

# CODE OF BALTIMORE REGULATIONS ANNOTATED (COBRA) REGISTER



**ISSUE DATE:** 15 June 2025

**ISSUE NUMBER:** 06

**VOLUME NUMBER:** 03

Pursuant to General Provisions Article, § 4-303 of the Baltimore City Code, this issue contains all documents required to be published for this issue date.

## Information about the COBRA Register and COBRA

### COBRA REGISTER

The COBRA register is an official City publication. The COBRA register acts as a temporary supplement to the Code of Baltimore Regulations Annotated. Any change to the text of regulations published in COBRA must first be published in the COBRA Register.

### CODE OF BALTIMORE REGULATIONS ANNOTATED (COBRA)

COBRA is the official compilation of all regulations issued by agencies of the City of Baltimore. The COBRA Register serves as COBRA's temporary supplement, publishing all proposed changes to regulations.

### INCORPORATION BY REFERENCE

Incorporation by reference is a legal device by which a document is made part of COBRA by formal reference. The text of the incorporated document will not appear in COBRA, but the provisions of the incorporated document are enforceable as a COBRA regulation. Documents incorporated by reference will appear in the COBRA Register with a notice designating it as a document incorporated by reference.

### PUBLIC PARTICIPATION IN THE REGULATION PROCESS

Baltimore City residents may participate in the process by which City regulations are proposed, adopted, amended, or repealed by submitting data or opinions on proposed regulations to the promulgating agency (see "Opportunity for Public Comment" section on the notice page for all proposed regulations contained in the COBRA Register).

### ISSUE AND DEADLINE DATES THROUGH DECEMBER 2025<sup>†</sup>

ISSUE DATE	*DEADLINE FOR PROPOSED REGULATION
January 15, 2025	January 8, 2025
**February 15, 2025	**February 8, 2025
**March 15, 2025	**March 8, 2025
April 15, 2025	April 8, 2025
May 15, 2025	May 8, 2025
**June 15, 2025	**June 8, 2025
July 15, 2025	July 8, 2025
August 15, 2025	August 8, 2025
September 15, 2025	September 8, 2025
October 15, 2025	October 8, 2025
**November 15, 2025	**November 8, 2025
December 15, 2025	December 8, 2025

<sup>†</sup> Please note that this table is provided for planning purposes only. The Department of Legislative Reference (DLR) cannot guarantee that submissions will be published by an agency's desired publication date. Circumstances related to workload and staffing may prevent adherence to this schedule.

\* Please note that the deadlines provided for the submission of a proposed regulation indicates the submission of a regulation in its final form for publication, including all required revisions from DLR and approvals from DLR, the Department of Law, and the Office of the City Administrator. DLR advises a 10-week lead time for this process.

\*\*For dates when the submission of a proposed regulation to DLR would fall over a weekend, the proposed regulation will be due the Friday prior; for dates when the submission of a proposed regulation to DLR would fall on a Federal holiday, the proposed regulation will be due the business day prior.

## INDEX OF COBRA TITLES AFFECTED IN THIS ISSUE

COBRA Title Number and Name

07 – Department of Housing and Community Development

## NOTICES OF FINAL ACTION IN THIS ISSUE

There are no notices of final action published in this issue.

## FOR REGULATIONS PROPOSED FOR AMENDMENT THIS REGISTER

[Bracketed] text indicates an item stricken from the regulation

*Italic* text indicates an item added to the regulation

**COBRA Register.** Publication of the Department of Legislative Reference, 100 Holliday Street, Suite 626, Baltimore, MD, 21201. Tel. 410-396-4730. **Brandon Scott**, Mayor; **Benjamin Guthorn**, Director, Department of Legislative Reference; **Hanna Navarrete Naugle**, City Regulations Lead; **Andrew Daugherty**, Legislative Services Technician; **Anita Evans**, Legislative Reference Librarian.

# **TITLE 07**

## **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **Subtitle 02 OFFICE OF THE COMMISSIONER**

#### **07.02.01 INCLUSIONARY HOUSING**

Authority: City Code Article 13, § 2B-3

#### **Notice of Proposed Action**

The Department of Housing and Community Development posted for public comment proposed regulations to be enacted as **Chapter 01 Inclusionary Housing** under **COBRA 07.02** on August 15, 2024. The regulations enclosed contain **Chapter 01 Inclusionary Housing** under **COBRA 07.02** as amended following the conclusion of the August 2024 public comment period.

#### **Statement of Purpose**

The second publication of these regulations:

1. Clarify definitions related to a developer, an inclusionary housing unit, a tenant, subleasing, and amenities;
2. Add definitions for “affirmatively further fair housing,” “housing funds,” “income,” “least likely to apply,” “over income,” “student,” “tenant,” “very low-income,” and “wholly renovated;”
3. Clarify developer requirements for the required quantity of inclusionary units;
4. Clarify requirements for an affirmative marketing plan;
5. Clarify and update the submission process for an inclusionary housing plan;
6. Clarify tenant eligibility requirements, including provisions regarding a student tenant; and
7. Clarify language regarding subletting.

These amendments to the proposed regulations were initiated in accordance with City Code Article 13, Subtitle 2B.

#### **Opportunity for Public Comment**

Comments may be sent to James Turner, Department of Housing and Community Development, 417 East Fayette Street, 14<sup>th</sup> Floor, Baltimore, MD 21202 or emailed to [InclusionaryHousing@baltimorecity.gov](mailto:InclusionaryHousing@baltimorecity.gov) within 30 days of the date of publication of this Register.

ALICE KENNEDY  
HOUSING COMMISSIONER

**TITLE 07 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

**SUBTITLE 02 – OFFICE OF THE COMMISSIONER**

**CHAPTER 01 – INCLUSIONARY HOUSING**

Authority: City Code Article 13, §2B-3

*07.02.01.01*

**.01 Scope.**

This chapter establishes rules and regulations that govern inclusionary housing requirements in Baltimore City.

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Affirmatively further fair housing” has the meaning stated in Housing and Community Development Article §2–401(b), Annotated Code of Maryland.

(2) Amenity.

(a) “Amenity” means a feature of a property that may benefit an occupant but that is not necessary to occupy the property.

(b) “Amenity” may include access to:

(i) Parking

(ii) A gym facility;

(iii) A pool; or

(iv) A multi-purpose space.

(3) “Annual Commissioner report” means the report required by City Code Article 13, §2B-16.

(4) “Annual residential project report” means the report required by City Code Article 13, §2B-24.

(5) “Area median income (AMI)” means the median income level for the metropolitan region that encompasses Baltimore City, as published and annually updated by the United States Department of Housing and Urban Development.

(6) “Board” means the Inclusionary Housing Board as provided for in City Code Article 13, §§2B-11-2B-15.

(7) “Building permit” has the meaning stated in 202.2.10 of the Baltimore City Building Code, Building, Fire, and Related Codes of Baltimore City, 2024 Edition.

(8) “Commissioner” means:

(a) The Commissioner of the Baltimore City Department of Housing and Community Development; or

(b) The Commissioner’s designee.

(9) “Department” means the Baltimore City Department of Housing and Community Development.

(10) Developer.

(a) “Developer” has the meaning stated in City Code Article 13, §2B-1(d).

(b) “Developer” includes a person whose name appears on the deed of the property subject to these regulations.

(11) “Dwelling unit” has the meaning stated in Section 202.2.23 of the Baltimore City Building Code, Building, Fire, and Related Codes of Baltimore City, 2024 Edition.

(12) “Extremely low-income” has the meaning stated in City Code Article 13, §2B-2(f).

(13) “Fee-based amenity” means an optional amenity that has an additional charge to a tenant.

(14) Finish.

(a) “Finish” means a visible element used in a unit’s interior, including:

(i) A material; or

(ii) An application.

(b) “Finish” excludes:

(i) Furniture;

(ii) Fixtures; and

(iii) Equipment.

(15) “Household” means the total number of people that reside at a dwelling unit as their primary residence.

(16) Housing Cost.

(a) “Housing cost” means a monthly payment that does not exceed 30 percent of a tenant’s gross annual income to:

(i) Lease a dwelling unit;

(ii) Sublet a dwelling unit; or

(iii) Occupy a dwelling unit.

(b) “Housing cost” does not include the cost of:

(i) Utilities;

(ii) Parking; or

(iii) Discretionary fees.

(17) “Housing funds” means monetary support designated for affordable rental housing, including:

- (a) City funds;
- (b) State funds; or
- (c) Federal funds.

(18) “HUD” means the United States Department of Housing and Urban Development.

(19) “Inclusionary housing plan” means the information a developer is required to provide in accordance with City Code Article 13, §2B-22.

(20) “Inclusionary unit” means a dwelling unit provided in accordance with:

- (a) City Code Article 13, §2B; and
- (b) This chapter.

(21) “Income” has the meaning stated in Family Law Article, §12-201, Annotated Code of Maryland.

(22) “Independent accountant” means a person licensed as a public accountant in accordance with Business and Occupations Article, §2-302, Annotated Code of Maryland.

(23) “Least likely to apply” means a member of an identifiable demographic group who is not likely to apply for inclusionary housing in the absence of special outreach efforts.

(24) “Lease” has the meaning stated in Real Property Article, §1-101, Annotated Code of Maryland.

(25) “Low-income” has the meaning stated in City Code Article 13, §2B-2(h).

(26) “Luxurious feature” means an element in a unit that differs from the standard provided in a basic unit of the same project, including:

- (a) A finish;
- (b) A fixture; or
- (c) A piece of equipment.

(27) “Major public subsidy” has the meaning stated in City Code Article 13, §2B-1(h).

(28) “Market rate” has the meaning stated in City Code Article 13, §2B-2(i).

(29) “Moderate income” has the meaning stated in City Code Article 13, §2B-2(j).

(30) “Neighborhood” has the meaning stated in City Code Article 13, §2A-1(f).

(31) “New construction” means a structure that is:

- (a) Brand new; and
- (b) Has not been lived in.

- (32) “Over-income” means a tenant who leased an inclusionary unit at the required income restriction and subsequently earned sufficient income to be considered ineligible for an inclusionary unit.
- (33) “Penthouse” has the meaning stated in City Code Article 13, §2B-1(j).
- (34) “Short term residential rental” has the meaning stated in City Code Article 15, §48-1(h).
- (35) “Significant land use authorization” has the meaning stated in City Code Article 13, §2B-1(m).
- (36) Student.
- (a) “Student” means a person enrolled in a program at a higher education institution.
- (b) “Student” includes a person who is enrolled in a program at a higher education institution:
- (i) Full-time; or
- (ii) Part-time.
- (37) “Sublease” means the lease of an inclusionary unit by a tenant to another person where the tenant retains a right under the original lease.
- (38) Technical Modification.
- (a) “Technical modification” means a minor change to an inclusionary housing plan that may be submitted in accordance with these regulations.
- (b) “Technical modification” includes a change that affects:
- (i) The name of a project;
- (ii) The contact information of a developer;
- (iii) The contact information of a project’s property manager;
- (iv) The contact information of a project’s leasing agent;
- (v) The contact information of a company overseeing tenant selection; or
- (vi) The address of a project.
- (39) “Tenant” means a person renting an inclusionary unit with the ability to execute the lease.
- (40) “Very low-income” has the meaning stated in City Code Article 13, §2B-2(k).
- (41) “Wholly renovated” means a project that has undergone a comprehensive renovation that includes each portion of a building’s exterior and interior components.



**.03 Applicable Projects.**

A. The Department shall require a developer to build inclusionary units in a project that:

- (1) Includes 20 or more dwelling units;
- (2) Receives a:
  - (a) Major public subsidy; or
  - (b) Significant land use authorization;
- (3) Is:
  - (a) Newly constructed;
  - (b) Wholly renovated; or
  - (c) Converted from a non-residential building; and
- (4) Has a construction cost exceeding \$60,000 per unit.

B. The Department shall provide a developer building inclusionary units with written information regarding inclusionary housing requirements at a pre-development meeting that includes the developer and the Department of Planning.

07.02.01.04

**.04 Required Inclusionary Units.**

A. Exclusions.

In calculating the required number of inclusionary units as provided in §B of this regulation, a developer may not include a penthouse in the count of a project's total number of dwelling units.

B. In General.

(1) For a project that meets the requirements provided for in Regulation .03 of this chapter, a developer shall offer 10 percent of the project's total number of dwelling units as inclusionary units.

(2) Of the required inclusionary units provided for in §B(1) of this regulation, the developer shall ensure:

(a) Five percent are affordable to low-income households; and

(b) Five percent are affordable to very low-income households.

C. Fractional Number of Required Inclusionary Units.

If the number of required inclusionary units amounts to a fractional number, the developer shall round up to provide an additional unit to a low-income household.

**.05 Additional Inclusionary Units.**

A. The Department may offer a developer an additional subsidy to provide additional inclusionary units above the required 10 percent.

B. A developer who accepts an additional subsidy shall make up to an additional 5 percent of inclusionary units available to:

(1) Extremely low-income households; and

(2) Very low-income households.

C. If a developer accepts an additional subsidy, the developer shall ensure the maximum number of inclusionary units does not exceed 15 percent of a project's total qualifying units.

D. The developer shall submit in writing to the Department a list of units that will be:

(1) Extremely low-income; or

(2) Very low-income.

E. The Department shall confirm the additional units do not exceed 5 percent.

*07.02.01.06*

**.06 Occupancy Permits.**

A developer shall apply for occupancy permits for a project's inclusionary units concurrently with the project's market rate units.

07.02.01.07

**.07 Building Requirements.**

A. A developer shall ensure the floorplans of a project's inclusionary units are provided in the same proportion as the floorplans of a project's market rate units throughout the building.

B. If units with an identical number of bedrooms and bathrooms are offered at different price points based on amenities, the developer shall ensure the project's inclusionary units are the floor plan with the lowest rent.

C. A developer may not group inclusionary units in a concentration:

(1) On a particular floor; or

(2) Within a particular building if a project includes multiple buildings.

D. Over-income Tenants.

If an income-qualified tenant of an inclusionary unit reaches 100 percent AMI, the developer shall:

(1) Permit the tenant to remain in the unit; and

(2) Make an additional inclusionary unit available to lease to a new inclusionary tenant.

**.08 Inclusionary Unit Requirements.**

A. In General.

A developer shall ensure a project's inclusionary units are:

- (1) Designed and planned at the same time as the project's market rate units; and
- (2) Designated as inclusionary units prior to leasing.

B. Design Standards.

A developer shall ensure an inclusionary unit is consistent with a market rate unit in the same project as to:

- (1) Exterior appearance;
- (2) Number of bedrooms; and
- (3) Overall quality of construction.

C. Amenities.

A developer shall ensure a tenant of an inclusionary unit is offered:

- (1) The same amenities as a tenant of a market rate unit; and
- (2) Additional fee-based amenities at the same price as market rate tenants, if applicable.

D. Variations – Unit Size.

If a developer has met the requirements of §B of this regulation, the developer may permit a size variation for an inclusionary unit, with a maximum of 10 percent size variation from a market rate unit.

**.09 Inclusionary Housing Plan – Submission, Review, and Notification.**

A. The Commissioner shall develop the form of the inclusionary housing plan in consultation with the Board.

B. Submission.

(1) A developer shall submit an inclusionary housing plan to the Department that includes:

(a) The information required in City Code Article 13, §2B-22; and

(b) An affirmative marketing plan for promoting inclusionary units to persons least likely to become tenants without a special outreach effort, as provided for in Regulation .16 of this chapter.

(2) A developer shall ensure an inclusionary housing plan:

(a) Includes a time and date stamp noting the time of submission; and

(b) Is submitted:

(i) Electronically; and

(ii) To the address included on the inclusionary housing plan form.

C. Review.

(1) The Department shall:

(a) Provide an initial review of an inclusionary housing plan within 10 business days of receipt;

(b) Notify a developer if the agency will not be able to review the plan within the 10 days;

(c) Submit the Department's initial review to the developer in writing; and

(d) Submit the inclusionary housing plan to the Board;

(2) In the initial review submitted in accordance with §C(1) of this regulation, the Department may request from the developer:

(a) Additional information; or

(b) Changes to the inclusionary housing plan.

D. Requests for Additional Information or Changes.

(1) A developer shall submit materials requested in accordance with §C(2) of this regulation to the Department within 5 business days.

(2) Following receipt of requested materials submitted by a developer, the Department shall proceed to approve or deny the inclusionary housing plan in accordance with §§E and F of this regulation.

E. Recommendation to the Board

(1) Upon review of a complete inclusionary housing plan, the Department shall:

(a) Provide a recommendation of the inclusionary housing plan to the Board; and

(b) Prepare a project summary of the inclusionary housing plan to be distributed to:

(i) The Department of Finance;

(ii) The Department of Planning; and

(iii) The Board.

(2) The Board shall meet within 15 business days of receipt of an inclusionary housing plan to provide comments on the plan.

(3) If the Board does not meet within 15 days of receipt of an inclusionary housing plan, then the Department may solicit a comment from the Board on the plan.

#### F. Notification.

(1) Following receipt of an inclusionary housing plan, the Department shall provide a written response to the developer within 45 business days of submission stating:

(a) Whether the inclusionary housing plan has been:

(i) Approved; or

(ii) Denied; and

(b) Whether a building permit may be issued for the project based on the inclusionary housing plan.

(2) If the department requests a change to the plan and the developer does not submit materials requested within 5 business days, the Department may extend the 45 day period for review.

(3) The Department may not issue a building permit without providing the notice required by §E(1) of this regulation.



**.10 Building Permit Approval and Release.**

A. Upon approval of an inclusionary housing plan, the inclusionary housing program manager shall send written notification of the approved plan to the Department's Permits and Plans Review Office with the following parties copied:

(1) The developer;

(2) The Commissioner; and

(3) The Department's:

(a) Chief Operating Officer; and

(b) Chief of Staff.

B. The Department may not issue a building permit until the inclusionary housing program manager has submitted the notification required by §A of this regulation.

**.11 Inclusionary Housing Plan – Modifications.**

**A. Technical Modifications.**

- (1) A developer may submit a request for a technical modification to an inclusionary housing plan to the Department via email.
- (2) For a modification that is not technical in nature, a developer shall submit a request for modification in accordance with this regulation.

**B. Modifications - In General.**

- (1) A developer may submit a request to modify an approved inclusionary housing plan to the Department in writing.
- (2) A developer shall:
  - (a) Ensure a requested modification to an inclusionary housing plan is consistent with:
    - (i) Applicable City Code;
    - (ii) Applicable State Code; and
    - (iii) This chapter; and
  - (b) Provide an updated inclusionary housing plan to the Department with the requested modification reflected.

**C. Departmental Review.**

The Department shall review a modified inclusionary housing plan in accordance with Regulation .09 of this chapter.

**D. Approval.**

The Department may not approve a modified inclusionary housing plan that would result in fewer than the required number or type of inclusionary units for a particular project.

**.12 Tenant Eligibility.**

**A. Maximum Income Requirements.**

- (1) A developer shall determine maximum income requirements for an inclusionary unit by referring to the maximum AMI limits published on HUD's Office of Policy and Research Development website.
- (2) A developer shall ensure that a determination of eligibility is made using the most recent annual household income.

**B. Student Tenants.**

A developer may consider a student for tenancy in an inclusionary unit if the student:

- (1) Meets the eligibility requirements for a household provided for in §C of this regulation; and
- (2) Provides sufficient evidence to the developer during income verification that they can:
  - (a) Remit the expected rent; and
  - (b) Execute a lease without a guarantor.

**C. Determination of Eligibility.**

- (1) To qualify for an inclusionary unit, a tenant shall provide to the developer proof of household income that demonstrates sufficient means to pay rent on the inclusionary unit.
- (2) A developer shall:
  - (a) Consider an applying tenant eligible to rent an inclusionary unit if the household's annual income:
    - (i) Meets the eligible income determined by §A of this regulation; and
    - (ii) Does not exceed the maximum income limit as adjusted for household size; and
  - (b) Verify the applying tenant as eligible in accordance with §D of this regulation no later than the date the lease is signed.

**D. Initial and Continuing Certification of Eligibility.**

- (1) Prior to executing a lease, a tenant shall provide a statement verifying that the household has met the provisions of §C of this regulation.
- (2) A developer shall reverify a tenant's household income annually when the lease is renewed.

**E. Increase in Household Income.**

- (1) In the event a tenant's household income increases above the percentage of AMI required for the inclusionary unit the tenant is occupying:

(a) The developer shall permit the tenant to remain in the tenant's unit; and

(b) The developer may execute a rent increase for the tenant at the same ratio as when the unit was leased, as defined by AMI.

(2) In the event a tenant's household income increases to 100% of the AMI:

(a) The tenant shall be required to pay the full market rent for that unit; and

(b) The developer shall be required to make the next comparable unit available as an inclusionary unit when that comparable unit becomes available, in compliance with:

(i) This chapter, and

(ii) The City Code.

**.13 Tenant Screening.**

A. A developer shall be responsible for administering a tenant screening process for an inclusionary unit, including:

- (1) Developing an affirmative marketing plan in accordance with Regulation .16 of this chapter;
- (2) Tenant selection; and
- (3) Tenant recertification.

B. Use of a Third-Party Company.

- (1) A developer may contract a portion of tenant screening provided for in §A of this regulation to a third-party company.
- (2) If a developer elects to contract a portion of tenant screening to a third-party company, the developer shall be responsible for a fee incurred from the third-party company.

*07.02.01.14*

**.14 Tenant Review.**

A developer shall review an application to lease an inclusionary unit in sequential order based on the time and date stamp noted on the application.

**.15 Waitlist.**

**A. In General.**

For an application that is not approved due to a lack of available inclusionary units, a developer shall:

- (1) Compile the contact information included in the additional applications into a waitlist in accordance with this regulation;
- (2) Ensure a waitlist is updated as new applications are received; and
- (3) Provide a waitlist to a City agency upon written request.

**B. Waitlist – Type**

In addition to the requirements of §A of this regulation, the developer shall maintain a separate waitlist for both:

- (1) Income eligibility; and
- (2) Bedroom size.

**C. Offering of Waitlist Units.**

A developer shall offer an available inclusionary unit to each qualified applicant on the waitlist in the order they appear on the list.

**D. Tenant Declination of Offered Unit from Waitlist.**

- (1) A qualified tenant may:
  - (a) Decline an inclusionary unit that is offered to them from the waitlist; and
  - (b) Except as provided in §D(2) of this regulation, request to remain on the waitlist in their current position following declination.
- (2) A qualified tenant that declines an offered inclusionary unit in accordance with §D(1) of this regulation will have one additional opportunity to accept an offer of an inclusionary unit from the waitlist from their current position on the waitlist.
- (3) For qualified tenants who request to remain on the waitlist, the developer may verify that the qualified tenant continues to meet income requirements and is eligible to lease the unit.

**E. Change in Status on Waitlist.**

If a qualified tenant declines an offered inclusionary unit from the waitlist on two occasions, a developer may move the tenant to the bottom of the waitlist.

**.16 Affirmative Marketing Plan.**

A. In General.

A developer shall submit an affirmative marketing plan as part of the inclusionary housing plan provided for in:

- (1) City Code Article 13, §2B-22; and
- (2) Regulation .09 of this chapter.

B. Requirements.

The developer shall ensure an affirmative marketing plan:

- (1) Is written clearly in plain English so that a tenant may reasonably determine their likelihood of acceptance upon review; and
- (2) Includes:
  - (a) A description of non-discrimination practices that will be employed in the tenant selection process;
  - (b) A process for submitting a request for reasonable accommodation for applicants with disabilities;
  - (c) A description of how the inclusionary housing application will be:
    - (i) Made available to applicants; and
    - (ii) Accepted for processing;
  - (d) A description of how the waiting list for inclusionary units will be maintained, if applicable;
  - (e) A clear prohibition of income and minimum credit score requirements for applicants with rental assistance, including:
    - (i) Housing Choice Vouchers;
    - (ii) VASH;
    - (iii) Shelter Plus Care;
    - (iv) Bridge Subsidy and Continuum of Care; or
    - (v) Project-based vouchers;
  - (f) A description of procedures to avoid application denial based on an applicant's credit score, including a process for allowing an applicant to present mitigating circumstances that demonstrate why their credit score should not be considered;



(g) A description of a criminal record screening policy; and

(h) An application denial notification process that provides an applicant with a written decision that includes:

(i) A stated reason for denial;

(ii) Each of the specific criteria that an applicant did not meet; and

(iii) A copy of a record relied upon in rendering a denial, if applicable.

#### C. Prohibitions.

A developer may not develop an affirmative marketing plan that relies on an eviction record older than 7 years.

**.17 Leasing Requirements.**

**A. In General.**

- (1) A tenant shall certify that they are eligible to rent an inclusionary unit as part of a lease application.
- (2) A developer shall:
  - (a) Ensure a tenant for an inclusionary unit is:
    - (i) Provided the same leasing application as a market rate tenant;
    - (ii) Bound by the same lease terms as a market rate tenant;
    - (iii) Charged the same leasing application fee as a market rate tenant; and
    - (iv) Entitled to the same incentives being offered to a market rate tenant at the time a lease is executed, if applicable; and
  - (b) Time and date stamp a leasing application upon receipt.

**B. Lease Terms.**

- (1) A developer shall ensure a lease executed for an inclusionary unit tenant:
  - (a) Provides access to the same amenities as a market rate tenant;
  - (b) Includes:
    - (i) A rider that includes income eligibility requirements; and
    - (ii) A copy of a tenant's income eligibility; and
  - (c) Is provided as an exact copy to each member of the household that:
    - (i) Is 18 years of age or older; and
    - (ii) Will occupy the inclusionary unit as the household member's primary residence.
- (2) A developer may include a provision to sublet an inclusionary unit in a leasing agreement in accordance with:
  - (a) Regulation .16 of this chapter; and
  - (b) City Code Article 13, §2B-41(b).

**C. Security Deposit and Fees.**

- (1) A developer may not require an applicant for an inclusionary unit to remit a security deposit that exceeds the determined rent for the inclusionary unit.

(2) An applicant for an inclusionary unit shall pay the same application fee as a market rate tenant.

07.02.01.18

**.18 Subletting.**

- A. A developer may allow an inclusionary unit to be sublet in accordance with the provisions of this regulation.
- B. If the developer permits subletting, the developer shall ensure the ability to sublet is provided for in the lease terms of an inclusionary unit.
- C. If an inclusionary unit may be sublet, the developer shall ensure the sublessee meets the same income eligibility and leasing requirements as the current inclusionary unit tenant.
- D. The developer shall notify the Department in writing within 10 calendar days of approval of a sublease, including:
  - (1) The name of the tenant on the lease;
  - (2) The name of the sublessee;
  - (3) The amount of monthly rent; and
  - (4) Proof of sublessee's income verification.

*07.02.01.19*

**.19 Management.**

A developer shall ensure an inclusionary unit is managed to the same standard as a market rate unit of the same project.

07.02.01.20

**.20 Eviction – Leasing of Vacated Unit.**

A. Within 30 days of an eviction of an inclusionary unit tenant, a developer shall:

- (1) Review the waitlist for the next qualified applicant;
- (2) Verify the eligibility of the next qualified applicant on the waitlist, with the permission of the applicant; and
- (3) Offer the inclusionary unit to the next qualified application on the waitlist.

B. In the event there are no applicants on the waitlist, the developer shall market the inclusionary unit to a new qualified tenant within 30 calendar days of an eviction.

07.02.01.21

**.21 Annual Residential Project Report.**

**A. In General.**

(1) A developer of a project that provides inclusionary units shall submit an annual residential project report in accordance with this regulation to the Department no later than January 31 for the preceding calendar year.

(2) The Department shall:

(a) Review the annual residential project report; and

(b) Provide a copy of the annual residential project report to the Board.

**B. Requirements.**

The developer shall ensure the annual residential project report includes:

(1) The total number of inclusionary units for each applicable income level;

(2) The square footage of each bedroom in each inclusionary unit;

(3) A general overview of tenant income sources organized by type;

(4) A listing of each inclusionary unit with:

(a) A notation whether the unit is leased; and

(b) The income level of the tenant at the time the report is submitted;

(5) The total number of tenants renting an inclusionary unit, disaggregated by:

(a) Tenants identified as belonging to a group least likely to lease; and

(b) Tenants leasing an inclusionary unit because of the affirmative marketing plan required in the inclusionary housing plan;

(6) Certification that the project is compliant with its inclusionary housing plan;

(7) An assessment of the efficacy of the High-Performance Inclusionary Housing Tax Credit, as provided for in Regulation .23 of this chapter;

(8) The type of major public subsidy that made the project subject to the inclusionary housing requirements; and

(9) The following items, prepared by an independent accountant:

(a) An accounting of the monthly rent collected for each inclusionary unit for the reporting period without revealing the tenant's name or the unit address; and

(b) A comparison between the inclusionary unit rent collected and the market rate for that unit, provided both as:

(i) A whole number; and

(ii) A percentage.

#### C. Tenant Privacy.

(1) The developer shall ensure that the information provided in §B of this regulation does not disclose:

(a) A specific unit;

(b) A current tenant; or

(c) A past tenant.

(2) The Department shall review information listed in the report to ensure tenant privacy has been maintained.

#### D. Publication.

The Commissioner shall prominently post the annual residential project report on the Department's website.



*07.02.01.22*

**.22 Annual Commissioner Report.**

In addition to the requirements of City Code Article 13, §2B-16, the Commissioner shall include in the annual Commissioner report an assessment of the efficacy of the High-Performance Inclusionary Housing Tax Credit, as provided for in Regulation .23 of this chapter.

**.23 Annual Reports – Assessment of Efficacy of High-Performance Inclusionary Housing Tax Credit.**

**A. Developer Requirements.**

(1) In preparing the assessment of efficacy of the High-Performance Inclusionary Housing Tax Credit as required by this chapter, a developer shall provide data related to:

- (a) The process of matching a qualified tenant to an inclusionary unit;
- (b) The length of time an inclusionary unit remained vacant prior to leasing; and
- (c) Instances of:
  - (i) Late rent; and
  - (ii) Eviction.

(2) The developer shall ensure the data provided in accordance with §A(1) of this regulation are redacted to remove a tenant's:

- (a) Name; and
- (b) Address.

(3) In addition to the data provided for in §A(1) of this regulation, the developer shall also include in their assessment of efficacy a written summary of their experience complying with the requirements of:

- (a) City Code Article 13, §2B; and
- (b) This chapter.

**B. Commissioner Requirements.**

(1) In preparing the assessment of efficacy as required by this chapter, the Commissioner shall provide data related to:

- (a) The total number of inclusionary units created in the reporting year;
- (b) The overall cost of the High-Performance Inclusionary Housing Tax Credit; and
- (c) Costs of administering the provisions of:
  - (i) City Code Article 13, §2B; and
  - (ii) This chapter.

(2) In addition to the data provided for in §B(1) of this regulation, the Commissioner shall also include a written assessment of the Commissioner's experience ensuring developer compliance with the provisions of:

- (a) City Code Article 13, §2B; and

(b) This chapter.