

# Inclusionary Zoning Implementation Regulations Background & Definitions

## In accordance with Chapter 14 – Land Use ReCode

### Background

Based on the city's Comprehensive Plan and the housing study completed in 2015, it is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of the inclusionary zoning policy in Portland is to ensure that housing developments over a certain size provide a portion of workforce housing units and, by doing so, promote the health, safety, and welfare of Portland citizens.

This policy shall apply to development projects that create ten (10) or more new dwelling units for rent or for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. This policy shall not apply to projects that have submitted complete Master Development Plan, Level III Site Plan, or comparable applications to move forward prior to November 18, 2015. Notwithstanding any language to the contrary in Chapter 14, all developments of ten (10) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of Article 18.2 of Portland's Land Use ReCode.

### Definitions

Unless otherwise expressly provided herein, the following terms shall have the respective meanings set forth below for all purposes of the associated inclusionary zoning guidelines:

Affordable: Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance, condominium/HOA fees, real estate taxes, mortgage insurance, and utilities), does not exceed 30% of a household's gross income, or other amount established in city regulations that does not vary significantly from this amount.

Affordable Housing Agreement: Means an agreement detailing the affordable housing conditions associated with the approval of a project in accordance with Division 30 of the City's Code. The Affordable Housing Agreement (AHA) will be recorded at the Registry of Deeds or in the Land Court in the chain of title for the project. If an off-site property is used to satisfy any of the Owner's requirements in the AHA, the Owner must make a marginal reference in the chain of title of the title for that property that triggered the requirement to create these income restricted units.

Applicant: A Household that is applying, recertifying, or offering to purchase a Workforce Unit.

City: The City of Portland or its agent.

Development Fees:

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; and administrative fees;
- (b) Construction and permit fees as described in chapter 6. “Development fees” does not include any fees charged for reviews conducted by a party other than the city; and
- (c) Development Fees does not include the “fee-in lieu” option for providing cash in place of on-site workforce units.

Developer: Means the owner of the project.

Dwelling Unit: Has the same meaning as defined in Section 3 of Chapter 14.

Eligible Household: Means a household (1) which qualifies, at the time of the mortgage or rental application, with regard to household income as per the U.S. Department of Housing and Urban Development’s (HUD) Metropolitan Statistical Area (MSA) for Portland, or for a subsequent metric as approved by the City of Portland; and (2) the members of which do not, at the time of the mortgage or rental application, own residential real estate. Eligible Households may consist of a single individual of at least 18 years of age or a family. However, households headed by students or other individuals whose principal sources of financial support are from family members and/or are listed as dependents by others are not eligible; (4) Heads of household must be U.S. citizens or permanent resident aliens.

Gifted – Cash and/or other assets made available by another party for your use, with no obligation – expressed or implied – either in form of cash or future services, to repay this sum at any time.

Project: means a real estate development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;
- (b) That creates new dwelling units, among which is at least one affordable housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.

Household: Meaning one or more persons who will live regularly in the unit as their principal residence. If a household is comprised of more than one person, they shall be related by blood, marriage, domestic partnership, or by operation of law. This may include qualified unrelated

applicants who apply together for a lease or mortgage. Legal custody is required for households including one or more minor children.

Market Rent: Rent which already is being charged to the general public for similar units in a project.

Owner: Means all legal and equitable owners (including, but not limited to, any person, persons, firm, partnership, association, joint venture, corporation, or any public or private entity or entities or the owner's agent) of a building or project during the term of the permit and any heir, successor, or assign of any person holding an ownership interest in the project or building.

Recertification: The updating of documentation related to household income and size to determine continued household eligibility for a Workforce Rental Unit.

Workforce Rental Unit: Means a dwelling unit which is affordable to a household earning up to 80% of HUD AMI. Annual rent increases for that unit are limited by deed restriction, lease agreement, or other legally binding agreement to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

Workforce Homeownership Unit: Means a dwelling unit for which the purchase price is affordable to a household earning up to 80% of HUD AMI. The resale price is limited by deed restriction or other legally binding agreement for all future sales of the unit, or a lesser term as permitted in regulations, to the percentage increase in the HUD Greater Portland Metropolitan Statistical Area median income figures for a household of that size.

Workforce Unit: A designated unit that is affordable to Eligible Households earning up to 80% AMI whether for rental property or home ownership.