

Notice of Proposed Changes to Inclusionary Housing

The Portland Housing Bureau has made revisions to the draft Inclusionary Housing (IH) administrative rules on homeownership units based on public comment and feedback received to provide greater clarity on roles, responsibilities, and implementation. The public is invited to testify on the revised draft of the proposed changes.

The proposed changes can be found online at www.portlandoregon.gov/phb/IHDraft. Hard copies will also be available at the Portland Housing Bureau office located on the 5th floor of the Commonwealth building at 421 SW 6th Avenue in downtown Portland.

Submitting Testimony

Beginning Monday, May 21, 2018, you can submit testimony or feedback on the revised draft. Testimony may be submitted via email, fax, letter, or in person at the public hearing (details below). Written comments or testimony **must be received by Wednesday, June 20, 2018** and must include a first and last name to be considered.

- Email your testimony to: Inclusionary-Housing@portlandoregon.gov
- Fax your testimony to: 503-823-2387
- Mail your testimony to:
Portland Housing Bureau
c/o Inclusionary Housing
421 SW 6th Ave, Suite 500
Portland, Oregon 97204
- Testify in person at the public hearing
Thursday, June 14, 2018 from 1 – 2pm
Portland Housing Bureau
421 SW 6th Ave, Suite 500
Portland, Oregon 97204

To request translation services at the hearing, please contact Jessica Conner at 503-823-4100 **at least three business** days prior to the hearing.

If you have questions regarding the proposed rule changes or the rulemaking process, please contact the Inclusionary Housing Homeownership Rules Coordinator: Jessica Conner, Housing Policy Planner, at jessica.conner@portlandoregon.gov or by calling 503-823-4100.

Administrative Rule Changes to Portland Policy Document HOU-3.04

V. Development Requirements

- A. **Reasonable Equivalency.** Applicants are expected to make IH Units “reasonably equivalent” to Market Rate Units. PHB will assess reasonable equivalency using the following criteria:

1. Rental Developments.

- a.i. Bedroom Distribution and Unit Count.** IH Rental Units must be provided at the same ratio within the development as Market Rate Units. Example of 20 percent IH Rental Units: total units = 100; Market Rate Units = 80; IH Units = 20; Market Rate Unit bedroom distribution = 20 studios (25%), 40 one bedrooms (50%), 20 two-bedrooms (25%); the IH Rental Unit distribution would be: 5 studios, 10 one-bedrooms and 5 two-bedrooms. Any calculations resulting in less than a whole number shall be rounded up from .5 and above or down from .4 or below, but the total number of IH Rental Units must still equal the designated percentage for the IH Program option selected.
- b.ii. Unit Sizes.** IH Rental Units must be at least 90 percent the size of the average of the total units with the same bedroom count, as measured in square feet.
- c.iii. Unit Distribution.** No more than 25 percent of the total units on any floor shall be designated as IH Rental Units, excluding the top floor of a development.
- d.iv. Unit Amenities.** IH Rental Units must have like or equal performing finishes and appliances as far as durability and sustainability to the Market Rate Units, which will be certified by a development’s architect prior to receiving its final certificate of occupancy.

2. For-sale Developments.

- a. Bedroom Distribution and Unit Count.** IH Homeownership Units must be provided at the same ratio within the development as Market Rate Units. Example of 20 percent IH Homeownership Units: total units = 100; Market Rate Units = 80; IH Units = 20; Market Rate Unit bedroom distribution = 20 studios (25%), 40 one bedrooms (50%), 20 two-bedrooms (25%); the IH Homeownership Unit distribution would be: 5 studios, 10 one-bedrooms and 5 two-bedrooms. Any calculations resulting in less than a whole number shall be rounded up from .5 and above or down from .4 or below, but the total number of IH Homeownership Units must still equal the designated percentage for the IH Program option selected.
- b. Unit Sizes.** IH Homeownership Units must be at least 85 percent the size of the average of the total units with the same bedroom count, as measured in square feet.
- c. Unit Distribution.** No more than 50 percent of the total units on any floor shall be designated as IH Homeownership Units, excluding the top floor of a development.
- d. Unit Amenities.** IH Homeownership Units must have like or equal performing finishes and appliances as far as durability and sustainability to the Market Rate Units, which will be certified by a development’s architect prior to receiving its final certificate of occupancy.

VII. Compliance and Reporting

B. For-sale units

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

1. **Eligibility.** Homebuyers of IH Homeownership Units must meet the following requirements to participate:
 - a. Income qualify at time of application based on Median Family Income (MFI) 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
 - b. Not hold liquid assets after closing that total more than \$20,000
 - i. Applicant may request for a waiver of the asset rule to the PHB Director. Approval is granted at the discretion of PHB Director.
 - c. Must maintain the IH Homeownership Unit as the applicant's primary residence
 - i. Hardship exceptions to the primary residence rule may be granted by PHB for, but not limited to, the following situations: active military duty, temporary relocation to care for an ill or dying family member, or temporary relocation caused by an employer. Hardship waivers will be effective for one year. Approval is granted at the discretion of the PHB Director.
 - d. PHB will maintain a list of potential buyers that meet the eligibility requirements for IH Homeownership Units. The PHB list does not preclude sellers from identifying potential buyers through other avenues.
 - e. Cash purchases of IH Homeownership Units are not allowed.
 - f. Cosigners that will not be occupying the unit as their primary residence are not allowed.

2. **Income verification.** MFI is determined using HUD's annually published Median Family Income and Rent chart for the Portland Metropolitan Area. 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. 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 income. Income documentation should be submitted for all homebuyers who will be on title to the property. PHB may require additional documentation to fully verify current income of the homebuyers including letters of explanation or affidavits.
 - a. **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.
 - b. **Verification of closing.** Homebuyer must send PHB documentation of the final sale price and title holders thirty (30) days prior to closing by submitting a copy of the recorded Warranty Deed or the final Settlement Statement and must coordinate the signing of mortgage documents and the IH Second Mortgage Documents with PHB.

3. **Second Mortgage Documents.** The Promissory Note, Deed of Trust, and Resale Restriction Agreement make up the Second Mortgage Documents for the IH Homeownership program. The Second Mortgage Documents state the amount that is the difference between the appraised value and the income restricted purchase price. Second mortgage is forgiven upon resale provided that the IH Homeownership Unit is sold under IH Homeownership program guidelines.
4. **Pricing.** PHB will publish an annual schedule of sale prices, Appendix B, based on the MFI development levels and income levels for IH Homeownership Units by January 31 each year. The sale pricing calculation includes mortgage payments at 40% of monthly income per the income level and bedroom size of units, 5% down, conventional 60-day pricing on interest rates and mortgage insurance, taxes reflecting the average tax exemption value during the exemption period, estimated homeowner's insurance and homeowner's association fees. PHB will determine the resale price for IH Homeownership Units using the annual pricing calculation in place at the time of sale. PHB approved credits from Special Assessments and Capital Improvements, Section B.13, will be added to the resale price to find the maximum resale price for an IH Homeownership Unit.
5. **Appraisal.** Prior to the sale of an IH Homeownership Unit, the IH Homeownership Unit must receive an independent appraisal, paid by either the seller or the buyer, that PHB will review and use to establish the Second Mortgage Documents. Appraisers must be certified and licensed in the State of Oregon.
6. **Inspection.** Prior to the sale of an IH Homeownership Unit, the seller or buyer must have an inspection performed by a certified home inspector and provide documentation to PHB that the inspection has been completed.
7. **Property taxes.** 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.
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. **Right of first refusal.** The Inclusionary Housing Second Mortgage Documents provide PHB with the right of first refusal to purchase IH Homeownership Units intended for sale throughout the duration of the affordability period, including at initial sale. This includes the right of PHB to assign the right to purchase to another entity. However, PHB is not obligated to purchase any IH Homeownership Units.
10. **Definition of Sale.** For the purposes of this policy, the following are considered a sale of the IH Homeownership Unit: selling the IH Homeownership Unit to a buyer under Inclusionary Housing

Section B. For-sale units, transferring the IH Homeownership Unit in to a trust, filing for bankruptcy, short sale, foreclosure, and adding or removing a name from the title.

- 11. Listing and sale timeline.** The intent of the listing and sale timeline is to maintain IH Homeownership Units as affordable for the entire affordability period. The timeline applies at initial sale and at resale. Sale of IH Homeownership Units must use the following timeline in order:
- a. List and market the IH Homeownership Unit within the Inclusionary Housing For-sale units program guidelines for at least 12 months.
 - b. After 12 months of 11.a, owner may submit a request to PHB to list and market the IH Homeownership Unit to buyers that income qualify below 100% MFI for a 60% MFI IH Homeownership Unit or 120% MFI for an 80% MFI IH Homeownership Unit.
 - c. After 12 months of 11.b, owner may submit a request to PHB to release the owner and the IH Homeownership Unit from the Second Mortgage Documents and sell the IH Homeownership Unit on the open market.
- 12. Major improvements.** Improvements required by the homeowner’s association, “special assessments”, and capital improvements are major improvements. Owners of IH Homeownership Units may apply for credit for their major improvement to PHB. Credit for major improvements approved by PHB will be added to the sales price at the time of resale.
- a. **Special assessments.** Special assessments will be credited at the full dollar amount paid. To receive credit for the special assessment the homeowner must submit within six (6) months of payment for the special assessment:
 - 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.** Capital improvements approved by PHB will be credited commensurate with the improvement and at a dollar amount not to exceed fifteen (15) percent of the resale price. To receive credit for capital improvements the homeowner must submit proof of purchase and installation. Eligible capital improvements are:
 - i. Upgrades to electrical and plumbing systems, outside of the system improvements by the homeowner’s association
 - ii. Installation of energy efficient furnace or cooling system
 - iii. Updating bathroom and kitchen cabinetry, flooring, counter-tops and fixtures
 - iv. Room additions
 - v. Upgrading to double pane windows
 - vi. Upgrading to new Energy Star Built-In appliances purchased within five (5) years of placing the IH Homeownership Units for sale
- 13. Death of sole owner.** In the event of the death of the sole title holder, the IH Homeownership Unit can be transferred. The IH Homeownership Unit and new title holder are bound by the Second Mortgage Documents and the IH Homeownership program for the remainder of the affordability period. The new title holder does not have to income qualify.

- 14. Foreclosure.** If a homeowner of an IH Homeownership Unit is at risk of a bank foreclosure, the homeowner must notify PHB within 30 days of the default. PHB has the right, but not the obligation, to cure the default.
- 15. 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 IH Homeownership Unit above the maximum resale price
 - c. Reverse mortgage
 - d. Liens without the prior approval of PHB
 - e. Failure of the owner to occupy the IH Homeownership Unit as their primary residence
 - f. Homeowners may submit an appeal of a default to PHB. Approval is at the discretion of the PHB Director.
- 16. Penalties.**
- a. **Developers.** Developers that violate the terms of this policy and or the recorded IH Covenant are subject to repayment of any and all exemptions they received including; system development charges, property taxes and construction excise tax in addition to the penalties listed in Section F, Remedies.
 - b. **Homeowners.** Homeowners that violate the terms of this policy and or the Second Mortgage Documents are subject to:
 - i. Payment of the amount stated in the promissory note of the Second Mortgage Documents from the time of purchase of the IH Homeownership Unit
 - ii. Payment of the IH Homeowner's portion of the exempted property taxes
- 17. Conversions.** Any development subject to and built under the Inclusionary Housing program as a rental property that converts to homeownership within the ninety-nine (99) year affordability term must adhere to IH Homeownership program guidelines, except those that paid the fee-in-lieu. Any development subject to and built under the Inclusionary Housing program as a homeownership property 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 developments that convert to fully market rate rentals or homeownership units are subject to repayment of any and all exemptions granted including; system development charges, property taxes, construction excise tax in addition to the penalties listed in Section F, Remedies.
- 18. Communication.** All notifications, applications, and communications should be sent to: Portland Housing Bureau c/o Inclusionary Housing Team 421 SW 6th Ave Suite 500, Portland, Oregon 97204.

Appendix B - Pricing Schedule: IH For-Sale Units

Pricing for IH Units Developed at the 80% MFI Option:

Unit size	Studio	1-bed	2-bed	3-bed	4-bed	5+ bed
Annual income	\$ 45,600	\$ 48,880	\$ 58,640	\$ 67,760	\$ 75,600	\$ 83,400
40% of income, 5% interest rate, 5% down	\$ 187,200	\$ 208,631	\$ 268,483	\$ 326,113	\$ 364,599	\$ 415,564

Pricing for IH Units Developed at the 60% MFI Option:

Unit size	Studio	1-bed	2-bed	3-bed	4-bed	5+ bed
Annual income	\$ 34,200	\$ 36,660	\$ 43,980	\$ 50,820	\$ 56,700	\$ 62,550
40% of income 5% interest rate 5% down	\$ 116,632	\$ 132,706	\$ 176,615	\$ 219,347	\$ 253,847	\$ 292,071