



CITY OF
PORTLAND, OREGON
PORTLAND HOUSING BUREAU

Exhibit A
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ADMINISTRATIVE RULES

**SYSTEM DEVELOPMENT CHARGE (SDC) EXEMPTION
HOME OWNERSHIP PROGRAM**

Definition of Administrative Rules

These Administrative Rules are created in accordance with the City of Portland's Administrative Rule process by the Portland Housing Bureau (PHB) in order to define the policies, processes, and procedures of implementation of the System Development Charge Exemption Program for Home Ownership Units authorized by City Code 30.01.095 (Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.)

The Administrative Rules shall be approved initially through City Council however the Director of the PHB or a designee shall have authority to make changes to the Administrative Rules as is necessary to meet current program requirements.

Program policies, processes, and procedures are outlined in these Administrative Rules however there may be additional program requirements necessary to maintain compliance with City Code. The items included in these Administrative Rules are the following:

- 1. Program Overview**
- 2. Eligibility Requirements**
- 3. Application Requirements**
- 4. Approval Process**
- 5. Compliance Requirements**
- 6. Further Enforcement**

Program Overview

Portland Housing Bureau (PHB) administers the System Development Charge (SDC) Exemption Program to promote the development of affordable housing. The program approves the exemption of fees (SDCs) that would otherwise be paid to the City of Portland Bureaus of Water, Parks, Transportation, and Environmental Services during the permitting process.

Eligibility Requirements

- **Location** – The program is available throughout the City of Portland.
- **Single-unit housing** – Proposed construction must be a single-family home, townhome or condominium.
- **Sale price cap** – The property must sell for no more than the sale price cap established annually by PHB – no more than 120% of the annual median sale price (or appraised value if an owner/builder) for the City of Portland.
- **Affordability** – Homebuyers (who will be both on title to the property and occupying the home) must earn no more than 100% median family income for a family of four, as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development, and adjusted upward for households larger than four persons.
- **Occupancy** – Units must sell to homebuyers who will occupy the homes as the initial occupants. Properties may not be rented.
- **Time limit to sell** – The property must sell within two years from completion of construction (either final permit issuance or certificate of occupancy for condominium projects).

Application Requirements

- **Time frame** – Property owners must apply for the exemption by submitting a completed application to PHB after applying for permits, but prior to paying for and issuance of the permit and beginning construction. PHB requires up to 10 business days to review and process applications.
- **Complete Application** – A separate application should be submitted for each permit number. The application should be accompanied by the following documentation:
 - Articles of Incorporation, Articles of Organization, By-Laws, and/or Statements of Action
 - Corporate Resolution (as applicable – grants signature authority on behalf of an entity)
 - Proof of site control (such as Warranty Deed)
 - Tax/Plat map indicating lots to be developed and proof of lot segregation as necessary
 - Legal Description
 - Any additional documentation required to complete the application
- **Application fee** – Applicant must submit an application fee in the form of a check paid to the order of the Portland Housing Bureau. The amount is determined annually by PHB.

Approval Process

- **Regulatory Agreement** – PHB prepares a Regulatory Agreement to be recorded on title to the property requiring PHB verification of homebuyer affordability and owner-occupancy qualification prior to the sale of the property to the initial homebuyer which the applicant must sign before a notary prior to approval of the exemptions.
- **Approval letter** – After receiving the signed Regulatory Agreement, PHB issues an approval letter for exemption of the applicable SDCs. PHB provides the letter to the applicant and also posts it to the City's TRACS permitting system.
- **Applying exemptions** – The applicant or a representative must contact each bureau charging SDCs directly in order to request that exemptions be applied to a permit, prior to permit issuance. SDCs which have already been paid cannot be refunded.

Compliance Requirements

- **Homebuyer verification** – The initial homebuyer 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 be both on title to the property and living in the home.

Supporting income documentation includes the last two years of W2s, the most current month's 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 a homebuyer including letters of explanation or affidavits. Income is evaluated based on a homebuyer's current annualized income.

- **PHB review prior to closing** – PHB determines whether or not the proposed sale meets program criteria regarding homebuyer income and owner occupancy, and sale price prior to closing and faxes or emails a Demand Statement to the escrow officer handling the closing transaction. If the homebuyer or sale price do not meet program criteria, PHB will request the amount due to repay the originally exempted SDCs from the SDC bureaus and include those amounts, plus interest and repayment fees, to be paid at closing on the Demand Statement. PHB Demand Statements are valid for 45 days. If a transaction does not close within 45 days or a different homebuyer will be purchasing the property, a new verification form and income documentation must be submitted to PHB.
- **Escrow request for Demand Statement** – If it is known that a transaction does not meet program criteria, the escrow officer can submit a signed request for a Demand Statement with repayment amounts directly to PHB without the homebuyer verification form.

- **Closing and release of the Regulatory Agreement** – The escrow officer collects and pays the applicable amounts of any repayments due, as well as collects recording fees necessary to record the Release Agreement after closing. Escrow must send PHB proof that the SDC bureaus have been repaid and/or the property has sold to the verified homebuyer for under the sale price limit in the form of either the seller's final HUD-1 Settlement Statement or copies of the checks issued with a copy of the recorded deed transferring title. PHB sends a Release Agreement to escrow to be recorded, and the SDC Exemption Program requirements are released.

Further Enforcement

- **Compliance requirements not met** – If a property sells without homebuyer verification, over the sale price cap, or to an ineligible buyer, or PHB believes a property is rented out by the builder, PHB will send a Demand Statement directly to the builder/owner with repayments due within 45 days. If repayments are not made to PHB through closing or within 45 days of the demand statement date, PHB will send a 45 day Enforcement Notice to the builder/owner. The notice will include the following provisions:
 - The amount due to repay the originally exempted fees, plus repayment fees and interest; and
 - PHB will not accept new exemption applications from the builder or any related entities until the compliance requirements are met or repayments and fees are paid.
- **Proving a property is not rented** – In order to document that a property is not being rented and is available for sale, the builder applicant must submit to PHB a copy of the complete listing agreement showing the property is vacant and has not been occupied, or other documentation acceptable to PHB.
- **Legal Action** – If non-compliance continues after the 45-day Enforcement Notice, PHB will turn over exemption files to the City Attorney's Office for possible litigation to collect the amounts owed to the City of Portland, including the reinstated SDCs, interest charges, processing fees, carrying charges, and the actual cost of collections.