

Resale/Recapture Policies & Procedures

As Approved by the U.S. Department of Housing & Urban Development (HUD)

OVERVIEW

When HOME funds are used to assist a household (HOME-assisted Homebuyer/Owner) in the purchase of a unit (HOME-Unit), restrictions will be placed on the unit to ensure compliance with the HOME Resale and Recapture requirements described in 24CFR92.254(a)(5). All Resale and Recapture mechanisms used to secure the affordability of the HOME assisted unit will be recorded. In all cases, the HOME-assisted Homebuyer will be required to own and occupy the HOME-assisted unit as his/her/their principal residence for the duration of the Affordability Period. If the HOME-assisted Homebuyer fails to occupy the unit as his/her principal place of residence (i.e. the unit is rented or vacant), or the home is sold or otherwise transferred during the Affordability Period the applicable Resale or Recapture provision must be enforced as the project will be considered noncompliant and repayment of the HOME assistance is required.

Provo City does not currently have any locations or neighborhoods that have been approved to use presumption of affordability as an enforcement mechanism.

Affordability Period – The period of affordability specified in the HOME Agreement, Trust Deed Promissory Note and Deed of Trust will be the minimum period for the project as specified in 24CFR92.254(a), section (4) and (5) and are outlined in the table below.

Table 1 - Affordability Periods

If the homebuyer assistance in the unit is:	The Affordability Period is:
Under \$15,000	5 years
\$15,000 to \$40,000	10 years
Over \$40,000	15 years

The Affordability Period will be based on the amount of Direct HOME Subsidy to the HOME-assisted Homebuyer, and it will commence on the date when the activity is shown as 'Complete' in HUD's Integrated Disbursement Information System (IDIS). Therefore, the Affordability Period beginning date may not start until sometime after the actual execution date of the HOME Agreement and related Trust Deed Promissory Note and Deed of Trust with the homebuyer.

Direct HOME Subsidy: The amount of HOME assistance or HOME Investment, including any program income, that enabled the HOME-assisted Homebuyer to buy the unit. The direct subsidy includes the down payment, closing costs, interest subsidies, or other HOME assistance provided directly to the HOME-assisted Homebuyer.

In addition, Direct HOME Subsidy includes any assistance that reduced the purchase price of a unit from fair market value to an affordable price. If HOME funds are used for the cost of developing a property and the unit is sold below market value, the difference

between the fair market value and the purchase price is considered to be directly attributable to the HOME subsidy.

If there is no Direct HOME Subsidy to the HOME-assisted Homebuyer and a Development Subsidy is provided, then the Resale provisions will apply.

Principal Residence: The home where you spend most of your time, a minimum of ten months in any calendar year. This is not the only test; other factors that will be relevant to the determination include, but are not limited to:

1. The address on your current valid driver's license,
2. The address provided to your place of employment,
3. Where your immediate family resides (i.e. spouse, children, partner),
4. The address you use to file your federal and state income tax return,
5. Where you are registered to vote,
6. The property where you claim your homeowner's property tax exemption (many states and counties allow for the payment of property taxes on your principal residence),
7. The mailing address you use for general mail, bill, cell phone statements, and other general bills; (utility bills, other than cell phone bills, do not necessarily establish residency)
8. Where you maintain your bank accounts, brokerage statements and other banking financial relationships, i.e. credit cards, etc.,
9. Where you maintain social memberships, such as health and/or country clubs, religious affiliations, etc.

RECAPTURE

The City's Recapture option is applicable where HOME funds are used to provide a Direct HOME Subsidy to obtain affordable housing. HOME funds may be used as either a Direct HOME Subsidy to the HOME-assisted Homebuyer or combined with Direct HOME Subsidy and a Development Subsidy. The Recapture option is only applied to HOME funds that were a Direct HOME Subsidy to the HOME-assisted Homebuyer/Owner. The Direct HOME Subsidy may be provided in conjunction with a development subsidy; however, the Affordability Period is based only on the Direct HOME Subsidy to the HOME-assisted Homebuyer. Recapture cannot be used when a project receives only a Development Subsidy, instead Resale provisions must be used.

The HOME-assisted Homebuyer Direct HOME Subsidy will be enforced and secured by the HOME Agreement, Trust Deed Promissory Note, and Deed of Trust signed by the HOME-assisted Homebuyer. The Loan Amount shown in the HOME Agreement, Trust Deed Promissory Note and Deed of Trust is the "Direct HOME Subsidy." The Loan Amount will always match the Affordability Period corresponding to Table 1. Recaptured HOME funds must be used to fund HOME-eligible activities. Since the Direct HOME Subsidy is provided as a loan, after the Affordability Period has been satisfied and Recapture is no longer required to satisfy HOME requirements, the Loan Amount is still outstanding and will be repaid upon the HOME-assisted Homebuyer selling the property or whenever the property ceases to be their principal place of residence.

When the Direct HOME Subsidy is provided through a Down Payment Assistance Program, a HOME Agreement will be entered into between the City and the HOME-

assisted Homebuyer. A Direct HOME Subsidy provided in conjunction with a Development Subsidy will be entered into between City, HOME-assisted Homebuyer and Developer, where the Affordability Period and Recapture provision will be specifically determined by the Direct HOME Subsidy and the HOME-assisted Homebuyer will be directly responsible to ensure the Affordability Period requirements are met.

The HOME-assisted Owner must occupy the HOME-Unit as their principal place of residence during the Affordability Period, when the HOME-assisted Owner ceases to occupy the HOME-Unit as their principal place of residence during the Affordability Period, this shall be deemed to constitute a violation of the HOME Agreement governing the use of HOME funds and HOME funds shall be required to be repaid. The Recapture option requires that all or a portion of the Direct HOME Subsidy be reimbursed if the HOME-assisted Owner decides to transfer the property within the Affordability Period.

The HOME Recapture provisions permit the HOME-assisted Homebuyer (HOME-assisted Owner) to transfer the house at whatever price the market will bear and to any person regardless of income, while Provo City is able to Recapture the HOME Investment provided to the original HOME-assisted Owner. Provo City will allow the assumption of a recapture obligation by a subsequent eligible low-income homebuyer when no additional HOME assistance is provided to the subsequent homebuyer. The subsequent homebuyer will assume and complete the original terms and conditions of the recapture obligation of the original homebuyer.

Provo City recaptures the entire amount of the Direct HOME Subsidy provided to the HOME-assisted Owner before the HOME-assisted Owner receives a return. The maximum amount of Direct HOME Subsidy (HOME Investment) that may be recaptured is capped at the amount of available net proceeds. The net proceeds of a sale are an amount equal to the sales price minus superior loan and seller paid closing costs and may include only the following items to the extent actually incurred: broker's commission, reasonable attorney's fees and any transfer tax or recordation fees payable by the seller pursuant to state statute or local ordinance in connection with the conveyance. If there are no net proceeds of sale, as it may occur when the HOME-Unit is foreclosed, then no Recapture of HOME Investment shall be made.

At the City's option and in compliance with §92.254(a)(4)(ii)(A)(2), the HOME Investment amount to be recaptured may be reduced when a subsequent sale occurs during the Affordability Period where there are no proceeds or insufficient net proceeds to Recapture the full HOME Investment due. In these cases, the HOME Investment may be reduced on a pro-rata basis for every full year the HOME-assisted Owner owned and occupied the HOME-Unit, measured against the entire Affordability Period. The HOME-assisted Owner is not allowed to recover more than the amount of the HOME-assisted Owner's down payment, principal payments, and any capital improvement investment.

The following events occurring during the Affordability Period triggers repayment of the HOME Investment received by the HOME-assisted Owner.

1. Sale of the HOME-Unit
2. Transfer of title
3. The HOME-Unit ceases to be the principal residence of the HOME-assisted Owner.

Amount subject to Recapture – If a HOME-assisted Owner is in noncompliance with the principal residency requirement (e.g., the HOME-Unit is sold, rented, vacant or title is transferred for any reason) during the Affordability Period repayment of the HOME Investment will be required at the time the event occurred.

Upon transfer, whether voluntary or involuntary, the net proceeds of the sale will be determined and distributed as follows, to the extent proceeds are available:

1. Owner shall first be reimbursed from the net proceeds of the sale, if any, for the following
 - a. The down payment made at the time of the initial purchase of the property, if any.
 - b. The principal amortized on superior debt during the Affordability Period, if any.
2. Provo City will then be repaid the recapture obligation to the extent there are enough sale proceeds remaining. The recapture obligation is the amount of the HOME Investment, as defined in Table1 above.
3. The remainder of the net proceeds, if any, shall be retained by the owner.

As stated above, and at Provo City's option, the Recapture obligation may be reduced on a pro-rata basis during the Affordability Period at the end of each complete year of the Affordability Period. For example, if a ten (10) year Affordability Period applies, and the HOME-assisted Owner sells at the end of Year Four (4), then the amount of the note is reduced by 40 percent. $(1 / [\text{number of years of the Affordability Period}])$. If, however, the sale takes place at three (3) years and nine (9) months, then the amount of the note is reduced by only 30 percent.

The HOME-Assisted Owner may sell the property to any willing buyer if the recapture obligation is paid in full.

RESALE

Resale restrictions must be used when HOME funds are used only as a development subsidy for the construction or renovation of homeownership housing, and no Direct HOME Subsidy is provided to the HOME-assisted Homebuyer.

Resale restrictions will ensure that housing assisted with HOME funds is made available to HOME Program eligible low-income households that will use the property as their principal residence.

Resale will be enforced by means of a Restrictive Covenant and Resale Restriction and/or deed restrictions that run with the title to the land, unless the project is located in an area of "presumed affordability" that meets the conditions described in §92.254(a)(5)(i)(B). Such areas of presumed affordability must be reviewed and approved by Provo City and HUD.

If the HOME-assisted unit is sold while under the resale restrictions, the unit must be sold to a HOME eligible buyer approved by Provo City. Low-income households eligible to purchase properties restricted by resale provisions must be households whose annual incomes do not exceed 80% of the median income for the area as determined by HUD with

adjustments for family size and the housing must be occupied by the low-income household as its principal residence throughout the Affordability Period.

The price at sale must provide the original HOME-assisted buyer a fair return on the investment and be affordable to a reasonable range of low-income buyers. Therefore, sales price during the Affordability Period can occur at market value, with the following limitations:

1. Fair return to seller – The price shall not exceed a price that results in net proceeds (after senior debt and sales costs) to the seller that exceeds the sum of:
 - a. The reimbursement of the original owner's down payment and/or closing costs made at the time of initial purchase, if any,
 - b. The principal amortized on the senior debt during the period of ownership, and
 - c. The investment in eligible capital improvements defined as: any individual improvement made specifically to the structure or major system of the HOME assisted housing unit in which the cost was more than \$3,000 and where applicable, the work was properly permitted, inspected locally and the actual cost has been documented with third party receipts.
2. The value of the owner's investment (the sum of a-c in paragraph 1 above) will be adjusted by using the Housing Price Index (HPI). The change in the HPI from the original purchase to the time of sale will be applied to the value of the owner's investment, so that the value of the improvements is increased or decreased by the amount of increase or decrease in the housing market overall.
3. Affordable to range of low-income homebuyers – the sales price may not exceed a price that is not affordable to households at 70-80% of the area median income. Provo City defines affordable price as a price that is at or below an amount that will allow a low-income family to pay no more than 35 percent of their monthly income to pay for mortgage principal and interest, property taxes and insurance

The seller must have the sales price approved by Provo City's HOME Program Administrator, in addition to approval of the HOME-eligible buyer. If the fair market value of a HOME assisted property subject to resale provisions is more than what is affordable to the subsequent low-income purchaser, then additional HOME assistance may be given through Provo City's Down Payment Assistance program.

Maximum Sale Price of HOME-Units under Resale Provisions—HOME-Units under this model are priced to be affordable to households based on income levels as established by HUD annually, and the Maximum Affordable Housing Prices, dependent on the number of bedrooms, and determined by the City through an annual market analysis.

MONITORING

Provo City monitors compliance of the principal residence requirement of all HOME-assisted units by annually verifying principal residence occupancy by mail, records search, or direct contact with the HOME-assisted Owner. See Verifying Affordability Compliance Procedures below in this document.

If the HOME-assisted Owner fails to remedy noncompliance issues, full repayment of the Direct HOME Subsidy provided to the HOME-assisted Owner is required, also known as Recapture. See Recapture Procedures below in this document.

PROCEDURES

Verifying Affordability Compliance Procedures: As loans are closed, information is entered into the Loan Certifications worksheet, which is a Master Worksheet capturing all assistance provided to HOME-assisted Owners. From this worksheet the information is taken and copied annually to the Property Audit List spreadsheet, both worksheets are managed and updated by the department's Loan Accountant. The spreadsheet captures HOME-assisted Owners' names, address where the HOME assistance was provided—HOME-Unit, date the Trust Deed Note was executed, the amount of assistance provided—Loan Amount, the date the corresponding activity in HUD's Integrated Disbursement and Information System (IDIS) was completed—IDIS Date, length of Affordability Period, the date when the Affordability Period expires—AP Expiration Date, whether HOME-assisted Owners have responded to the audit letter, and when that response was received. Additional fields include space to capture notes, unique situations such as increase or decrease in the Loan Amount, amount forgiven (if applicable), Pay Off amount, date of Pay Off amount, whether a Foreclosure or Short Sale took place and its corresponding date, principal Loan Amount balance—which calculates after considering increase/decrease, or forgiveness. Other fields may be added as needed.

The Loan Amount determines the corresponding Affordability Period and the IDIS Date determines the date the Affordability Period begins. The combination of the corresponding Affordability Period and the IDIS Date determine the AP Expiration Date. These three fields are used to evaluate whether the HOME-assisted Owner is following the Affordability Period stated in the HOME Agreement.

Every year during the Affordability Period a letter is sent to the HOME Unit addressed to each HOME-assisted Owner in the Property Audit List. The letter states the City is conducting an audit of properties assisted with Federal funds and to verify owner occupancy as per the terms of the signed Agreement. It includes details of when the property was purchased and the Loan Amount. The HOME-assisted Owner is asked to fill the bottom part of the letter indicating whether they are the owners of title and are occupying the property as their principal place of residence and asks them to print and sign their name. Lastly, they are asked to return the completed form in an enclosed self-addressed, stamped envelope or to email it to the department's Loan Accountant. A return by date is included giving HOME-assisted Owners no less than 60 days to respond.

Letters are sent via certified mail with 'No Forwarding' requested, this may provide the first indication HOME-assisted Owners have vacated the HOME-Unit. A second letter is sent if after the 60-day deadline no response has been received. The second letter is identical to the first letter with an added statement: "This is the second request; if a response is not received by..."—an actual date is entered 60 days from the first due date—"...we will have to assume you are no longer occupying the property, and therefore in default of both the Loan and the HOME Agreement.

As responses are received the Loan Accountant records in the Property Address List that the response was received, the date of receipt, and whether the HOME-assisted Owners are complying by entering yes or no in the field.

If the response is YES to the Audit Letter, no further action is needed until the following year's property audit. This annual process is continued every year until the HOME-Unit reaches the AP Expiration Date.

If the response to the Audit Letter is NO, the Loan Accountant follows a series of actions to determine why and if necessary, to locate the HOME-assisted Owner. These actions are listed in the Recapture Procedures below.

Recapture Procedures—If the HOME-Unit ceases to be the HOME-assisted Owners' principal place of residence for any reason, but not limited to the HOME-assisted Owner selling, renting, leasing, abandoning, donating, or giving the housing to another prior to the end of the required affordability period, HOME-assisted Homebuyer shall return the entire HOME-assistance provided to assist HOME-assisted Homebuyer in the purchase of the HOME-Unit.

A negative or non-response to the annual audit letter may trigger further investigation to verify whether the HOME-assisted Owner still lives in the HOME-Unit as their principal place of residence. These methods may be used when trying to locate a current address for the HOME-assisted Owner who received assistance to purchase a HOME-Unit. These methods include:

Records Search: Loan Accountant will perform an abstract search of Utah County's records on the HOME-Unit to identify if any instruments have been recorded indicating HOME-assisted Owner has sold the property. If HOME-assisted Owner is still shown as the owner of record, Utah County records may provide the owner's address. Where Utah County records indicate HOME-assisted Owner has sold the HOME-Unit, Loan Accountant will perform a social security search for all registered owners receiving assistance to purchase the HOME-Unit. If Loan Accountant is successful in obtaining a current address for the HOME-assisted Owner in question, a demand letter will be sent.

Loan Accountant also verifies with the Zoning Division to see if the HOME-assisted Owner has an active rental dwelling license, as required by Provo City Code. If the HOME-assisted Owner has an active rental dwelling license, other than the allowed rental dwelling license permitted for a legal accessory apartment as disclosed in the HOME Agreement, Trust Deed Promissory Note and/or Deed of Trust, then current contact information is obtained and a demand letter is sent to both the HOME-Unit and the current addressed.

Internet Search: Loan Accountant attempts to find individual HOME-assisted Owners by alternative methods, such as newspaper articles, obituaries, social media, etc. If such methods produce any data or information, such information is cross referenced with other public records to find a current location to send a demand letter.

Direct Contact: A visit to the HOME-Unit by a City inspector or another employee in the Community & Neighborhood Services department may be done to ascertain whether HOME-assisted Owners are still compliant and assess possible reasons for not receiving a response to the Audit Letter. If the HOME-Unit is found occupied by person(s) other than

HOME-assisted Owners, the visitor will try to identify whether current occupants in the HOME-Unit are new owners or renters and if renters, inquire about a way to contact the owners.

When a HOME-assisted Owner is in default or noncompliant, i.e. not occupying the HOME-Unit as their principal place of residence within the Affordability Period, a letter is sent stating the assistance provided, its requirements to maintain the HOME-Unit as their principal place of residence, the consequences of noncompliance, the findings of the investigation and a demand of payment. A copy of the loan documents signed at closing and a payoff worksheet is enclosed with the letter including the HOME-assisted Owner(s) name(s), address, loan number, principal balance amount, interest accrued total payoff amount, and due date. The worksheet states that payment is to be made to Provo City Corporation, by certified check either mailed to 351 West Center St. Provo, UT 84601 or hand delivered to the Loan Accountant in the Development Services Department at 330 West 100 South Provo, UT 84601.

Payments are received by the department's Loan Accountant who records all transactions into Loan Ledger software and prepares receipt worksheets, and deposit slips. Loan Accountant updates Loan Certification worksheet with payoff amounts every time deposits are processed.

Loan Accountant prepares reconveyance documents and submits to title company for processing, then takes documents for recordation to County Recorder's office. Once this is accomplished Loan Accountant scans full file for records retention and separates hard copies to be retained permanently as per State requirements. Finally, Loan Accountant sends final statement to HOME-assisted Owner showing \$0 balance on account and a copy of the recorded reconveyance.

When all methods to locate noncompliant HOME-assisted Owners are exhausted or a demand of payment is refused then Loan Accountant engages in Collections Procedures (written separately from these procedures) and follows the advice from the City Attorney's office to recuperate outstanding debt.

In cases where the City is unable to secure the Recapture of noncompliant Homebuyer projects, it will seek guidance from HUD personnel as to the options for repayment of these funds to HUD.

Resale Procedures—The resale policy is enforced using a Restrictive Covenant signed by the HOME-assisted Homebuyer (HOME-assisted Owner) at closing. The Restrictive Covenant will specify:

1. The duration of the Affordability Period based on the dollar amount of HOME funds invested in the unit—see Table 1 above.
2. That the HOME-Unit must remain the HOME-assisted Owner's principal place of residence throughout the affordability period
3. The conditions and obligations of the HOME-assisted Owner when he/she decides to sell before the end of the Affordability Period, including

- a. The HOME-assisted Owner must contact the Community & Neighborhood Services Department in writing if intending to sell the HOME-Unit prior to the end of the Affordability Period
- b. The subsequent prospective purchaser must be low-income as defined by the HOME Program and occupy the HOME-Unit as their new primary place of residence for the remaining years of the Affordability Period. However, if the prospective purchaser receives direct assistance to purchase the HOME-Unit through a HOME-funded program, the Affordability Period will be reset, and the new period based on the amount of assistance provided; and
- c. The sales price must be affordable to the subsequent prospective purchaser. Affordable is defined as limiting the Principal, Interest, Taxes and Insurance (PITI) amount to no more than 30% of the new homebuyer's monthly income.

If during the Annual Audit the Loan Accountant finds that a HOME-assisted Owner under a Resale Option wants to sell their HOME-Unit before the expiration of the Affordability Period, the Loan Accountant will refer HOME-assisted Owner to the below Unit Resale Procedures and to consult with HOME Program Administrator.

Unit Resale Procedures

1. **Inform the City.** The HOME-assisted Owner must inform the City of his/her intent to sell the unit by filling out a Notice to Intent to Transfer and submitting it to the City.
2. **City Option to Purchase/Consent to Transfer.** The City may exercise its option to purchase the HOME-Unit or transfer its right to purchase the HOME-Unit to a designated entity. The City will make this determination and inform HOME-assisted Owner of its intent within 30 days of receipt of the Notice of Intent to Transfer. **Owner should not enter a listing agreement with an agent nor list the unit on the Multiple Listing Service until receiving the City's Consent to Transfer letter.** If the City opts not to purchase the HOME-Unit or transfer its purchase option, the City will send the HOME-assisted Owner a *Conditional Consent to Transfer* letter and a packet of information that will assist the HOME-assisted Owner in finding another Qualified Household to purchase the unit. The Conditional Consent to Transfer letter will be valid for 180 days from the date of the letter and will include the maximum restricted resale price of the unit and any other conditions of sale such as the good faith marketing efforts.
3. **Marketing.** The HOME-assisted Owner must market the unit with a licensed realtor or broker and pay all fees associated with the sale of the HOME-unit. Upon entering into a listing agreement with a licensed realtor pursuant to the requirements of this sections, the agent must contact City Staff in the Housing Division to learn the requirements for listing the property. All marketing tools must indicate the HOME-Unit is part of the specific program and the current income limits, and must be reviewed by the City prior to publications, please contact the Housing Division for the required language. The payment of real estate commission shall not be used as a negotiations tool for a prospective buyer. The commission paid by seller must be equal to the amount identified at the time of unit listing.
4. **Execute Purchase Contract.** The HOME-assisted Owner executes a purchase contract with the qualified buyer and opens escrow. The HOME-Unit HOME-

assisted Owner's Realtor will provide a copy of the contract to the City along with the name, address, and phone number of the title company handling the transaction and the name of the escrow officer.

5. **Potential Buyer Application.** Once the potential buyer's offer has been accepted, at least 30 days prior to the anticipated date of the close of escrow, the potential buyer must submit the following documentation to City Housing Division staff for approval:
 - a. The buyer qualification documentation set forth in the Housing Division's current HPP Policies and Procedures,
 - b. Evidence of completion of homebuyer education workshop,
 - c. A loan Preapproval Letter and Loan Estimate,
 - d. A signed Disclosure Statement,
 - e. A signed Credit Authorization and Release form, or similar document,
 - f. Copy of official, recent tri-merge credit report
 - g. Copies of federal income tax returns for the last 2 years (including the most recent year) with all related schedules (i.e. W2s) or IRS verification of non-filing (if applicable),
 - h. Copies of paystubs for the most recent three months for all income earner's in the household over 18 years of age.
 - i. Copies of financial statements from all accounts for three (3) most recent months,
 - j. Copy of identification documentation: current U.S. Passport, or state issued photo identification card and social security card,
 - k. Letter(s) of explanation (for any uncommon financial, employment, or other unique events or circumstances), and
 - l. Evidence of 3% available funds to be used as down payment.
6. **Potential Buyer Qualification.** The City will notify the HOME-assisted Owner within 10 business days of receipt of complete packet of documentation as listed above of its approval or disapproval of the prospective purchaser. The City reserves the right to request additional information to confirm eligibility. Please note: no applications will be accepted by City Housing Division Staff unless their purchase offer on a HOME-Unit has been accepted.
7. **Restricted Resale Price.** The resale price of a HOME-Unit is dependent on Area Median Income (AMI), as determined by HUD and the Maximum Affordable Housing Prices, as determined by the City, on an annual basis. HOME-assisted Owners must consult with Housing Division Staff prior to setting their HOME-Unit sales price to ensure is within the then current limits.
8. **HOME-Unit Marketing.** HOME-Unit HOME-assisted Owner's will follow current best practices for home marketing. The City will provide HOME-Unit HOME-assisted Owners with a Good Faith Marketing Efforts information packet with the City's Conditional Consent to Transfer letter. Compliance with the following provisions constitutes a good faith marketing effort.
 - a. HOME-Unit Condition: The HOME-Unit will be offered for sale in a condition similar to or better than at the time of the HOME-assisted Owner's purchase. The HOME-Unit will be kept and maintained in decent, safe, and sanitary conditions (e.g., ensuring carpets are professionally cleaned, facilities such as bathrooms and kitchen are in proper operating condition, illumination and lighting of unit are adequate, unit is free of vermin and rodent infestation, unit is

structurally sound). Alterations that may result in a reduction in value (such as removal of walls, bedrooms, or bathrooms, or downgrades to appliances, flooring, or finishes), or poorly maintained or inoperable items will be corrected prior to the initiation of HOME-Unit marketing at the expense of HOME-assisted Owner/seller. A home inspection must be conducted for all HOME-Unit sales; any significant repairs needed to the home or included appliances shall be the responsibility of the seller prior to close of escrow.

- b. Professional Representation: The HOME-assisted Owner will execute a listing agreement with an active Realtor, currently licensed by the Utah Division of Real Estate. Listing a HOME-Unit as 'For Sale by Owner' is prohibited. The seller of the home shall be responsible for paying all real estate commission costs, up to a maximum of 6%. No removal of these set commission costs, or credits are allowed by the buyer or buyer's agent to promote their offer.
- c. Listing: The HOME-Unit will be listed as an active property on the Multiple Listing Service (MLS) maintained by the corresponding Association of Realtors. The listing must be sent to City Housing staff prior to activating the listing to ensure all language is appropriate. The listing will include the following:
 - i. HOME-Unit Photographs: At least one exterior photograph and at least three well-lit interior photographs of the HOME-Unit in keeping with current industry practices
 - ii. Property Data: Pertinent data including, but not limited to, asking price (at or below the maximum restricted sale price), location, square footage, number of bedrooms, number of bathrooms, unit features and amenities, development features and amenities, current amount of HOA dues (if applicable), and information about parking spaces restrictions.
 - iii. HOME-Unit Statement: A clear statement that the home is a HOME-Unit and that potential buyers must meet income and other requirements and include the correct income levels the eligible household sizes, and the requirement the buyer must be a First-Time Homebuyer, obtain a loan pre-approval and a Homebuyer Education Certificate. The listing must note the Offer Acceptance Due Date. The statement must comply with language requirements in the Required Multiple Listing Service Language Requirements sheet.
- d. Professional Showings: The HOME-Unit HOME-assisted Owner and the agent will make the home available for at least two open houses including a weekend open house, a weekday open house, and individual showings with the interested buyers and agents representing interested buyers. The first open house must occur at least 24 hours after the listing has been approved by the City and placed in MLS.
- e. Offer Acceptance Due Date: The HOME-Unit Owner and agent shall set an Offer Acceptance Due Date that is at least five (5) days after the date of the second unit showing.

9. **Fees Associated with the Selling HOME-Unit.** HOME-Unit HOME-assisted Owner (the seller) is responsible for all fees associated with the sale of the unit including, but not limited to, all pre-determined real estate commission costs, and transfer tax fees. These fees cannot be negotiated or paid for by the buyer or buyer's agent to leverage an offer.

10. Special Exceptions for Units Unable to Resell. The City may offer special consideration where the HOME-Unit has been unable to attract a buyer and at least one of the following conditions applies:

- a. The HOME-Unit buyer (the seller) has made a good faith effort to market the HOME-Unit for six (6) or more months, as defined in this section.
- b. The resale price for the HOME-Unit is at or below current comparable market units; or
- c. Financing for the HOME-Unit is unavailable due to pending litigation in the project or the ratio of rental to ownership housing units in the project is unacceptable to lender.

On a case-by-case basis, upon request by the HOME-Unit Owner, the City will consider granting one or more of the following exceptions on a one-time basis:

- A one-time waiver of the first-time homebuyer qualification requirement for a potential HOME-Unit buyer,
- A one-time waiver of the asset test for a potential buyer,

HOME-Unit Owners who are unable to sell and may want to seek an exception should contact City Housing Staff for a consultation. Sufficient evidence of the above conditions must be provided prior to consultation.

11. Release of Resale Restrictions. Upon written request by the HOME-Unit Owner, the City may authorize the release of resale restrictions and allow a HOME-Unit to sell the HOME-Unit at a market-rate price where the HOME-Unit Owner has been unable to attract a qualified buyer and at least one of the following conditions applies:

- a. Proven Hardship: The HOME-Unit Owner has made a good faith effort (HOME-Unit Owner has complied with **all** marketing provisions as set forth in this section) to sell the HOME-Unit for nine(9) or more months and has a specific need to sell the home due to financial or personal hardship. Eligible hardships include:
 - i. A change in annual household income that has resulted in housing costs (mortgage payment, HOA dues, property taxes, and property insurance) exceeding 75% of monthly income,
 - ii. Relocation of employment to a worksite that is 60 miles or more from Provo City, or
 - iii. The maximum restricted resale price, as provided by City Staff in the current Consent Transfer letter is below or within 10% of that or recent (within three [3] months) sales prices of comparable nearby market-rate homes as evidenced by documentation of these comparable sales (list prices are not acceptable).
- b. Excessive Time on Market: The HOME-Unit Owner has made a good faith effort (HOME-Unit Owner has complied with **all** marketing provisions as set forth in this section) to sell the HOME-Unit for nine (9) or more months.

In either instance, sales in which resale restrictions are approved for release are subject to all the following requirements:

- a. Excess Proceeds: The City is entitled to 100% of any increase between the market-rate resale price as stated in the purchase contract and the maximum restricted resale price, as quoted by City Staff in the Consent to Transfer letter.
- b. Resale Price: The allowable contract market-rate resale price is subject to City approval, based on a formal evaluation by a City-approved appraiser. If the City requires the services of an appraiser other than the appraiser retained to evaluate the property in connection with the buyer's loan, the City will pay the cost of the appraisal (to be deducted from City proceeds in the closing process and reflected on the final settlement statement).
- c. Owner Occupant: The subject HOME-Unit must be sold to a buyer who will personally occupy the unit. Sales to investors are prohibited. The buyer's intent to occupy must be reflected in the ratified purchase agreement and on loan documents, as applicable.