

## **Homebuyer Opportunity Limited Tax Exemption (HOLTE) Program – Interim Administrative Rules Background and Key to Track Changes**

PHB administers the Homebuyer Opportunity Limited Tax Exemption (HOLTE) Program, authorized under Oregon Revised Statute (ORS) 307.651-687 and Portland City Code (PCC) Chapter 3.102. The administrative rules define the policies, processes, and procedures of implementation of the HOLTE Program authorized by Chapter 3.102 and ORS 307.651-307.687.

The most recent permanent administrative rules for the HOLTE Program went into effect September 8, 2022. Interim administrative rules were drafted the following year to implement new code changes that were adopted by City Council and went into effect on July 25, 2023. Draft permanent administrative rules were published October 27, 2023 and a public hearing was held on November 28, 2023 to hear public testimony; however, the draft permanent administrative rules were never formally finalized.

The following Interim Administrative Rules include the changes made between the September 8, 2022 rules and the October 27, 2023 draft permanent administrative rules (which were the subject of the November 28, 2023 public hearing), as well as recent changes that were proposed after the November 28, 2023 hearing. The recent changes implement changes to the HOLTE code (Chapter 3.102) that were adopted by City Council and went into effect August 28, 2024 (Ordinance 191871). The changes to Chapter 3.102 reflect changes to ORS 307.651-687 as amended by House Bill 4063, with an effective date of June 6, 2024, as well as other housekeeping items.

There are two sets of track changes in the Interim Administrative Rules on the following pages. The first is simple strikethrough and underline (~~strikethrough~~ and underline). These are the changes between the September 8, 2022 rules (i.e., the last permanent administrative rules) and the October 27, 2023 draft permanent rules that were reviewed at the November 28, 2023 public hearing. The second set of track changes is highlighted strikethrough and underline (~~strikethrough~~ and underline). These highlighted changes are changes that have been made since the November 28, 2023 hearing.

# Homebuyer Opportunity Limited Tax Exemption (HOLTE) Program

*Interim Administrative Rules*

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### **A. Definition of Administrative Rules**

These Administrative Rules (these “Rules”) are created in accordance with the City of Portland’s Administrative Rule process by the Portland Housing Bureau (“PHB”) to define the policies, processes, and procedures of implementation of the Homebuyer Opportunity Limited Tax Exemption (the “HOLTE Program”) authorized by Portland City Code (“PCC”) 3.102 and Oregon Revised Statute (“ORS”) 307.651 through 307.687.

These Rules were first approved through City Council and subsequently amended by PHB. The Director of PHB or a designee has authority to make changes to these Rules, according to PHB’s rule-making process, as necessary to meet current program requirements.

Program policies, processes, and procedures are outlined in these Rules, however, there may be additional program requirements necessary to maintain compliance with city code and state statute.

### **B. Program Goals**

The legislative goals of the HOLTE Program are to stimulate the construction of new single-unit housing and encourage homeownership among low and moderate-income families.

The City of Portland and Multnomah County have established the following additional core goals:

1. Demonstrate value to the taxpayers by stimulating the inclusion of affordable housing and other public benefits where those may not otherwise be developed;
2. Leverage market activity to advance housing and economic prosperity goals through alignment with PHB’s Strategic Plan and Portland Plan goals;
3. Assure that the program advances the PHB’s priority goal of increasing minority homeownership; and
4. Transparent and accountable stewardship of public investments.

### **C. Benefit of the Tax Exemption**

Properties participating in the HOLTE Program receive a 10ten-year property tax exemption on the structural improvements of the single-unit housing as long as the single-unit housing and owner remain eligible per program requirements. Owners remain responsible for payment of any taxes on the assessed value of the land throughout the exemption period.

When the tax exemption is either terminated for noncompliance or expires after the 10ten-year exemption period, the value of the single-unit housing will be reassessed for tax purposes and owners will begin paying full property taxes. The exemption period cannot be extended under this program.

### **D. Program Requirements**

1. **Location.** The single-unit housing must be located in Multnomah County and within the City of Portland.
2. **Single-unit housing.** Proposed construction must be a new single-family home, townhome, or condominium.

3. **Sale price cap.** The single-unit housing and underlying property shall not sell for more than the sale price cap established annually by PHB. The maximum sale price shall not be more than 120 **percent%** of the annual median sale price for single-unit housing in the City of Portland.
4. **Arm's length transaction.** The initial sale of single-unit housing must occur through an arm's length transaction, defined as a transaction in which the buyer and seller act independently and have no relationship by blood, marriage or related business dealings.
5. **Affordability.** Homebuyers who will both own and occupy the single-unit housing must not earn more than:
  - a. 100 **percent%** of the median family income (MFI) for a family of four, **and** adjusted upward for households larger than ~~4 (four)~~ persons.
  - b. 120 percent of the area median income for a family of four, and adjusted upward for households with more than four persons, so long as the single-unit housing sells to a qualified homebuyer prior to July 1, 2026, and the application was received by PHB prior to March 1, 2024.
- ~~5.6.~~ **Cash purchases.** All-cash purchases are not allowed.
- ~~6.7.~~ **Occupancy.** Homebuyers must occupy the single-unit housing within 60-days of closing and must maintain the single-unit housing as their primary residence. The residence cannot be used as a vacation home or second home. The property tax exemption will be removed from any single-unit housing that is rented prior to initial sale or after homebuyer qualification.
- ~~7.8.~~ **Construction time frame.** Construction of the new single-unit housing must be completed within two years of **PHB City Council** approval of the HOLTE Program application, demonstrated by final permit or certificate of occupancy approval, whichever comes first. Should the owner not complete construction within two years, the owner may request a 12-month extension:
  - ~~a. 1.~~ Owners must request an extension of construction completion prior to the date of the initial construction deadline.
  - ~~b. 2.~~ PHB will consider extension requests for single-unit housing that is under construction at least to the point that the shear wall inspection has been approved, and for which the owner demonstrates that the delay in construction completion was due to circumstances beyond their control, that they have a plan for completing construction within the 12-month extension period, and that they have acted, and will continue to act in good faith and with due diligence to complete construction.
  - ~~c. 3.~~ PHB may consider and approve an additional 12-month extension should the single-unit housing be delayed further beyond the control of the owner.
- ~~8.9.~~ **Bedroom count.** Proposed single-unit housing must have at least three bedrooms unless it is built within approved transit-oriented areas where two-bedroom single-unit housing is allowed, see Appendix A. The bedroom count requirement may be waived if the single-unit housing being built is:
  - ~~1.~~ a. Subject to an affordable housing covenant as defined in ORS 456.270; and
  - ~~2.~~ b. Affordable to a homebuyer whose household income does not exceed 80 **percent%** MFI.

- ~~9.10.~~ **Design standards.** Proposed single-unit housing should be of high quality and contribute to the livability of the surrounding area. At a minimum, construction must meet the City of Portland’s Base Zone Design Standards.
- ~~10.11.~~ **Green building.** Applicant must participate with a green building program approved by PHB such as Earth Advantage, US and Green Building Council’s Leadership and Energy in Environmental Design (LEED), Energy Star, Energy Trust of Oregon, or other comparable green building program.
- ~~11.12.~~ **Equity goals.** Applicant shall acknowledge awareness and understanding of PHB’s Guiding Principles on Equity and Social Justice and Strategic Priority of Helping Portlanders from Communities of Color buy a home and agree to partner with PHB to assure that communities of color are aware of single-unit housing for sale with exemptions.
- ~~12.13.~~ **DMWESB contracting.** Applicant shall acknowledge familiarity with PHB’s Disadvantaged, Minority, Women-Owned, Emerging Small Businesses, and Service-Disabled Veterans Business Enterprises (DMWESB-SDVBE) guidelines and contracting opportunity goals, report on past contracting relationships, and contracting opportunities to be created in the construction of the property.
- ~~13.14.~~ **Marketing.** Applicants must submit schematic drawings or like photos of new single unit housing to be built and seller or listing agent contact information with each new application for use in marketing materials.

**E. Application Submission and Review**

Applicants shall submit to PHB a completed HOLTE Program application, ~~any~~ including supporting documentation, and the application fee, determined annually by PHB and published online at <https://www.portland.gov/phb/development-incentive-programs/development-incentives-fee-schedule>. PHB requires a minimum of 10 business days to review and process applications. Applications for the HOLTE Program must be deemed complete and reviewed for program eligibility approved by PHB prior to building permit issuance.

1. **Annual Application Cap.** PHB will approve no more than ~~400~~ 500 new HOLTE Program applications each fiscal year (July 1 – June 30). Applications are exempt from the annual cap of ~~400~~ 500 approvals if the single-unit housing being built is:
  - ~~1.~~ a. Subject to an affordable housing covenant as defined in ORS 456.270; and
  - ~~2.~~ b. Affordable to a homebuyer whose household income does not exceed 80 percent% MFI.
2. **URA approval.** Single-unit housing located in ~~either the Lents or Interstate Corridor~~ Urban Renewal Areas may require additional approval from Prosper Portland. PHB will coordinate with Prosper Portland for approval prior to PHB’s review approval or denial of the application.
3. **Application Processing Fees.** Homeownership Program Processing Fees are due for each application before PHB will issue an eligibility letter approval. Additional Multnomah County Fees must be paid prior to permit issuance.
- ~~4.~~ Eligibility. For qualified applications, PHB will issue a program eligibility letter allowing building permit issuance to proceed. PHB will record a notice on the title to the property requiring PHB verification of homebuyer eligibility requirements. The notice

shall contain an explanation of the process and requirements necessary for maintaining the exemption through expiration.

## F. Exemption Approval

Tax exemptions will be approved or denied by ~~City Council~~PHB within 180 days of PHB receiving a complete application. ~~Approval occurs through the adoption of a resolution by City Council.~~

1. Upon ~~adoption~~approval, PHB will:
  - ~~1.~~ a. Send ~~an copy of the~~ approved ~~letter resolution~~ to the property owner, ~~allowing building permit issuance to proceed~~; and
  - ~~2.~~ b. Send a ~~copy list~~ of the approved ~~resolution list of approved~~ tax accounts, and the corresponding fees to Multnomah County no later than April 1 each tax year.
2. Approved tax accounts as of April 1 will receive the tax exemption starting July 1. The tax exemption will be reflected in the tax bill due November 15.
3. ~~PHB will record a notice on the title to the property requiring PHB verification of homebuyer eligibility if the single-unit housing is sold during the exemption period.~~

## G. Compliance Requirements

### 1. Initial Sale

Homebuyers that will both own and occupy the single-unit housing as their primary residence must submit a verification form and supporting documentation to PHB for review and response. Failure to submit these items to PHB at least 10 days prior to closing could delay PHB's notification to escrow of the homebuyer's eligibility. PHB will notify the homebuyer and escrow company of the homebuyer's qualification.

- ~~1.~~ a. **Income verification documentation.** Documentation to verify income includes, but is not limited to, the last two years of W2s, the most recent month's paystubs, and documentation of any additional income received such as social security, child support, alimony, or unemployment benefits. Self-employed homebuyers must submit two years of filed federal tax returns with all schedules and a current year-to-date profit and loss statement. PHB may require additional documentation to fully verify current income of the homebuyers including letters of explanation or affidavits.
- ~~2.~~ b. **Sale price cap.** Single-unit housing shall not sell at a price exceeding PHB's annually established price cap. If the single-unit housing is selling over the price cap, the seller or escrow must notify PHB at least 10 business days prior to closing on the purchase and shall not close without PHB review and response. If the tax exemption is already in effect, it will be terminated, and escrow must request the amount of any taxes exempted due from Multnomah County to be paid at closing by the seller.
- ~~3.~~ c. **Construction completion.** The single-unit housing must be fully constructed upon sale demonstrated by final permit or certificate of occupancy approval, whichever comes first.
- ~~4.~~ d. **Processing fee.** Homebuyers must pay a Homebuyer Verification Compliance processing f Fee, determined annually by PHB, to PHB within 30 days of closing. If the single-unit housing is out of compliance at the time of sale, a Penalty Processing Fee the processing fee, determined annually by PHB, must be paid at closing ~~by the seller.~~

~~5.~~ e. **Verification of closing.** PHB must receive documentation of the final sale price and title holders within 30 days of closing demonstrated by copies of the recorded Warranty Deed and the Final Settlement Statement.

**B. 2. Compliance During the Exemption Period**

~~1.~~ a. **Transfer of title.** Any transfer of title to another owner (i.e., builder, developer, or financial institution) prior to sale to the initial homebuyer, requires a Subsequent Builder Application to be submitted to PHB for approval, along with a Subsequent Homebuilder Processing Fee, determined annually by PHB. The exemption can continue as long as all other terms of the program are met.

~~2.~~ b. **Subsequent homebuyers.** If a single-unit housing with a tax exemption transfers ownership to a new homebuyer during the ~~ten~~10-year exemption period, the subsequent homebuyer must meet the affordability and owner-occupancy requirements of the HOLTE pProgram. To verify eligibility, the homebuyer must submit a Subsequent Homebuyer Verification Form and supporting income documentation (see Section G.1.a) at least 10 days prior to closing for review and approval by PHB to continue the remaining years of the exemption. The homebuyer must also submit a Subsequent Homebuyer Processing Fee, determined annually by PHB, to PHB within 30 days of closing along with a verification form and supporting income documentation for review and approval by PHB to continue the remaining years of the exemption. PHB must receive documentation of title holders within 30 days of closing demonstrated by copies of the recorded Warranty Deed and the Final Settlement Statement.

~~C.~~ 3. **Foreclosed Properties.** Should a bank foreclose on single-unit housing with a tax exemption, the exemption will remain in place as long as the single-unit housing is vacant and not being rented for up to 180 days. The exemption can continue beyond 180 days if the bank is in contract to sell the single-unit housing to a homebuyer who will occupy the single-unit housing, but it will be terminated if the sale does not close.

~~D.~~ 4. **Non-profit ownership interest.** The full ~~10~~ten-year tax exemption will remain in place on the single-unit housing as long as it is subject to an affordable housing covenant as defined in ORS 456.270, a non-profit housing organization maintains an ongoing ownership interest in the land or structure as demonstrated by a recorded deed, and the single-unit housing has not been rented.

~~E.~~ 5. **Monitoring Owner Occupancy.** The single-unit housing shall not be rented prior to initial sale or after homebuyer approval. After initial sale, the single-unit housing must be owner occupied (or listed for sale and vacant) during the exemption period. Multnomah County will provide periodic lists to PHB of exemptions where the situs address differs from the mailing address on record for the tax bill. Single-unit housing with a post office box as the mailing address will be included in this list. PHB will send a letter to owners on the list provided by Multnomah County at both the situs and mailing addresses requesting documentation that a-the single-unit housing is being occupied as the owner's primary residence and is not rented. Documentation includes, but is not limited to, copies of the prior year's complete federal tax return, government-issued photo identification showing the situs address, and a recent (within two months) utility bill showing the mailing address and billing address as the situs address. PHB will determine if documentation submitted is sufficient to document owner occupancy.

## H. Termination of Active Exemptions

If the property no longer qualifies for the tax exemption due to violation of any of these Rules, the exemption will be terminated. PHB will send a certified letter to both the situs and mailing addresses on record with the date of a hearing where the owner may show cause why the exemption should not be terminated. The hearing will be scheduled at least 20 days from the date of the letter. PHB will determine if the owner has presented sufficient cause to support the continuance rather than termination of the exemption. **If the owner fails to show cause why the exemption should not be terminated, PHB will mail a notice to the owner stating its findings terminating the exemption within 10 days of the hearing. PHB will notify the County assessor in accordance with ORS 307.681 PHB will present to City Council a list of all exemptions to be terminated.** Once a single-unit housing tax exemption is removed, it cannot be reinstated.

1. **Hardship Exception.** If PHB determines that an owner is not meeting the owner occupancy requirement of the program, the owner may submit a letter to PHB asking for a hardship exception to the requirement. Hardship exceptions may be granted for, but are not limited to, the following situations: active military duty outside of the area, temporary relocation to care for an ill or dying family member, or temporary relocation caused by an employer. PHB will review the hardship request and determine whether an exception to the owner occupancy requirement can be granted. PHB will not accept a hardship exception if the property has been rented. Hardship exceptions are granted for a period of one year. Owners must request an additional exception each year should the hardship situation continue.

#### **I. PHB Administrative Requirements and Dates**

1. **Sunset date.** ORS 307.651 through 307.687 and the authority for the HOLTE Program expires January 1, ~~2025~~2030. Single-unit housing with approved exemptions must be built prior to this date unless a one-year extension is approved by PHB, or the program is extended, and a new sunset date is established through the Oregon State Legislature.
2. **Annual Review of Price Cap.** PHB will review and establish an annual maximum market value and price cap based on data of the previous year's sales within the City of Portland provided by Multnomah County. PHB will present a resolution to City Council to approve the cap prior to January 1.