

Director of the Department of Development Rules Pursuant to Chapter 4565 – Affordable Housing and Community Reinvestment Area Incentive Policy

Table of Contents

1. Introduction	1
2. Income Qualification and Verification; Affordable Rent; Gross Annual Income	1
3. Fees	4
4. Reasonable Utility Expenses	5
5. Number of Affordable Housing Units	5
6. Default	6
7. Appeals.....	7
8. Monitoring Fees and Annual Report.....	7
9. Deadline to file applications	8
10. Transition from 2018 to 2022 policy.....	8
11. Fee-in-Lieu Inflation Calculation.....	9

1. Introduction

This document provides interpretation and examples for the Residential Tax Incentive program as defined in Columbus City Codes Chapter 4565. Ordinance 1843-2022, passed on July 25, 2022, updated the program to account for new affordability requirements and other program changes.

2. Income Qualification and Verification; Affordable Rent; Gross Annual Income

- a. Tenant incomes are qualified at the time of initial application to lease the unit and are not required to be re-verified for the duration of the applicant’s occupancy of the same unit. This means that reverification is not required (i) at lease renewal; (ii) if another person(s) moves in, so long as the same unit is occupied by the original tenant, or (iii) when an occupant reaches age 18. Income qualification is determined using standard verification procedures similar to market rate developments (pay-stubs, W-2s, worker’s compensation, pension, Social Security, etc.) rather than HUD income verification procedures.

- b. For full-time students age 18 or older may qualify for Affordable Housing Units. Only the first \$480.00 of employment annual income is counted toward household income. Further guidance is informed by IRC §42.
- c. Household size for which a housing unit is designed is determined as follows:

Unit Type	Household Size (Persons)
Studio	1
One bedroom	1.5
Two bedroom	3
Three bedroom	4.5
Four or more bedrooms	Determined by multiplying the number of bedrooms by 1.5

- d. When the current lease term expires, rent can be adjusted upward to the then-applicable Area Median Income (AMI) limit, but is not required to be adjusted downward if the AMI limit goes down.
- e. For single family homeownership subject to Ordinance No. 1843-2022 requiring the owner to earn less than or equal to 120% of AMI upon initial occupancy, said initial occupancy shall be determined by the greater of the two options below. Documentation appropriateness is subject to the discretion of the Division of Housing:
 - i. The income as disclosed in the most recent year of tax returns, or other documentation to support sources of income such as social security.
 - ii. Lender analysis of income, such as a Lender Application signed and dated by the applicant(s) and lender.
- f. In the event a homeowner sells the property, the new owner must earn less than or equal to 120% of AMI. If the new owner exceeds this AMI, then the abatement shall be revoked.
- g. To determine affordable rents, obtain the Home Program Rents published by HUD for the Columbus, OH HUD Metro FMR Area (<https://www.huduser.gov/portal/datasets/HOME-Rent-limits.html>). Begin with the 50% rent limit and multiply to calculate the 60%, 80%, 100%, and 120% AMI figures as pertinent to the project. For convenience, charts calculating these metrics will

be published by the Division of Housing separate from this document.

- h. To determine income limits, obtain the Income Limits Summary published by HUD for the Columbus, OH HUD Metro FMR Area (<https://www.huduser.gov/portal/datasets/HOME-income-limits.html>). Begin with the 60% rent limit and multiply to calculate the 60%, 80%, 100%, and 120% AMI figures as pertinent to the project.

- i. *Example 1:* A project is required to provide 10 units for occupants with annual household incomes at or below 60% of AMI and 10 units for occupants with annual household incomes at or below 80% of AMI. For purposes of this example, assume the following:

For a one bedroom unit the 60% AMI monthly rent limit is \$1,053.60 and the 80% AMI rent limit is \$1,404.80. The 60% income limit for one-person family is \$39,360.00 and the 80% income limit is \$52,480.00.

An applicant desiring to rent a one-bedroom unit in the project as her principal residence, who is not a full-time student, has a gross annual income of \$39,000.00. To qualify for one of the 10 units restricted to household incomes at or below 60% AMI, the gross monthly rent to be charged to the applicant for the one bedroom unit cannot exceed \$1,053.60 less reasonable utility expenses.

- j. *Example 2:* A project is required to provide 10 units for occupants with annual household incomes at or below 60% of the AMI and 10 units for occupants with annual household incomes at or below 80% of AMI. For purposes of this example, assume the following:

For a two bedroom unit the 60% AMI monthly rent limit is \$1,266.00 and the 80% AMI rent limit is \$1,688.00. The 60% income limit for a two-person household is \$45,000.00 and the 80% income limit is \$60,000.00.

Person A and Person B desire to rent a two-bedroom unit in the project as their principal residence and Person B is a full-time student. Person A's gross annual income is \$48,000.00 and Person B's gross annual income is \$5,000.00. For purposes of Chapter 4565, Person A's and Person B's combined household income is \$48,480.00, due to Person B being a full-time student, whose income is capped at \$480.00. To qualify for one of the 10 units restricted to household incomes at or below 80% AMI, the gross monthly rent to be charged to Person A and Person B for the two bedroom unit is \$1,688.00 less reasonable utility expenses.

DEPARTMENT OF
DEVELOPMENT

- k. *Example 3:* A project is required to provide 10 units for occupants with annual household incomes at or below 60% of the AMI and 10 units for occupants with annual household incomes at or below 80% of AMI. For purposes of this example, assume the following:

For a two bedroom unit the 60% AMI monthly rent limit is \$1,266.00 and the 80% AMI rent limit is \$1,688.00. The 60% income limit for one-person family is \$39,360.00 and the 80% income limit is \$52,480.00. The 60% income limit for a two-person household is \$45,000.00 and the 80% income limit is \$60,000.00. The 60% income limit for a three-person household is \$50,640.00 and the 80% income limit is \$67,520.00.

Person A and Person B (who is Person's A seventeen year old child) desire to rent a two-bedroom unit in the project as their principal residence. Person A's gross annual income is \$48,000.00 and Person B's gross annual income is \$5,000.00. For purposes of Chapter 4565, Person A's and Person B's combined household income is \$48,000.00, because seventeen year-old Person B's income is not counted toward the household income. To qualify for one of the 10 units restricted to household incomes at or below 80% AMI, the gross monthly rent to be charged to Person A and Person B for the two bedroom unit is \$1,688.00 less reasonable utility expenses.

Three months after Person A and Person B sign the lease, Person C moves into the same unit and is added to the lease. Person C's gross annual income is \$30,000.00. When the lease is renewed after the initial term, the gross monthly rent to be charged for the two bedroom unit cannot exceed the greater of \$1,688.00 or the then-applicable AMI limit, less reasonable utility expenses.

3. Fees

- a. The following allowable fees are considered usual and customary, if charged to all units in the project:
- i. Pet, parking, garage, storage, application, unit reservation or hold, processing, credit card processing, athletic club membership set-up, security deposit, amenity, late payment, lease violation, lost key card, key or garage remote, lock changes, damage repair, non-sufficient funds fees.
 - ii. The usual and customer application and processing fee is \$35.00
- b. The following fees are not considered usual and customary and therefore are not allowed to be charged to Affordable Housing Units:
- i. Washer dryer hookup access, maintenance, income qualification, move in,

redecorating, cleaning (other than in connection with pet or condition of the unit at lease termination).

- c. Any other fees payable by tenants of the Affordable Housing Units not listed in Sections 2(a)(i) or 2(b)(i) must be submitted to the Director for review and approval within a reasonable timeframe.

4. Reasonable Utility Expenses

- a. City Code Section 4565.02(V) requires that the rent for an Affordable Housing Unit include an allowance for reasonable utility expenses. Reasonable utility expenses are determined in accordance with the methods set forth in 26 CFR 1.42-10 as amended from time to time. Utility expenses must be based on usage and not stated as a flat fee. Notwithstanding the foregoing, a ratio utility billing system (commonly referred to as RUBS) is permitted. Required utility expenses include, but may not be limited to, water, gas, electric, trash removal, and sewage. Expenses that are not required include phone and internet service.

5. Number of Affordable Housing Units

- a. Six months after receiving the Certificate of Occupancy, a proportional number of the required percentage of Affordable Housing Units as compared to the total number of occupied units in the project must be occupied, and calculated as follows:

Number of units in the project multiplied by the overall percentage of occupied units multiplied by the required percentage of Affordable Housing Units.

For example: a project has 100 units and is required to provide 10 units for occupants with annual household incomes up to 60% of the Area Median Income (AMI) and 10 units for occupants with annual household incomes up to 80% of AMI. Six months after receipt of the Certificate of Occupancy, the project is 50% occupied. The number of Affordable Housing Units required to be occupied six months after receipt of the Certificate of Occupancy is 5 units to occupants with annual household incomes at or below 60% of the AMI and 5 units for occupants with annual household incomes at or below 80% of AMI.

A project will be deemed in compliance if during a lease-up, the overall number of Affordable Housing Units required to be occupied has been satisfied, but the proportional requirements of each AMI category have not both been satisfied. In the foregoing example, if six months after receipt of the Certificate of Occupancy,

DEPARTMENT OF
DEVELOPMENT

6 units are occupied by occupants with annual household incomes at or below 80% AMI and only 4 units are occupied by occupants with annual household incomes at or below 60% AMI, the project will be considered compliant.

- b. All calculations ending in a decimal number must be rounded up to the next whole number. If doing so results in an odd number, the odd numbered unit must be assigned to the lower AMI category. As an example, a Development Project contains a total of 11 housing units and the Project Sponsor selects the option of providing 10% of units at or below 60% AMI and an additional 10% of units at or below 80% of AMI. $11 \times 20\% = 2.2$, which is rounded up to three (3) Affordable Housing Units. Given that this is an odd number, two (2) units must be assigned to the 60% or lower AMI category and one (1) unit must be assigned to the 80% or lower AMI category.
 - i. Furthermore, special consideration will be given to Development Projects whose total unit count is four (4) or five (5). In both cases, only one (1) unit is required at the 60% or lower AMI level as opposed to one (1) unit at each the 60% or lower AMI level and the 80% or lower AMI level.
- c. Pursuing a blend of a) Affordable Housing Units and b) fee-in-lieu or other eligible credit options is permissible; however, such a blend must be proportional to both AMI and to unit type. As an example, a Development Project contains 40 total units. Pursuing the option of 10% of units at/below 60% AMI and 10% of units at/below 80% AMI implies four units at or below 60% AMI and four units at or below 80% AMI. Assume too that this full Development Project contains 20 one-bedroom units and 20 two-bedroom units. Assume the blend of Affordable Housing Units and fee-in-lieu is a 50/50 split amongst AMIs and unit types. This means providing four units via fee-in-lieu and four units as Affordable Housing Units described below:
 - i. Unit 1: 60% AMI, one-bedroom
 - ii. Unit 2: 60% AMI, two-bedroom
 - iii. Unit 3: 80% AMI, one-bedroom
 - iv. Unit 4: 80% AMI, two-bedroom

The Division of Housing reserves the right to perform its own calculation of appropriate division in line with these guidelines.

6. Default

- a. Before revoking, terminating, or modifying the CRA Agreement or the tax abatement as a result of the Developer's default or breach, the City shall provide

DEPARTMENT OF
DEVELOPMENT

- the Developer with written notice and a reasonable opportunity to cure any such default, except the City shall not be required to provide written notice of the Developer's default or breach and a reasonable opportunity to cure:
- (i) more than two times during any twenty-four month period;
 - (ii) in connection with the Developer's breach of its notification obligations described in Section 6 of these rules below; or
 - (iii) if the Developer has provided a fraudulent certification to the Director.
- b. If the Developer fails to notify the Director of the shortfall of units within the time period established pursuant to Section 4565.07, Section 4565.08, or Section 4565.09 of the City Code or Section 6 of the CRA Agreement, the City, as its sole remedy for such default, and without first being required to provide notice to Developer, may impose a penalty as provided in those Sections. The penalty shall be paid to the City of Columbus.
- c. The sole monetary damages payable by the Developer for a breach of the CRA Agreement are those set forth in Section 6 of the CRA Agreement. Monetary damages do not include the impact of the loss of the abatement.

7. Appeals

- a. The Developer retains its right of appeal under Section 3735.70 of the Ohio Revised Code, with respect to determinations made by the housing officer pursuant to Section 3735.67 of the Ohio Revised Code for issues related to the annual inspection of the project as provided for in Section 3735.70 of the Ohio Revised Code, but not for any matters related to the Agreement.

8. Monitoring Fees and Annual Report

The annual monitoring fee is due on or before March 1 of each year. The form of the annual report required to be submitted by the Developer will be distributed to the Developer by the City. The annual report is due on or before March 1 of each year based on the leasing activity as of December 31 of the prior year.

The rules as set forth above are incorporated by reference into the CRA Agreement and shall apply to the interpretation and operation of the CRA Agreement throughout the term of the CRA Agreement. Subsequent revisions to the rules set forth above shall not be binding on the Developer without an amended CRA Agreement signed by both the Director and the Developer. In the event that an amendment to these rules is required to comply with the provisions of the Ohio Revised Code, the Director may amend these rules as needed for the benefit of the program.

Development Projects which benefit from the Home or Home Match programs through the City of Columbus and also benefit from Low Income Housing Tax Credit (LIHTC) funding may, at the Director's discretion, be exempt from annual reporting and from paying monitoring fees, so long as the City of Columbus receives substantially identical documentation to verify LIHTC program compliance. Any LIHTC project must comply with the Residential Tax Incentive program's minimum requirements for Affordable Housing Units.

9. Deadline to file applications

A "proper application" is defined as a Phase 2 application. This must be submitted no later than two (2) years following the issuance of a Final Certificate of Occupancy or a Final Inspection of a project; or, in the case of eligible expenses that per Building and Zoning Services do not require a Final Certificate of Occupancy nor a Final Inspection, then a Phase 2 application must be submitted no later than two (2) years following the closing of said permits. The Division of Housing reserves the right to review permit applications that remain open and may reasonably determine that a project has been completed despite the permit not being closed. If a permit has expired, then evidence must be presented that a replacement permit was issued prior to the date of expiration in order to benefit from this two (2) year application window.

10. Transition from 2018 to 2022 policy

The transition language for Ordinance No. 1843-2022 and incorporated into each CRA reads as follows:

"Obtains all necessary building permits on or before August 31, 2023; or has closed on all project construction financing and obtained at least 50% of the project's building permits by August 31, 2023."

To document closing of all project financing, the Project Sponsor must supply the following:

- If the project is being financed, both of the below are required:
 - o Proforma describing full scope of financing, with a notarized attestation by the Project Sponsor for accuracy.
 - o Closing statement by each lender, with a notarized attestation that the financing closed. If there is one closing entity, that one entity may provide this attestation.
- If the project is being self-funded, a notarized statement from the Project Sponsor's banking institution stating sufficient funds for the project is required.

The percentage of necessary building permits obtained is defined as the minimum required permits per parcel or the minimum required permits per Development Project as described in Chapter 4565

DEPARTMENT OF
DEVELOPMENT

of the Columbus City Codes. Said permit(s) may be transferable for purposes of the transition language to new parcels in the event of a parcel split or parcel combination. If said permit(s) expire or are revoked by Building and Zoning Services, said permit(s) will no longer be valid for purposes of the transition language.

The below are defined as minimum permits required:

New Construction:

- 1) NEWR or NEWM

Renovation or Gut-to-Stud projects:

- 1) RBLD, ALTR, or ALTM. In some cases minor projects may not require the aforementioned permits. If this is the case, then permits including but not limited to RSWD, EMEPR, ADDR, ADDM, and PMEPR can satisfy the transitional percentage requirements as referenced at the beginning of this section, per the Division of Housing's discretion.

A CRA Agreement shall not be executed prior to a project being fully analyzed for its transitional timeline.

11. Fee-in-Lieu Inflation Calculation

Fee-in-lieu amounts are calculated every August 1 beginning on August 1, 2023. The increase is based on Consumer Price Index (CPI) inflation plus an additional five (5) percentage points. The determination of which inflationary period a project falls under shall be determined by the date that a project's first permit was pulled.