

## **EXHIBIT B**

### **Manufactured Dwelling Park Affordable Housing Bonus Density Program**

#### *Administrative Rules*

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## **I. Definition of Administrative Rules**

These Administrative Rules (these “Rules”) are authorized by Portland City Code (“PCC”) 30.01.130 to define the policies, processes, and procedures of implementation of the Manufactured Dwelling Park Affordable Housing Bonus Density Program (the “MDP Program”) by the Portland Housing Bureau (“PHB”).

## **II. MDP Program Goals**

The City of Portland (the “City”) has identified that manufactured dwelling parks play an important role in providing lower-cost market rate housing. The City is implementing the MDP Program to help meet this need.

Applicants wishing to receive bonus density pursuant to PCC 33.120.205(F)(2) must receive a letter from PHB certifying compliance with the MDP Program and these Rules.

## **III. Definitions**

A. Applicant. A Person that applies for a density bonus through PCC.33.120.205(F)(2) and has submitted a completed MDP Program application to PHB. An Applicant can be the Owner of the Property or someone who is representing the Owner, such as a builder, developer, optional purchaser, consultant, or architect.

B. Bedroom. A sleeping room as defined in PCC 29.30.210.

C. Compliance Period. The ninety-nine (99) year time period during which the MDP Program Regulatory Agreement applies.

D. Floating. Floating is the conversion of a Market Manufactured Dwelling (“MD”) Unit to a Regulated MD Unit in a Manufactured Dwelling Park (“MDP”). MDPs maintain their legally required amount of Regulated MD Units while giving flexibility to Owners to fill vacancies. Floating allows Regulated MD Units to be located anywhere in an MDP and are not fixed by a unit or space number.

E. Manufactured Dwelling (“MD Unit”). A manufactured dwelling has the meaning defined in PCC 33.910.030.

F. Manufactured Dwelling Pad. The area in an MDP which is designated for a MD Unit and may either be occupied or unoccupied by a MD Unit and its accessory uses and structures.

G. Manufactured Dwelling Park (“MDP”). A manufactured dwelling park has the meaning defined in PCC 33.910.030.

H. Manufactured Dwelling Park Site Map (“Site Map”). A map, printed to a legible, readable and measurable scale, of the MDP in its entirety that includes all Manufactured Dwelling Pads and their dimensions in square feet. The Site Map must also show floor

plans of any existing buildings in the MDP, all MD Units that are provided by the Owner with their dimension in square feet, the dimensions in square feet of any public or private streets or driveways, and any community facilities.

I. Market Rate Manufactured Dwelling (“Market MD Unit”). A Manufactured Dwelling Pad, occupied by either an Owner or tenant provided MD Unit, that is in an MDP with a MDP Program Regulatory Agreement but is not required to comply with the MDP Program requirements.

J. MDP Program Regulatory Agreement (“Regulatory Agreement”). A written agreement between the Owner and PHB that sets forth the approval and compliance criteria of the MDP Program, is recorded on the title to the property, and governs the long-term operation and performance of the MD Units.

K. Median Family Income (“MFI”). Determined by PHB using the Department of Housing and Urban Development’s (HUD) annually published Median Family Income and Rent Chart (“MFI and Rent Chart”) for the Portland Metropolitan Area.

L. Owner. Owner has the meaning defined in PCC 33.910.030.

M. Pad-Only MD Unit. A Manufactured Dwelling Pad with a tenant provided MD Unit.

N. Pad-Plus-MD Unit. A Manufactured Dwelling Pad with an Owner provided MD Unit.

O. Person. Person has the meaning defined in PCC 33.910.030.

P. Property. A parcel of land, or tax lot, that is zoned Residential Manufactured Dwelling Park (“RMP”) as described in PCC 33.120.030(F).

Q. Regulated Manufactured Dwelling (“Regulated MD Unit”). A Manufactured Dwelling Pad occupied by either an Owner or tenant provided MD Unit that is in an MDP with an MDP Regulatory Agreement and is required to comply with the MDP Program requirements. A Regulated MD Unit must be affordable to households earning 60 percent of the MFI or less.

R. Static Data Sheet. A PHB-provided spreadsheet detailing the Regulated and Market MD Units, including but not limited to, Manufactured Dwelling Pad square footages and location within the MDP, the number of Bedrooms in each MD Unit, and utility allowances. See example in Appendix A.

#### **IV. Application Requirements**

An Applicant to the MDP Program must submit the following materials to PHB:

- A. Program Certification.** Applicant must certify that at least 50 percent of the Manufactured Dwelling Pads within the MDP have MD Units that are affordable to those earning 60 percent MFI or less. When calculating the required

percentage of MD Units, any fractional result between .1 and .4 will be rounded down to the next whole number and any fractional result between .5 and .9 will be rounded up to the next whole number;

*Example.* The minimum number of MD Units is calculated to be 1.67; it is rounded up to 2 MDP Units.

**B. Static Data Sheet.** Applicant must complete a Static Data Sheet;

**C. Site Map.** Applicant must provide a Site Map; and

**D. Site Control.** Applicant must provide a title report, documentation of ownership, Property's legal description, and any necessary legal articles of the entity identifying signature authority.

**V. Approval**

PHB staff will process the MDP Program application materials. If an application is approved for the MDP Program, PHB will require Owner to sign a Regulatory Agreement prepared by PHB prior to receiving a letter certifying that the MDP meets the MDP Program requirements. The Bureau of Development Services will determine the bonus square footage for which the Property is eligible.

**VI. Compliance and Reporting Requirements**

After approval for the MDP Program, PHB's Risk Analysis and Compliance ("RAC") staff will send the Owner a letter detailing the annual compliance and reporting requirements ("Welcome Letter"). The Welcome Letter will include an option to schedule a meeting with RAC staff to answer any compliance related questions or concerns.

**A. Leasing Regulated MD Units.** Reporting and compliance requirements are contained in these Rules, the Regulatory Agreement, and HOU-1.10- Risk Analysis & Compliance Policies and Guidelines. For purposes of interpretation, if and to the extent there is a conflict among the terms of the Regulatory Agreement, these Rules, and the Risk Analysis & Compliance Policies and Guidelines, the priority of the terms should be read as follow: 1) the Regulatory Agreement, 2) these administrative rules, 3) the Risk Analysis & Compliance Policies and Guidelines. Leasing a Regulated MD Unit to an ineligible household may constitute a default under the Regulatory Agreement or these Rules or both and may result in penalties. The following requirements apply to the leasing of Regulated MD Units:

1. **Static Data Sheet.** This form must be submitted both as part of the application package for MDP Program approval and annually thereafter. Information required includes, but is not limited to: total units, unit size, unit location within the MDP, and utility allowances.

2. **Income eligibility.** PHB determines using HUD's annually published MFI and Rent Chart. The MFI and Rent Chart is posted and updated annually on the PHB website. PHB will consider all sources of income for every adult living in a Regulated MD Unit to determine the household's gross income. Eligible households may make up to or less than the income limits posted in the MFI and Rent Chart.
3. **Rent determination.** PHB determines the maximum rent for Regulated MD Units using the MFI and Rent Chart and based on the following:
  - a. **Pad-Only Unit:** The maximum allowable rent is determined using pad rent only. To qualify for the MDP Program, the Pad-Only Unit rent must be equivalent to or less than 50 percent for a two-bedroom unit in accordance with the current MFI and Rent Chart. The Pad-Only Unit calculation includes any utility allowances, utility charges, or required expenses to live in a MD Unit, including but not limited to; parking, meal plans, and amenities.
  - b. **Pad-Plus-MD Unit:** The maximum allowable rent is determined using pad rent and unit rent. To qualify for the MDP Program, the Pad-Plus-MD Unit rent must be equivalent to or less than the maximum allowable rent in the current MFI and Rent Chart for the MD Unit's Bedroom count. The calculation for a Pad-Plus-MD Unit includes any utility allowances, utility charges, or required expenses to live in an MD Unit, including but not limited to; parking, meal plans, and amenities.
4. **Utility Allowances.** Regulated MD Units are subject to a utility allowance ("UA"). Owners determine the UA with the Utility Allowance Schedule. To the extent Regulated MD Unit tenants pay their own utilities directly or are billed back for reimbursement of utilities by the Owner, the Owner is required to deduct that amount from the maximum allowable rent charged to the tenant. No UA is required for utilities paid by the Owner and not reimbursed by the tenant. UAs are passed along to the tenant in the form of reduced rent for those utilities which are paid for by the tenant.

*Example:* a two-person household earning 60% MFI occupies a Pad-Only MD Unit. The maximum monthly rent for that unit, based on the MFI and Rent Chart for a two-bedroom unit, is \$594 = ( $\$1188 \times 0.5$ ), and the UA is \$180. The maximum an Owner could collect from this household is \$414 = ( $\$594 - \$180$ ).

*Example 2:* a three-person household earning 60% MFI occupies a two-bedroom Pad-Plus-MD Unit. The maximum monthly rent for that unit, based on the MFI and Rent Chart, is \$1,188 and the UA is \$180. The maximum an Owner could collect from this household is \$1008 = ( $\$1,188 - \$180$ ).

5. **Income Recertification.** The Owner must annually recertify the Tenant incomes with PHB in accordance with the Tenant Income Certification (“TIC”) reporting cycle. If, following a TIC reporting cycle, a tenant’s income is at or below the allowable income for an Regulated MD Unit, the Owner may raise the rent up to the maximum allowed for the tenant’s household according to the current MFI and Rent Chart, considering the deduction for any utility allowance and any applicable laws, rules, or policies regarding rent increases. If a tenant’s income is above the allowable income for a Regulated MD Unit, the Owner:
- a. Must designate the next available Manufactured Dwelling Pad or MD Unit to be rented as a Regulated MD Unit based on the Static Data Sheet;
  - b. May raise the rent on the existing tenant’s Manufactured Dwelling Pad or MD Unit in accordance with federal, state, and local laws;
  - c. May revise the expiring lease to allow tenants to continue living on the Manufactured Dwelling Pad with their own MD Unit or in the MD Unit provided by the Owner at market rate rent;
  - d. May not require tenants to submit additional deposits or fees;
  - e. Must give at least 90 days written notice to PHB and the tenant prior to an increase in the rent; and
  - f. This information must be included in the lease or lease addendum for each Regulated MD Unit and an executed copy must be provided to PHB as the Property is leased and at turnover. Leasing a Regulated MD Unit to an ineligible household may constitute a default under the Regulatory Agreement or these Rules or both and may result in penalties.
6. **Incomes Rising in Place.** Households that have initially qualified for a Regulated MD Unit must be able to remain in that unit and not be subject to market rate rents unless their incomes reach or exceed the income limits contained in these Rules. A tenant’s income may increase up to 100% MFI and still have the Regulated MD Unit fulfill the Property’s MDP Program requirements.
7. **Vacancies.** PHB requires that at any given time the number and distribution of Regulated MD Units will match those specified in the Regulatory Agreement. To help ensure the predictable leasing of Regulated MD Units, Owner will be required to treat Regulated MD Units as “Floating”, see Section III, Definitions: Floating.

- B. Marketing.** The MDP Program has no rules or guidelines about the legally permissible method Owners use to determine the order in which tenants are offered MD Units. Owners are required to abide by the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, and all other applicable federal, state, and local laws.
- C. Annual Reporting and Review.** On an annual basis, Owners must submit information to PHB on the Regulated MD Units and the tenants living in such units through an online platform called the [Web Compliance Management System](#) (“WCMS”). Reporting requirements are contained in the Regulatory Agreement. PHB staff will test the information reported in WCMS against the contents of Regulatory Agreement and issue written results for each Property.
- 1. Reporting.** PHB will send an Annual Compliance Test (“ACT”) to the listed contacts on file with comments and action items to resolve any compliance issues. After the deadline to respond has elapsed, the compliance scores are final. If an ACT is finalized with outstanding compliance issues, the Owner must resolve those issues within the 90-day period to cure or will be considered in default.
  - 2. Inspections.** PHB reserves the right to inspect and audit MDP Program related files such as TICs and other information submitted through WCMS. MDP’s that are out of compliance may be inspected more frequently until they are brought back into compliance. An inspection report is sent to the listed contacts on file with findings to be resolved. Issues must be resolved, and evidence of their resolution must be provided within the 30-day response period. Failure to do so may prompt additional inspections and or being placed in default.
- D. Non-compliance.** In cases of non-compliance, PHB staff may collaborate with Owners on remedies, however PHB also has the authority to enforce the provisions of the Regulatory Agreement, these Rules, and the Risk Analysis and Compliance Policies and Guidelines, in its sole discretion and without the Owner’s consent. Other than default provisions within these Rules, MDP Program compliance and reporting requirements will be the same as those for PHB’s non-MDP Program developments for tenant compliance and physical evaluation sections only, as contained in HOU-1.10, Risk Analysis and Compliance Policies and Guidelines. MDPs and Owners may be found non-compliant for failing to meet any of the reporting requirements. A waiver or delay by PHB in enforcing a remedy does not constitute a waiver of the applicable requirements or PHB’s right to subsequent enforcement of any remedy.
- E. Transfers of Property Ownership.** The Regulatory Agreement runs with the land for the length of the Compliance Period. Upon sale or other transfer of the Property during the Compliance Period, the provisions of the MDP Program must transfer with the Property. At least 90 days prior to transfer, the Owner must

submit to PHB updated Owner information, legal documentation of the new entity, and sign a Consent to Transfer form and an Assignment and Assumption Agreement prepared by PHB, to be executed and recorded on title.

**F. Default.** Specific default provisions are contained in the Regulatory Agreement. Defaults that last for more than one reporting cycle will result in penalties as outlined in Section VI.G., Penalties.

**G. Penalties.** In the event of a default, PHB may choose, but is not obligated, to negotiate with Owners to bring the Property into compliance. Should default occur and PHB and the Owner fail to agree upon an acceptable remedy, financial penalties will be due and payable to PHB as follows:

1. **Penalty.** The penalty equals the total square feet of all Manufactured Dwelling Pads within the Property multiplied by a penalty factor of \$24;
2. **Interest.** Interest on the entire unpaid penalty amount, assessed at the rate of .833% simple interest per month or fraction thereof (10% per annum), computed from the date of default; and
3. **Additional penalties.** PHB may also pursue any action available at law, in equity, including but not limited to injunctive relief, and other remedies such as foreclosure or receivership if the financial penalties are not paid in the timeframe prescribed by PHB.

**H. Communication.** All notifications, applications, requests and communications should be sent to: Portland Housing Bureau, c/o Manufactured Dwelling Park Program, 421 SW 6<sup>th</sup> Ave Suite 500, Portland, Oregon 97204.



## Appendix A – Example: Static Data Sheet

Each Static Data Sheet will be built to the individual specifications of each Property based on the Property’s requirements as outlined in the Regulatory Agreement and any subsequent regulatory agreements. All required items may not be shown in the following examples.

### Example: Static Data – Utility Allowance

Property:			
Address:			
	<i>Street Address</i>		<i>Zip Code</i>
Submitted By:			
	<i>Name (First, Last)</i>	<i>Title</i>	<i>Company</i>
Contact Information:			
	<i>Phone</i>	<i>Email</i>	
Date Submitted:			

  

UA Calculation Method	
UA Schedule	<input checked="" type="radio"/>

  

Utility Responsibility					
Type of Utility	Provided by Landlord	Paid by Tenant	Electric	Gas	Oil
Space Heating					
Cooking					
Water Heating					
Lights/Other Electric					
Water			*A utility pass through is a flat fee, outlined in the lease agreement, that a landlord charges a tenant for a specific utility or group of utilities.		
Sewer					
Garbage					
Water/Sewer Pass Through*					
Water/Sewer/Garbage Pass Through*					
Refrigerator Provided By					
Range Provided By					

### Example: Static Data – Unit Specifics

Unit Specifics (Complete for all units regardless of income restriction)												
Manufacture Dwelling Pad #	Manufactured Dwelling Unit Provided By	Pad Only Rent (Only use if no unit is provided by owner)	Pad Plus Unit Rent	Occupied	Number of People living in the unit	Regulated Manufactured Dwelling	Number of Bedrooms	Income Restriction	Maximum Monthly Rent (PHB MF1 Chart)	Utility Allowance	Non-Optional Fees	Maximum Tenant Rent (Maximum Rent Limit –UA and Non Optional Fees)
									#N/A	\$0	\$0	NA
									#N/A	\$0	\$0	NA
									#N/A	\$0	\$0	NA
									#N/A	\$0	\$0	NA
									#N/A	\$0	\$0	NA
									#N/A	\$0	\$0	NA
									#N/A	\$0	\$0	NA