are major improvements that promote the health, safety and efficiency of the IH Homeownership Unit. Payments made by the homeowner in these instances will be credited on top of the Maximum Resale Price at the time of sale. The price cap for capital improvements will not exceed ten (10) percent of the resale price. There is no price cap for special assessments.
 - a. **Special assessments.** Special assessments initiated by a Homeowner's Association are considered major improvements and will be added to the maximum resale price of the IH Homeownership Unit at the full amount of the assessment paid by the homeowner. To receive credit for the special assessment the homeowner must submit within six (6) months of payment:
 - i. The invoice for the special assessment and
 - ii. proof of payment, such as a cancelled check, bank account statement, or credit card statement
 - b. **Capital improvements.** Credits for eligible capital improvements of IH Homeownership Units may be applied no sooner than 10 years for new construction after the unit is first occupied.
 - i. **Eligible improvements.** Eligible improvements include structural system upgrades related to increasing the health, safety and energy efficiency of the unit. Improvements in the major category will be credited 100%. Eligible major improvements are:
 1. Major upgrades to electrical and plumbing systems, outside of the system improvements by the homeowner's association
 2. Room additions
 3. Removal of toxic substances
 4. Upgrading to double pane windows
 5. Upgrading to new Energy Star Built-In appliances purchased within the twelve (12) months of placing the IH Homeownership Unit for sale
14. **Refinancing.** Owners of IH Homeownership Units may apply to refinance their mortgages under "rate and term refinancing" and "cash out refinancing". Lenders must extend equity cash out based on the increase in equity between the original restricted purchase price and the restricted maximum resale value of the IH Homeownership Unit as determined and approved by PHB. There are no restrictions on the use of funds.
15. **Home equity loan and home equity line of credit.** Owners of IH Homeownership Units may apply for a home equity loan or a home equity line of credit. Lenders must extend equity based on the

increase in equity between the original restricted purchase price and the restricted maximum resale value of the IH Homeownership Unit as determined and approved by PHB. There are no restrictions on the use of funds.

16. **Inability to sell.** Following the initial sale of an IH Homeownership Unit, owners must make a good faith effort for twelve (12) months to sell their IH Homeownership Unit within the program guidelines. If an eligible buyer cannot be found under the IH Homeownership program guidelines the owner can take the following actions in order:
- a. After twelve (12) months of active listing and marketing to buyers at or below the qualifying income from Section B.1, Eligibility, and the owner cannot find an eligible buyer, the owner may submit a request to PHB to sell the IH Homeownership Unit at or below the Maximum Resale Price to a buyer earning:
 - i. 100% MFI for a 60% MFI IH Homeownership Unit
 - ii. 120% MFI for an 80% MFI IH Homeownership Unit
 - iii. Buyer is obligated to the parameters of the IH program and the regulatory agreement for the duration of the affordability term.
 - b. After twelve (12) months of active listing and marketing to a buyer at or below 100% MFI for a 60% MFI IH Homeownership Unit or 120% MFI for an 80% MFI IH Homeownership Unit and the owner cannot find an eligible buyer, the owner may submit a request to PHB to sell the IH Homeownership Unit at or below the Maximum Resale Price to a buyer that does not meet the homebuyer eligibility guidelines outlined in Section B.1, Eligibility. Buyer is obligated to the parameters of the IH program and the regulatory agreement for the duration of the affordability term.
 - c. If after twelve (12) months of active listing and marketing to a buyer that does not meet the homebuyer eligibility guidelines outlined in Section B.1, Eligibility, and the owner cannot find an eligible buyer, the owner may submit a request to PHB to sell the IH Homeownership Unit on the open market to the highest and best offer.
 - d. At any stage of the active listing and marketing phases of an IH Homeownership Unit for sale, PHB may exercise its first right of refusal.
17. **Death of sole owner.** In the event of the death of the sole title holder, title of an IH Homeownership Unit can be transferred. The IH Homeownership Unit and new title holder are bound by the regulatory agreement for the remainder of the affordability period:
- a. New title holder does not have to income qualify
 - b. New title holder must adhere to all Inclusionary Housing policies as described in Section B, For sale units, or
 - c. New title holder may sell the IH Homeownership Unit under the resale requirements of Section B, For sale units, of the Inclusionary Housing Policy.
18. **Default.** Owners of IH Homeownership Units that default are subject to penalties listed in Section B.20, Penalties. The following circumstances indicate a default of the IH Homeownership policy:
- a. Sale of the IH Homeownership Unit to an ineligible buyer
 - b. Sale of the Unit above the maximum resale price
 - c. Reverse mortgage

- d. Liens for non-payment of property taxes
 - e. Failure of the owner to occupy the Unit as their primary residence
 - f. Violation of the rental rule
 - g. Lien for property tax deferral
19. **Foreclosure.** If a homeowner of an IH Unit is at risk of a bank foreclosure, the homeowner must notify PHB as soon as possible in advance of the default and within at least 30 days of the default. PHB has the right, but not the obligation, to cure the default.
20. **Penalties.**
- a. **Developers.** Penalties for developers that violate the terms of this policy and or the regulatory agreement are subject to all of the following:
 - i. Repayment of any system development charges granted,
 - ii. Repayment of any property tax exemptions granted,
 - iii. Repayment of any construction excise tax granted and
 - iv. Penalties listed in Section F, Remedies, of the Inclusionary Housing Program:
 - 1. Fee-in-lieu
 - 2. Interest
 - b. **Homeowners.** Penalties for homeowners that violate the terms of this policy and or the regulatory agreement are subject to PHB exercising their rights under the second mortgage documents:
 - i. Payment of the difference between the restricted value and the market rate value of the IH Homeownership Unit
 - ii. Payment of the IH Homeowner’s portion of the exempted property taxes
 - iii. Foreclosure of the IH Homeownership Unit by PHB
21. **Rental to condominium conversion.** Any development subject to and built under the Inclusionary Housing program as a rental property that converts to condominiums within the ninety-nine (99) year affordability term must adhere to IH Homeownership program guidelines, except those that paid the fee-in-lieu. IH rental developments that convert to fully market rate condominiums are subject to all the following penalties:
- a. Repayment of any system development charges granted,
 - b. Repayment of any property tax exemptions granted,
 - c. Repayment of any construction excise tax granted and
 - d. Penalties listed in Section F, Remedies, of the Inclusionary Housing program:
 - i. Fee-in-lieu
 - ii. Interest
22. **Condominium to rental conversion.** Any development subject to and built under the Inclusionary Housing program as a condominium that converts to a rental development within the ninety-nine (99) year affordability term must adhere to IH Rental Development program guidelines, except those that paid the fee-in-lieu. IH Homeownership developments that convert to fully market rate rentals are subject to all the following penalties:

- a. Repayment of any system development charges granted,
- b. Repayment of any property tax exemptions granted,
- c. Repayment of any construction excise tax granted and
- d. Penalties listed in Section F, Remedies, of the Inclusionary Housing program:
 - i. Fee-in-lieu
 - ii. Interest

23. **Communication.** All notifications, applications, and communications should be sent to:

Portland Housing Bureau
c/o Inclusionary Housing Team
421 6th Ave Suite 500
Portland, Oregon 97204

24. **Second Mortgage Documents.** The Promissory Note, Deed of Trust, and Resale Restriction Agreement make up the Second Mortgage Documents for the IH Homeownership program in an amount equal to the difference between the appraised value and the income restricted sale price. Second mortgage is forgiven upon resale provided that the IH Homeownership Unit is sold under IH Homeownership program guidelines.

25. **Discretion of the Portland Housing Bureau Director.** At the discretion of the Housing Bureau Director, the following waivers may be granted per household:

- a. A one-time waiver of the first-time homebuyer rule
- b. A one-time waiver of the asset limit rule