

City of Gresham – Recapture & Resale Policies

Updated – May 2024

Introduction

The City of Gresham is a participating jurisdiction in HUD’s HOME Investment Partnerships Program. Federal regulations require the City to establish written recapture and resale policies that comply with HOME statutory and regulatory requirements for the purpose of carrying out HOME-assisted homeownership activities. These policies are set forth in the Annual Action Plan and clearly describe the recapture/resale provisions, the specific circumstances under which these provisions will be used, and how the City will enforce the provisions for HOME-funded homeownership projects. HUD reviews and approves the provisions as part of the annual Action Plan process.

The purpose of this section is to provide the policies for the City of Gresham’s HOME Investment Partnerships Program. The City of Gresham may use HOME funds for different types of programs to assist with single-family residences:

- Down Payment Assistance provided to new homebuyers.
- Community Land Trust acquisition of a parcel of land under an existing single-family home to provide affordable ownership.

2024 Homebuyer Projects

The City’s 2024 Action Plan includes two homebuyer projects:

- **Proud Ground** – HOME funds will be used to reduce the purchase cost for an estimated three households to purchase homes that will be held as permanently affordable in a community land trust. Locations TBD. <https://proudground.org/>
- **City of Gresham Shared Appreciation Mortgage Program WELCOME HOME** – HOME funds will be used to provide down payment assistance for up to 15 households. Locations TBD.

Proud Ground will be subject to City’s HOME resale policy and the WELCOME HOME program will be subject to the HOME recapture policy.

General HOME Property Restrictions

For a homebuyer or homeowner to be eligible for HOME assistance, they must have a low to moderate income, at or below 80% of area median income, as provided by HUD. The household must be purchasing, constructing, or rehabilitating a home that they intend to maintain as their primary residence. Depending on the amount of HOME assistance provided to the residence, the property must remain affordable for the number of years indicated. If the property is sold during this time, or if it is no longer the primary residence of the household, the recapture/resale restrictions will be enforced.

HOME Assistance per-unit	Minimum period of affordability in years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

Recapture Policy

The City of Gresham's HOME ownership program – WELCOME HOME

The City of Gresham uses a “recapture” model for the WELCOME HOME program to assist homebuyers in the purchase of a new home. Under HOME recapture provisions, financial assistance is provided directly to the buyer or the homeowner and must be repaid, along with a portion of the share of appreciation, further described below, if the property is sold during the affordability period. The seller may sell the property to any willing buyer at any price. Once the HOME funds are repaid to the City of Gresham, the property is no longer subject to any HOME restrictions. The funds returned to the City of Gresham may then be used for other HOME-eligible activities.

Homeownership Program. The City of Gresham created a Home Ownership Program (WELCOME HOME) in 2015 that provides down payment assistance in the form of shared appreciation mortgages to eligible homeowners. When assistance is provided as part of the WELCOME HOME Program, the City will use a recapture model and HOME assistance will be provided in the form of a 0% interest, deferred payment loan. As of July 2023, the maximum amount of assistance that is provided on any one property is \$40,000, however this amount may be increased program-wide at the City's discretion based on need and housing prices. Underwriting will be conducted on each property to determine the amount of subsidy to contribute to each household. A written agreement, signed by all parties, in the form of a Promissory Note and Shared Appreciation Mortgage (SAM), will serve as the security for these loans. The SAM will be recorded in the land records of Multnomah County. The period of affordability (POA) will be for a term of ten (10) years for loans of \$40,000 or less and fifteen (15) years if the City provides loans for over \$40,000 per property. If the property is sold within the POA, the full amount of the SAM and potentially a share of appreciation will be due to the City of Gresham. For properties with a ten-year POA, if the property is sold from years 10 – 15, the principal balance of the SAM will be reduced by 20% each year. At the end of the term of the SAM, the entire SAM is forgiven. For properties with a fifteen-year POA, the entire SAM can be forgiven at the end of the POA.

Sale of Properties. Upon sale of the property within the affordability period, the SAM will be repaid as follows:

If the property is sold during the POA the sale of proceeds will be distributed as follows:

- Repayment of the balance of the First Deed of Trust and other superior liens
- Payment of reasonable closing costs
- Net Proceeds = Sales Proceeds less repayment of the above amounts

Distribution of the Net Proceeds:

- Net Proceeds less
- Principal Balance of SAM
- Reimbursement to borrower in amount of principal pay down First Deed of Trust
- Reimbursement to borrower of down payment made at the time of purchase
- Reimbursement to borrower of any approved capital improvements
- Share of Appreciation Amount = Net Proceeds less payment of above amounts
- Share of Appreciation to City = Share of Appreciation * (Amount of SAM / Original Purchase Price of Home)

The amount recaptured by the City will not exceed the Net Proceeds.

For properties with a ten-year POA, if the property is sold between years 11 – 15, the sale of proceeds will be distributed as follows:

- Repayment of the balance of the First Deed of Trust and other superior liens
- Payment of reasonable closing costs
- Repayment of SAM reduced by 20% during each successive year (Year 11, 80% of principal, Year 12, 60% of principal, Year 13, 40% of principal, Year 14, 20% of principal, Year 15, 0% of principal).

The SAM will be 100% forgiven if the property is sold any time after fifteen years or later and the homeowner has maintained compliance with the terms of the loan for the full fifteen years.

Approved Senior or Junior Liens used for Financing. Third party financing of the property through a Deed of Trust or mortgage that is a senior or junior lien on the property is not permitted to restrict the sale of property to income eligible buyers. If the third-party financing charges interest, it must only charge a reasonable interest rate and accept monthly payments or allow interest to accrue with payment due at the maturity date. Financing models may not use equity share models unless approved in writing by the City of Gresham.

When the Sale Price is Insufficient for Shared Appreciation

If the amount of the sale is insufficient to fully satisfy the amounts the HOME assistance amount, the City of Gresham may not personally seek or obtain a deficiency judgment or any other recovery from the Borrower/Seller.

Calculation of the SAM Repayment and Share of Appreciation

See the following chart for instructions on how to calculate the repayment of the SAM and the share of appreciation once a HOME funded property is sold.

**SHARED APPRECIATION PAYOFF CALCULATION
(For Repayments During the POA)**

Shared Appreciation Percentage

Original SAM Amount	(/)	<input type="text"/>
Original Sale Price		<input type="text"/>
<hr/>		
Shared Appreciation %	=	<input type="text"/>

Net Appreciation Calculation

Current Sale Price		<input type="text"/>
1st Mortgage Repayment	(-)	<input type="text"/>
Closing Costs	(-)	<input type="text"/>
<hr/>		
Net Appreciation	=	<input type="text"/>
SAM Repayment	(-)	<input type="text"/>
Paydown of Principal	(-)	<input type="text"/>
Initial Down Payment	(-)	<input type="text"/>
Capital Improvements	(-)	<input type="text"/>
<hr/>		
Net Appreciation Amount	=	<input type="text"/>

Calculation of Repayment

Net Appreciation Amount		<input type="text"/>
Shared Appreciation %	X	<input type="text"/>
<hr/>		
COG Share of Appreciation	=	<input type="text"/>
Original SAM Amount	+	<input type="text"/>
<hr/>		
Payoff Amount	=	<input type="text"/>

SHARED APPRECIATION PAYOFF CALCULATION (YEARS 11-15 for Loans with a Ten-Year POA)

Full Calendar Years Passed Since Purchase	Repayment Calculation
11 Years	80% of Original SAM Amount
12 Years	60% of Original SAM Amount
13 Years	40% of Original SAM Amount
14 Years	20% of Original SAM Amount
15 Years	0% of Original SAM Amount

Resale Policy

The City of Gresham's Resale policies ensure that HOME-assisted units remain affordable throughout the entire affordability period. The Resale method is used in cases where HOME funding is invested directly into a property, through a developer or nonprofit subrecipient. The HOME funds are used to reduce development or acquisition costs making the price of the home affordable to an eligible buyer.

Specific examples where the City would use the resale method for homeowner assistance include:

1. Providing HOME funds for construction materials and/or labor.
2. Providing HOME funds to reduce the purchase cost for a home that will be held as long-term affordable by Proud Ground in a community land trust.

Resale Policy Notification to Prospective Buyers

The resale policy is explained to prospective homebuyers prior to signing a contract to purchase a HOME-assisted unit. The prospective homebuyers sign an acknowledgement stating that they understand the terms and conditions applicable to the resale policy as they have been explained. This document is included with the executed sales contract. (See attached Notification for Prospective Buyers.)

Enforcement of Resale Restrictions

The resale restrictions are enforced through the use of a HOME written agreement between the City, homebuyer, and subrecipient; a deed of trust securing the City's HOME loan; and a covenant signed by the homebuyer at closing. These documents will specify:

1. The length of the affordability period (based on the dollar amount of HOME funds invested in the unit; either 5, 10, or 15 years);
2. That the home remains the Buyer's principal residence throughout the affordability period; and
3. The conditions and obligations of the Owner should the Owner wish to sell before the end of the affordability period, including:
 - a. The Owner must contact the City of Gresham in writing if intending to sell the home prior to the end of the affordability period;
 - b. The subsequent purchaser must earn no more than 65% of the area median income for Gresham and occupy the home as their primary residence for the remaining years of the affordability period. If the new purchaser requires any additional HOME assistance, the affordability period will be reset according to the amount of assistance provided. If a suitable buyer earning no more than 65% of the area median income cannot be found, a buyer earning no more than 80% of the area median income may be permitted to purchase the home at the City's discretion; and
 - c. The sales price must be affordable to the subsequent purchaser; affordable is defined as limiting the Principal, Interest, Taxes, and Insurance (PITI) amount to no more than 35% of a household's income.

Enforcement of the resale policy will end upon expiration of the affordability period. If at any time during or after the affordability period a HOME-assisted community land trust home is removed from the land trust, the original HOME investment must be repaid by the subrecipient agency.

Affordability to a Range of Buyers

Using the resale method, the City will ensure continued affordability to a range of buyers, particularly those whose total household incomes is between 50 and 65% of area median income. Sales prices shall be set such that the amount of Principal, Interest, Taxes, and Insurance does not exceed 35% of a household's income. Subrecipients may provide additional subsidy to make the home affordable to buyers below 50% AMI.

Fair Return on Investment

The City of Gresham will administer the resale restrictions to ensure that the Owner receives a fair return on investment and that the home will continue to be affordable to households whose income does not exceed 65% of area median income or 80% of area median income if a suitable lower income household cannot be identified.

The resale formula used by City of Gresham provides a fair return to the homeowner at resale, based on an objective standard that is publicly accessible and can be easily measured, both at the time of initial purchase and at resale.

City of Gresham uses an appraisal-based resale formula to achieve its dual goals of providing a fair return to the original homeowner/seller at resale and ensuring an affordable price to the incoming, low-income homebuyer.

The resale formula stipulates that the homeowner, should they choose to sell, will be able to sell the home for the original price paid, plus 25% of any increase in the combined appraised value of the home and the land during the time of ownership. **The homeowner will receive a credit for any down payment, earnest money, IDA, etc. they contributed as part of the total funds they receive upon sale.** Additionally, at resale, the homeowner is allowed to receive an equity "credit" for qualified capital improvements made, as follows:

- 100% of the increase in appraised value attributable to the addition of one or more bedrooms and one or more bathrooms; and
- 50% of the cost of major systems replacement within five years prior to resale. This does not include repairs but is for upgrades or improvements that do not typically increase market value in an appraisal but do increase a home's useful life (i.e., roof, furnace, electrical system).

Fair Return at Resale Example

Here is an example of how the resale formula is designed to work, using hypothetical market conditions:

At initial purchase:

\$250,000	Market value of land and improvements, as determined by appraisal at initial purchase
<u>(\$ 70,000)</u>	HOME affordability subsidy
\$180,000	Purchase price of home paid by homebuyer

At resale – 10 years later:

\$310,000	Market value of land and improvements, as determined by appraisal at time of resale
\$60,000	Increase in value of land and improvements from initial purchase to resale, as determined by appraisal (\$310,000 minus \$250,000)

Equity earned by homeowner/seller at resale:

\$15,000	Homeowner's dollar value of appreciation, per resale formula ($\$60,000 \times 25\% - \$15,000$)
\$12,500	Credit for qualified capital improvements made by homeowner
\$5,000	Credit for down payment (earnest money, IDA, etc.)
<u>\$33,846</u>	Equity earned by homeowner by amortization of mortgage after 10 years ¹
\$66,346	Total equity earned by homeowner/seller at resale (\$15,000 share of appreciation + \$12,500 credit for qualified capital improvements + \$5,000 initial down payment + \$33,846 equity earned through mortgage amortization)

Sale price to next buyer:

\$207,500	Purchase price paid by incoming low-income homebuyer: \$180,000 (initial affordable purchase price) plus \$15,000 (paid to original homeowner as share of appreciation) plus \$12,500 (paid to original homeowner as a credit for capital improvements).
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In this example, the City determined that the sales price would have to be between \$150,000 and \$250,000 (amount of mortgage principal, interest, taxes and insurance of not more than 35% of the gross monthly income for the buyer). The home – a property that now has an appraised market value of \$310,000– is sold to an eligible low-income household for an affordable price of \$207,500 without requiring investment of additional subsidies.

By using a market rate (fee simple) appraisal conducted by an independent, state-licensed appraiser to establish the value of the property prior to the initial purchase of the home, the City of Gresham follows the standard practice for all real estate purchase transactions. By obtaining a new market rate fee simple appraisal, upon notice of intent to sell by the homebuyer, the City ensures that standard methods for determining property values are always used. In this way, market values are easily measured, professionally determined, and publicly accessible. No subjective judgments are made by the City or the homeowner as to what constitutes value and how value is determined.

¹ Assuming 5%, fixed-rate, 30-year mortgage loan of \$179,500 to original homeowner.

NOTIFICATION TO PROSPECTIVE BUYER

This notification is provided to _____ who is/are purchasing a home with the assistance of HOME Investment Partnerships Program funding administered through City of Gresham, by and through the HOME Investment Partnerships Program, 1333 NW Eastman Parkway, Gresham, OR 97030.

THEREFORE, IT IS MUTULLY AGREED as follows:

1. City of Gresham provided HOME funds in the form of a loan to _____ for the acquisition of a house located at _____.
2. The U.S. Department of Housing and Urban Development (HUD) Affordability Period (24 CFR Part 92.254(4)) is 15 years, from the date the deed is signed.
3. Resale provisions are applicable for this residence assisted with HOME funds when the property does not continue to be the principal residence of the household for the duration of the 15 Year Home Affordability Period. The Buyer shall annually certify that they continue to use the house as their principal residence.
4. If the Buyer does not continue to occupy the home as their principal residence during the Affordability Period, as defined above, or sells the property during the Affordability Period, the following resale provision shall be followed:

Upon sale of the property by the initial homeowner and each successive homeowner during the affordability period, the homeowner must receive a "fair return" on their investment. Fair Return is defined as the original price paid, plus twenty-five percent (25%) of the appreciation, plus qualified improvements as follows:

- 100% of the increase in appraised value attributable to the addition of one or more bedrooms and one or more bathrooms; and
- 50% of the cost of major systems replacement within five years prior to resale. This does not include repairs but is for upgrades or improvements that do not typically increase market value in an appraisal but do increase a home's useful life (i.e., roof, furnace, electrical system); and
- Credit for any down payment at time of purchase (including IDA, earnest money, etc.).

Appreciation is defined as the increase in the combined appraised value of the home and the land from the time of purchase to the time the owner sells the house. The fair return will only apply to sales during the HOME affordability period.

The house must be made available for subsequent purchase only to qualified low-income buyers who will use the house as their principal residence. "Low-income" mean a household income not exceeding 80% of the area median income as established by HUD, adjusted for household size, at the time of home purchase. Each subsequent buyer, during the HOME Affordability Period, shall not pay more than 35% of the gross income of a household at 80% of area median income for mortgage payments including principal and interest, property taxes, and homeowner's property insurance.

By signing below, the Buyer understands and agrees to the terms contained in this notification.

Buyer: _____

Date: _____