

CODE OF BALTIMORE REGULATIONS ANNOTATED (COBRA) REGISTER



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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Baltimore City residents may participate in the process by which City regulations are proposed, adopted, amended, or repealed by submitting data or opinions on proposed regulations to the promulgating agency (see “Opportunity for Public Comment” section on the notice page for all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 2024[†]

ISSUE DATE	* DEADLINE FOR PROPOSED REGULATION
January 15, 2024	January 8, 2024
February 15, 2024	February 8, 2024
March 15, 2024	March 8, 2024
April 15, 2024	April 8, 2024
May 15, 2024	May 8, 2024
June 15, 2024	June 8, 2024
July 15, 2024	July 8, 2024
August 15, 2024	August 8, 2024
September 15, 2024	**September 8, 2024
October 15, 2024	October 8, 2024
November 15, 2024	November 8, 2024
December 15, 2024	**December 8, 2024

[†] 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

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 Naugle**, Legislative Services Analyst and Head of City Regulations; **Anita Evans**, Legislative Reference Librarian; **Andrew Daugherty**, Legislative Services Technician.

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 proposes to enact Chapter **.01 Inclusionary Housing** under **COBRA 07.02**.

Statement of Purpose

The purpose of this action is to:

1. Define terms used in the Inclusionary Housing law;
2. Specify to what developments the Inclusionary Housing rules will apply;
3. Establish standards for the number of Inclusionary Housing units required;
4. Establish design and pricing standards for Inclusionary Housing units;
5. Establish standards for Inclusionary Housing Plan development, submission, modification, and approval;
6. Establish standards for determining and reporting Inclusionary Housing tenant eligibility;
7. Establish standards for tenant selection and lease requirements; and
8. Establish reporting requirements for developers and the Department of Housing and Community Development.

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

Opportunity for Public Comment

Comments may be sent to Stacy Freed, Department of Housing and Community Development, 417 East Fayette Street, 14th Floor, Baltimore, MD 21202 or emailed to 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) “Amenity” means a feature of a property that may benefit an occupant but that are not necessary to occupy the property.
- (2) “Annual residential project report” means the report required by City Code Article 13, § 2B-24.
- (3) “Annual Commissioner report” means the report required by City Code Article 13, § 2B-16.
- (4) “Area Median Income (AMI)” means the area median income for the metropolitan region that encompasses Baltimore City, as published and annually updated by the United States Department of Housing and Urban Development.
- (5) “Board” means the Inclusionary Housing Board as provided for in City Code Article 13, §§ 2B-11-2B-15.
- (6) “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.
- (7) “Commissioner” means:
 - (a) The Commissioner of the Baltimore City Department of Housing and Community Development; or
 - (b) The Commissioner’s designee.
- (8) “Department” means the Baltimore City Department of Housing and Community Development.
- (9) Developer.
 - (a) “Developer” has the meaning stated in City Code Article 13, § 2B-1(d).
 - (b) “Developer” includes a subsequent owner of a property as identified by the Maryland State Department of Assessments and Taxation.
- (10) “Dwelling unit” has the meaning stated in 202.2.23 of the Baltimore City Building Code, Building, Fire, and Related Codes of Baltimore City, 2024 Edition.
- (11) “Extremely low-income” has the meaning stated in City Code Article 13, § 2B-2(f).
- (12) 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.

(13) “Historic rehabilitation” means the repair or alteration of a historic property that:

(a) Returns the property to a state of utility; and

(b) Preserves features of the property that a formally recognized governing body on historic preservation determines are:

- (i) Historically significant;
- (ii) Architecturally significant; or
- (iii) Culturally significant.

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

(15) 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.

- (16) “Housing funds” means monetary support designated for affordable rental housing, including:
- (a) City funds;
 - (b) State funds; or
 - (c) Federal funds.
- (17) “HUD” means the United States Department of Housing and Urban Development.
- (18) “Inclusionary housing plan” means the information a developer is required to provide in accordance with City Code Article 13, § 2B-22.
- (19) “Inclusionary unit” means a dwelling unit provided in accordance with:
- (a) City Code Article 13, Subtitle 2B; and
 - (b) This chapter.
- (20) “Independent accountant” means a public accountant who examines the financial records of a company for which the accountant does not work internally.
- (21) “Lease” has the meaning stated in Real Property Article, §1-101(h), Annotated Code of Maryland.
- (22) “Low-income” has the meaning stated in City Code Article 13, § 2B-2(h).
- (23) “Luxurious feature” means an element 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.
- (24) “Major public subsidy” has the meaning stated in City Code Article 13, § 2B-1(h).
- (25) “Market rate” has the meaning stated in City Code Article 13, § 2B-2(i).
- (26) “Moderate income” has the meaning stated in City Code Article 13, § 2B-3(j).
- (27) “Neighborhood” has the meaning stated in City Code Article 13, § 2A-1(f).
- (28) “New construction” means a structure that is:
- (a) Brand new; and
 - (b) Has not been lived in.

(29) “Penthouse” has the meaning stated in City Code Article 13, § 2B-1(j).

(30) “Significant land use authorization” has the meaning stated in City Code Article 13, § 2B-1(m).

(31) “Sublease” means the lease of a portion of an inclusionary unit by a tenant to another person where the tenant retains a right under the original lease.

(32) 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.

07.02.01.03

.03 Applicable Projects.

The Department shall:

A. 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. Provide a developer building inclusionary units with written information regarding inclusionary housing requirements at a pre-development meeting that includes the developer, the Department, 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. Odd Number of Required Inclusionary Units.

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

07.02.01.05

.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.

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 a project's inclusionary units are:

- (1) Provided at the same ratio as market rate units throughout a building; and
- (2) The lowest price floor plan available on each floor of the project.

B. If units with identical numbers 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.

07.02.01.08

.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 has access to the same amenities as a tenant of a market rate unit.

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) A proposed strategy for affirmatively marketing inclusionary units to persons least likely to become tenants without a special outreach effort.

(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 calendar days of receipt;

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

(c) 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 calendar 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) In the event the Board is unable to meet to consider a Department recommendation, a member of the Board may provide a written comment to the Department within 5 calendar days of receiving the inclusionary housing plan.

F. Notification.

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

(a) Whether the inclusionary housing plan has been:

(i) Approved; or

(ii) Denied; and

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

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

07.02.01.10

.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 inclusionary housing plan's approval 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.

07.02.01.11

.11 Inclusionary Housing Plan – Modifications.

A. Technical Modifications.

A developer may submit to the Department a request for a technical modification to an inclusionary housing plan via email.

B. Modifications - In General.

(1) A developer may submit to the Department a request to modify an approved inclusionary housing plan 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 to the Department an updated inclusionary housing plan 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. Determination of Eligibility.

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

C. Initial and Continuing Certification of Eligibility.

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

D. Increase in Household Income.

- (1) In the event a tenant's annual income increases above AMI, the tenant shall:
 - (a) Be eligible to remain in the tenant's unit; and
 - (b) Be subject to a rent increase at the same ratio as the when the unit was leased, as defined by AMI.
- (2) In the event a tenant's 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 another comparable unit available as an inclusionary unit when a comparable unit becomes available, and comply with the requirements of:

(i) This chapter, and

(ii) The City Code.

07.02.01.13

.13 Tenant Selection.

A. Recruitment and Retention.

A developer shall be responsible for administering a tenant selection process for inclusionary units, including:

- (1) Marketing to a tenant;
- (2) Screening of a tenant; and
- (3) Recertification of a tenant.

B. Use of a Third-Party Company.

- (1) A developer may contract a portion of tenant selection provided for in §A of this regulation to a third-party company.
- (2) If a developer elects to contract a portion of tenant selection to a third-party company, the developer shall:
 - (a) Identify a planned third-party company as part of the developer's inclusionary housing plan; and
 - (b) Be responsible for a fee incurred from the third-party company.

.14 Leasing Requirements.

A. In General.

(1) A tenant shall certify that the tenant is 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;

(iv) Entitled to the same incentive being offered to a market rate tenant at the time a lease is executed, if any; and

(b) Time and date stamp a leasing application at the time of 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 regulation .15 of this chapter.

C. Security Deposit and Fees.

A developer shall ensure an inclusionary unit tenant is charged the same amount as a market rate tenant for:

(1) A security deposit; and

(2) Applicable fees.

07.02.01.15

.15 Subletting.

- A. A developer may sublet an inclusionary unit in accordance with the provisions of this regulation.
- B. 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.

07.02.01.16

.16 Tenant Approval - Review and Wait List.

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

B. Wait List.

(1) For applications that are not approved due to a lack of available inclusionary units, a developer shall:

(a) Compile the contact information included in the additional applications into a wait list;

(b) Ensure the wait list is updated as new applications are received; and

(c) Provide the wait list to a City agency upon written request.

(2) In addition to the requirements of §B(1) of this regulation, the developer shall maintain separate wait lists for each:

(a) Income eligibility; and

(b) Bedroom size.

(3) If a qualified tenant turns down an inclusionary unit that is offered, the developer shall offer the unit to the next qualified tenant on the wait list until a qualified tenant accepts the unit.

07.02.01.17

.17 Management.

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

07.02.01.18

.18 Eviction – Leasing of Vacated Unit.

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

- A. Offer the inclusionary unit to the next qualified application on the wait list; or
- B. Market the inclusionary unit to a new qualified tenant.

07.02.01.19

.19 Annual Residential Project Report.

A. In General.

(1) A developer of a project that provides inclusionary units shall submit an annual residential project report:

(a) To the Department; and

(b) 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 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;

(4) 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 as a result of the affirmative marketing plan required in the inclusionary housing plan;

(5) Certification that the project is in compliance with its inclusionary housing plan;

(6) An assessment of the efficacy of the High-Performance Inclusionary Housing Tax Credit, as provided for in regulation .21 of this chapter;

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

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

(a) An accounting of the monthly rent collected for each inclusionary unit for the reporting period; 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. Publication.

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

07.02.01.20

.20 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 .21 of this chapter.

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

A. Developer Requirements.

(1) In preparing the assessment of efficacy as required by §19(b)(6) of this chapter, a developer shall provide information or data related to:

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

(2) In addition to data related to the assessment of efficacy 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, Subtitle 2B; and
- (b) This chapter.

B. Commissioner Requirements.

(1) In preparing the assessment of efficacy as required by this regulation, the Commissioner shall provide information or 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, Subtitle 2B; and
 - (ii) This chapter.

(2) In addition to data related to the assessment of efficacy 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, Subtitle 2B; and
- (b) This chapter.

TITLE 07
DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

Subtitle 03 DISPOSITION PROGRAMS

07.03.01 DEFINITIONS

07.03.02 APPLICATION PROCESSES

07.03.03 FIXED PRICING PROGRAM

Authority: Baltimore City Code, Article 13 § 2-7(h), (w)

Notice of Proposed Action

The Department of Housing and Community Development proposes to enact **Chapters .01 – Definitions, .02 – Application Processes, and .03 – Fixed Pricing Program**, and new **Subtitle 03 – DISPOSITION PROGRAMS** under COBRA Title 07.

Statement of Purpose

The purpose of this action is to:

1. Define commonly used terms related to disposition programs;
2. Establish regulations governing the application, review, and approval process for a disposition program;
3. Codify Board of Estimates Approved Fixed Pricing Policy to standard format.

These regulations were initiated in accordance with Board of Estimates Approved Memo SB-24-10108 and City Code, Article 13 § 2-7(h), (w)

Opportunity for Public Comment

Comments may be sent to James Turner, Department of Housing and Community Development, 417 E. Fayette Street, 14th Floor, Baltimore, MD 21202 or emailed to james.turner2@baltimorecity.gov within 30 days of the date of publication of this Register.

ALICE KENNEDY
COMMISSIONER

TITLE 07 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
SUBTITLE 03 – DISPOSITION PROGRAMS
CHAPTER 01 – DEFINITIONS

Authority: Baltimore City Code, Article 13 § 2-7(h), (w)

07.03.01.01

.01 Definitions.

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

B. Terms Defined.

(1) “Adjacent owner” means the owner of record for a property that is adjacent to a vacant lot that is a part of a proposed side yard disposition.

(2) Affordable housing land trust.

(a) “Affordable housing land trust” has the meaning stated in Real Property Article §14-501, Annotated Code of Maryland.

(b) “Affordable housing land trust” includes a community housing land trust.

(3) “Applicant” means a person who has applied to purchase a property from the Department through a disposition program.

(4) “Application document” means the form created by the Department to apply for a disposition program.

(5) “Applicant type” means a category of applicant applying for a disposition program including a:

(a) Homeowner;

(b) For-profit developer;

(c) Large 501(c)(3) nonprofit;

(d) Small 501(c)(3) nonprofit; or

(e) Community land trust.

(6) “BOE portal” means the web-based system implemented by the Baltimore City Office of the Comptroller to submit required items to the Board of Estimates for:

(a) Review; and

(b) Approval.

(7) “Board” means the Baltimore City Board of Estimates.

(8) “BuyIntoBmore” means the initiative developed by the Department that posts properties for sale through a disposition program.

(9) “Commissioner” means:

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

(b) The Commissioner’s designee.

(10) “Compliance officer” means a Department employee responsible for oversight of the terms of a land disposition agreement.

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

(12) “Disposition” means the sale of City-owned property.

(13) “Disposition program” means a program regulated under this subtitle intended to convey a City-owned property through:

(a) Sale;

(b) Lease;

(c) Transfer;

(d) Swap; or

(e) Another means of conveyance as approved by the Commissioner.

(14) Financial document.

(a) “Financial document” means proof of monetary funds.

(b) “Financial document” includes:

(i) A bank statement;

(ii) A pre-approval letter from a lending institution;

(iii) A retirement account statement;

(iv) An investment account statement; and

(v) Additional documentation as approved by the Commissioner.

(15) “Fixed Pricing Policy” means a policy approved by the Department and the Board for use in the Fixed Pricing Program that establishes sale prices for:

- (a) Various applicant types, as provided for under this subtitle; and
- (b) Various property types, as provided for under this subtitle.

(16) “Fixed Pricing Program” means the disposition program operated by the Department to sell properties valued at less than \$100,000 to allowed applicant types.

(17) “For-profit developer” means a person focused on rehabilitation or new construction of a property with the primary goal of generating revenue.

(18) “Good standing” means the status conferred by the Maryland State Department of Assessments and Taxation through a Certificate of Status.

(19) Green space.

(a) “Green space” means an unimproved parcel of land that does not include a habitable structure at the time of purchase.

(b) “Green space” includes a:

- (i) Side yard, if the side yard does not include a livable space;
- (ii) Community garden; or
- (iii) Park.

(c) “Green space” does not include a parcel of land used for:

- (i) Commercial use; or
- (ii) Urban agriculture.

(20) “Homeowner” means the owner of record of a property who has an approved homestead application through the Maryland State Department of Assessments and Taxation.

(21) “Housing market typology” means a classification system developed by the Baltimore City Department of Planning that broadly categorizes and analyzes Baltimore City housing data.

(22) “Land disposition agreement” means a contract of sale between the City, the Department, and an approved applicant that:

- (a) Outlines disposition terms; and
- (b) Contains the sections required by this subtitle.

- (23) “Large 501(c)(3) nonprofit” means a 501(c)(3) nonprofit with 50 or more employees.
- (24) “Lien” means a legal claim against a property for a debt.
- (25) “Nuisance property” has the meaning stated in City Code Article 13, § 5-15(a).
- (26) “Owner-occupied” means a property that is the primary residence of the owner of record.
- (27) “OHAAT” means the One House at a Time Baltimore Program.
- (28) “Person” has the meaning stated in City Code General Provisions Article § 1-107.
- (29) “Purchaser” means an applicant for a disposition program that has received and returned an award letter from the Department in accordance with this subtitle.
- (30) “Remote Online Notary (RON)” means a vendor whose technology is authorized for use during remote notarial acts in the State of Maryland.
- (31) “SDAT” means the Maryland State Department of Assessment and Taxation.
- (32) “Side yard” means vacant land for sale by the Department that is adjacent to an applicant's property.
- (33) “Site assemblage” means the combination of multiple properties to create a larger development site.
- (34) “Six-year period” means the combination of the:
- (a) Twelve-month period during which an applicant is required to obtain an occupancy permit in accordance with this subtitle; and
 - (b) Five-year period during which an applicant is required to maintain primary residency at a property in accordance with this subtitle.
- (35) “Small 501(c)(3) nonprofit” means a 501(c)(3) nonprofit with fewer than 50 employees.
- (36) Occupancy Permit.
- (a) “Occupancy permit” has the meaning stated in 202.2.45 Baltimore City Building Code, Building, Fire, and Related Codes of Baltimore City, 2024 Edition.
 - (b) “Occupancy permit” means a permit issued by the Department that confirms the:
 - (i) Intended use of a property; and
 - (ii) Maximum number of individuals who may occupy a property.
- (37) “Vacant building notice” means a designation conferred by the City to a property that is:
- (a) Uninhabitable;

(b) Unusable; or

(c) A nuisance property.

(38) “Vacant structure” has the meaning stated in City Code Article 13, § 4-1(i).

(39) “Vacant lot” means a lot with no physical structures that has:

(a) Failed to abate a code violation; and

(b) Been issued a vacant building notice.

(40) “Waiver valuation” means a process used by the Department to determine the value of a property rather than obtaining a third-party appraisal.

(41) “Whole block strategy” means a redevelopment plan that focuses on revitalizing an entire block rather than individual properties.

TITLE 07 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

SUBTITLE 03 – DISPOSITION PROGRAMS

CHAPTER 02 – APPLICATION PROCESSES

Authority: Baltimore City Code, Article 13 § 2-7(h), (w)

07.03.02.01

.01 Scope.

This chapter establishes regulations governing the application, review, and approval process for a disposition program.

07.03.02.02

.02 Applications.

A. In General.

The Department shall:

- (1) Create an application document for the disposition programs described under this subtitle;
- (2) Make the application document available on the Department's website; and
- (3) Provide technical assistance to applicants who require assistance completing the application.

B. Required Information.

The Department may require the following information on an application document:

- (1) Applicant information that includes:
 - (a) Applicant type;
 - (b) Contact information; and
 - (c) The applicant's current address;
- (2) Applicant history, as provided for under this title;
- (3) OHAAT approval;
- (4) A project description;
- (5) Funding information; and
- (6) Additional criteria as required by the Commissioner to complete the application.

C. In accordance with the guidance posted on the Department's website, an applicant for a disposition program shall:

- (1) Submit an application to the Department in the form required; and
- (2) Remit an associated application fee to the Department at the time of submission.

07.03.02.03

.03 Review Criteria.

In addition to the general requirements of this chapter, the Department shall review an application for the Fixed Pricing Program using the criteria listed in chapter 03 of this subtitle.

07.03.02.04

.04 Determination of Ineligibility.

A. The Department may determine that a property is ineligible for sale through a disposition program:

(1) Prior to receiving an application for a property; or

(2) During application review.

B. If the Department determines that a property is ineligible for sale during application review, the Department shall refund the associated application fee to the applicant within 15 business days.

.05 Request for Documentation.

A. If an application does not include the items required in regulation .02 of this chapter, the Department shall:

- (1) Consider the application incomplete;
- (2) Deny the application; and
- (3) Send an email to the applicant detailing the reasons for denial, including a list of documentation that may be submitted to reopen the application for review.

B. Documentation Request Period.

- (1) If an applicant wishes to re-open an incomplete application for review, the applicant shall submit requested documentation to the Department within 5 business days of receipt of the email required by §A(3) of this regulation.
- (2) The Department shall acknowledge receipt of requested documentation submitted in accordance with §B(1) of this section within 5 business days of submission.
- (3) The Department may not review another offer until the original is rejected.

.06 Award Letter.

A. If an application meets the criteria of the disposition program being applied for as provided under this subtitle, the Department shall:

- (1) Approve the application for progression to settlement; and
- (2) Except as provided in §D of this regulation, notify the applicant of approval through an electronic award letter that includes a time period for applicant response.

B. Upon receipt of the award letter provided for in §A(2) of this regulation, an applicant shall:

- (1) Sign the award letter; and
- (2) Electronically remit the signed letter to the Department within the time period specified.

C. Upon receipt of the signed award letter, the Department shall:

- (1) Change an applicant's designation from "applicant" to "purchaser;" and
- (2) Initiate the process of creating a land disposition agreement in accordance with regulation .07 of this chapter.

D. If an approved applicant does not have an email address, the Department may make an accommodation to reach the applicant via the contact information provided in the application.

07.03.02.07

.07 Land Disposition Agreement.

A. In General.

- (1) Upon receipt of a signed award letter, the Department shall:
 - (a) Ensure the terms of a sale are subject to the land disposition agreement; and
 - (b) Provide a draft copy of a land disposition agreement to the purchaser.
- (2) Upon receipt of the draft land disposition agreement from the Department, the purchaser shall:
 - (a) Review the terms of the land disposition agreement; and
 - (b) Submit a requested modification to the Department via email, if a modification is necessary.

B. Signature.

- (1) Upon agreement of contract terms, the Department shall submit the land disposition agreement for final signature from the required parties as described under this subtitle.
- (2) The purchaser shall:
 - (a) Sign the land disposition agreement through the use of a RON; or
 - (b) Sign and return the land disposition agreement via postal mail in accordance with §B(3) of this regulation.
- (3) A purchaser submitting a signed land disposition agreement via postal mail shall:
 - (a) Ensure the signed land disposition agreement is notarized;
 - (b) Assume the cost of:
 - (i) Notarization; and
 - (ii) Postage;
 - (c) Address the mail to the purchaser's assigned real estate officer as specified in the award letter; and
 - (d) Send the signed and notarized land disposition agreement to:

[Name Of Assigned Real Estate Officer]
City of Baltimore, Department of Housing & Community Development,
Development Division

417 E. Fayette Street.10th Floor, Benton Bldg.
Baltimore, MD 21202.

(4) The Department may not accept a land disposition agreement that is not notarized.

C. Compliance.

The Department shall assign a compliance officer to ensure a purchaser remains compliant with the land disposition agreement until the Department receives a certificate of completion from the purchaser.

07.03.02.08

.08 Submission to the Board and Settlement.

A. Board of Estimates.

(1) The Department shall submit a disposition to the Board for:

(a) Review; and

(b) Approval.

(2) The Board shall review the materials required by §A(1) of this regulation.

B. Settlement.

(1) The Department shall ensure settlement occurs in accordance with the terms of the land disposition agreement.

(2) The purchaser shall be responsible for:

(a) Selecting a title company; and

(b) Paying settlement expenses.

.09 Extension Requests.

A. Exclusions.

The Department may not grant an extension to an applicant seeking to purchase green space.

B. A purchaser may submit an extension request to a term contained in a land disposition agreement in accordance with this regulation.

C. To submit an extension request, a purchaser shall:

(1) Provide a written copy of the extension request that includes:

(a) The reason for the requested extension; and

(b) The amount of time requested for the extension; and

(2) Mail the extension request to the Department using the address noted in the land disposition agreement.

D. The Department may:

(1) Grant an extension to a term contained in a land disposition agreement if the purchaser has:

(a) Submitted a signed land disposition agreement in accordance with regulation .07 of this chapter;

(b) Submitted required application materials for the disposition program; and

(c) Submitted an extension request in accordance with §B of this regulation; and

(2) Require a purchaser to submit additional information related to the reason for a requested extension.

E. The Department shall:

(1) Acknowledge an extension request upon review via written response to the applicant; and

(2) Submit the extension request to the Land Records Division of the Baltimore City Archives.

F. The Department may not unreasonably deny an extension request.

TITLE 07 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

**SUBTITLE 03 – DISPOSITION PROGRAMS
CHAPTER 03 – FIXED PRICING PROGRAM**

Authority: Baltimore City Code, Article 13 §§ 2-7 (h), (w)

07.03.03.01

.01 Scope.

This chapter establishes regulations governing the Fixed Pricing Program including:

- A. Application requirements;
- B. Review criteria;
- C. Approval criteria;
- D. Applicant responsibilities; and
- E. Departmental responsibilities.

07.03.03.02

.02 Exclusions.

The Department may not list a property for sale through the Fixed Pricing Program if the property:

- A. Is valued over \$100,000;
- B. Is identified for site assemblage;
- C. Is part of an existing development project; or
- D. Is needed to implement a Departmental whole block strategy.

.03 Property Types.

A. The Department may sell a property through the Fixed Pricing Program if:

- (1) The property is listed as available on the City's BuyIntoBmore webpage;
- (2) The property is located within a housing market typology category approved for sale in the Fixed Pricing Policy; and
- (3) The property will be redeveloped for:
 - (a) Residential use;
 - (b) Residential mixed-use; or
 - (c) Green space.

B. Homeowner Side Yard.

- (1) The Department may sell a property through the Fixed Pricing Program for use as a side yard if:
 - (a) The property is a vacant lot;
 - (b) The property is:
 - (i) Adjacent to an occupied lot; and
 - (ii) Being sold as for use as a side yard to the owner of the occupied lot; and
 - (c) The property is located in housing market typologies A-J.
- (2) The Department shall ensure a property sold as homeowner side yard remains subject to a 3-year use restriction that prohibits new construction during that period.

07.03.03.04

.04 Price.

A. In General.

The Department shall sell a property through the Fixed Pricing Program at the price established in the approved Fixed Pricing Policy and required by these regulations.

B. Fixed Price Established for Vacant Buildings.

- (1) A developer shall pay \$3000.
- (2) A large 501(c)(3) nonprofit shall pay \$3000.
- (3) A small 501(c)(3) nonprofit shall pay \$1000.
- (4) A community land trust shall pay \$1.
- (5) A homeowner shall pay \$1.

C. Fixed Price Established for Vacant Lots.

- (1) A developer shall pay \$1000.
- (2) A large 501(c)(3) nonprofit shall pay \$1000.
- (3) A small 501(c)(3) nonprofit shall pay \$500.
- (4) A community land trust shall pay \$1.
- (5) A homeowner shall pay \$1.

D. If a property is assessed for less than the fixed price established in this regulation, then the Department shall sell the property at the value assessed.

.05 Applicant Specific Requirements – Developers and Nonprofits.

A. The following applicant types will be subject to this regulation:

- (1) A developer; and
- (2) A 501(c)(3) nonprofit, including a:
 - (a) Small 501(c)(3) nonprofit; and
 - (b) Large 501(c)(3) nonprofit.

B. An applicant type provided for in §A of this regulation shall ensure:

- (1) A vacant building acquired through the Fixed Pricing Program is developed for:
 - (a) Residential use;
 - (b) Residential mixed-use; or
 - (c) Residential mixed-use that includes a green space; and
- (2) An occupancy permit is obtained within 12 months from the date of settlement.

07.03.03.06

.06 Applicant Specific Requirements – Affordable Housing Land Trusts.

An affordable housing land trust applying to the Fixed Pricing Program shall ensure that the affordable housing land trusts are:

- A. Registered as an affordable housing land trust with the Maryland State Department of Assessments and Taxation; and
- B. In compliance with applicable State affordable housing land trust laws.

.07 Applicant Specific Requirements – Homeowners.

A. Vacant Buildings.

(1) A homeowner applying to purchase a vacant building through the Fixed Pricing Program shall:

(a) Ensure an occupancy permit is obtained within 12 months from the date of settlement;
and

(b) Maintain primary residency at the property for a minimum of 5 years from the date of issuance of the occupancy permit.

(2) If a property purchased by a homeowner for primary residency is sold or leased within the 6-year period, the homeowner shall be:

(a) Deemed to be a developer of the property; and

(b) Required to pay a pro-rated portion of \$3,000 calculated based on the year that the property is sold.

B. Vacant Lots.

A homeowner applying to purchase a vacant lot through the Fixed Pricing Program shall:

(1) Construct a new residential unit and satisfy the requirements in §A of this regulation; or

(2) Ensure the lot is used as a side yard in accordance with §03(B)(2) of this chapter.

07.03.03.08

.08 Property Eligibility.

A. The Department may consider a property eligible for the Fixed Pricing Program if the property is assessed at less than \$100,000.

B. Properties Assessed Over \$100,000

For a property assessed at over \$100,000, the Department may perform an internal valuation to determine:

(1) Whether the property is eligible for the Fixed Pricing Program; and

(2) A sale price for a property through the Fixed Pricing Program.

C. If the valuation determined under §B(1) of this regulation finds the true value of the assessed property to be less than \$100,000, the Department may consider the property eligible for sale under the Fixed Pricing Program.

D. If the valuation determined under §B(1) of this regulation finds the true value of the assessed property to be \$100,000 or greater, the Department may not consider the property eligible under the Fixed Pricing Program.

.09 Applicant Eligibility.

A. In General.

To be eligible for the Fixed Pricing Program, an applicant shall:

- (1) Possess financial documents indicating no less than the minimum amount required by the Department for application, per applicable property;
- (2) Be in good standing with the State Department of Assessments and Taxation, if they are a business entity; and
- (3) Be free of:
 - (a) An open federal lien;
 - (b) An open state lien; or
 - (c) An applicable legal matter, in accordance with §C of this regulation.

B. Vacant Building Notices.

- (1) In addition to the requirements specified in §A of this regulation, the Department shall consider whether an applicant owns a building with a vacant building notice in determining eligibility for the Fixed Pricing Program.
- (2) The Department may determine an applicant to be ineligible if:
 - (a) The applicant possesses a vacant building notice older than 2 years; or
 - (b) The applicant possesses a vacant building notice that is less than 2 years old, but there are no open or active construction permits on the property.

C. Legal Matters.

- (1) Pending Civil Proceedings.
 - (a) The Department shall assess whether an applicant has a pending civil proceeding during review of applicant eligibility, including a:
 - (i) Pending federal judgement; or
 - (ii) Pending State judgement.
 - (b) The Department may reject an applicant based on a pending civil proceeding if the Department determines that the pending legal proceeding could inhibit the applicant from:

(i) Adhering to the terms of a land disposition agreement; or

(ii) Financing a purchase.

(c) If an applicant rejected in accordance with §(2) of this section has a pending civil proceeding dropped or resolved in their favor, the applicant may re-apply for the Fixed Pricing Program.

(2) Criminal Cases.

(a) The Department may reject an applicant based on a criminal case that could lead to imprisonment.

(b) If an applicant rejected in accordance with §(2)(a) of this section is found not guilty, the applicant may re-apply for the Fixed Pricing Program.

07.03.03.10

.10 Fixed Pricing Program - Applications.

A. In addition to the general application requirements for a disposition program listed in chapter 02 of this subtitle, an applicant applying for the Fixed Pricing Program shall adhere to the requirements of this regulation.

B. An applicant applying for the Fixed Pricing Program may not:

(1) Exceed 12 properties per application; or

(2) Submit multiple applications under different applicant names for more than 12 properties at a time.

C. An applicant may apply for additional properties as use and occupancy permits on a previously purchased property are obtained in accordance with this chapter, not to exceed 12 properties at any given time.

D. Side Yard Application.

To apply to purchase a side yard through the Fixed Pricing Program, an applicant shall provide:

(1) Documentation verifying that the applicant owns the property adjacent to the lot to be purchased for use as a side yard;

(2) Documentation that the applicant's adjacent property has a confirmed use and occupancy permit;
and

(3) Documentation of an approved Homestead Tax application through the State Department of Assessments and Taxation confirming use and primary residence of the applicant's adjacent property.

07.03.03.11

.11 Approval.

The Department shall approve an application to the Fixed Pricing Program in accordance with Chapter 02 of this subtitle.

07.03.03.12

.12 Board of Estimates.

A. The Department shall:

(1) Submit a list of the following items through the BOE portal:

- (a) The address of a property awarded through the Fixed Pricing Program;
- (b) The purchase price of a property awarded through the Fixed Pricing Program;
- (c) The contact information of the prospective purchaser; and
- (d) The type of purchaser; and

(2) Post the list required by §A(1) of this regulation on the Department's website the Monday prior to the next Board Meeting.

B. The Board of Estimates shall:

(1) Maintain a recurring item on the Board meeting agenda titled "Fixed Pricing Policy Dispositions" to review the list provided by the Department in §A(1) of this regulation; and

(2) Consider a purchaser's inclusion on the agenda as an indication of the purchaser's approval of the terms of the land disposition agreement approved by the Board in accordance with chapter 02 of this subtitle.

07.03.03.13

.13 Land Disposition Agreement – Fixed Pricing Program.

In addition to the provisions of chapter 02 of this subtitle:

A. The Department shall post an approved land disposition agreement executed for a Fixed Pricing Program disposition online for the purchaser to review.

B. The Department may not send a land disposition agreement executed for a Fixed Pricing Program disposition directly to the purchaser.

C. The purchaser shall be responsible for:

(1) Reading the terms of a land disposition agreement executed for a Fixed Pricing Program disposition;
and

(2) Signing the land disposition agreement posted online by the Department.