

**Housing & Economic
Development Committee Meeting**
Tuesday, February 27, 2024 at 5:30 PM



MEMBERS

Councilor Pious Ali, Chair
Councilor Roberto Rodríguez
Councilor Regina Phillips
Councilor Kate Sykes

To submit written public comment on an agenda item, email edd@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Housing & Economic Development meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

The Housing & Economic Development Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

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1. **Review and accept Minutes of previous meeting held on January 23, 2024.**
 - a. See attached draft Minutes for review and approval.
2. **(Public Hearing) Review and vote on a recommendation to the City Council to amend Chapter 6-225 to dissolve the Rental Housing Advisory Committee.**
 - a. See attached Memo and backup from Mary Davis.
 - b. See attached Memo from Councilor Kate Sykes.
3. **(Public Hearing) Review and vote on a recommendation to the City Council to approve the FY2025 Housing Program Budget.**
 - a. See attached Memo and backup.
4. **(Public Hearing) Review and vote on a recommendation to the City Council to:**
 - a. Approve the 2024 Jill C. Duson Housing Trust Fund Annual Plan; and,
 - b. Approve the issuance of the 2024 Affordable Housing TIF and Affordable Housing Development Fund Application for the Jill C. Duson Housing Trust Fund, HOME Program.

See attached Memo and backup.
5. **Communication: Verbal update on RFP for sale and redevelopment of the Diamond Cove Former Fort McKinley Hospital Property.**

Next Meeting Date: March 5, 2024

Minutes

Remote Housing and Economic Development Committee

January 23, 2024

NOTE: This meeting was held via Zoom and can be viewed at this link:

<http://www.portlandmaine.gov/1695/Economic-Development-Committee> These Minutes provide a record of those in attendance, general discussion taking place, and motions made.

A remote meeting of the Housing and Economic Development Committee (HEDC) of the Portland City Council was held on Tuesday, January 23, 2024, at 5:30 p.m. via Zoom.

Present from the HEDC were Chair Pious Ali, and members Regina Phillips, Roberto Rodriguez – arriving shortly after the meeting started as noted herein, and Kate Sykes.

Present from the City staff were Housing and Economic Development Department Director Greg Watson, Housing and Community Development Division Director Mary Davis, Corporation Counsel Michael Goldman, Permitting and Inspections Director Jessica Hanscombe, Waterfront Coordinator Bill Needelman, Principal Administrative Officer Lori Paulette, and Housing Program Manager Victoria Volent.

Item #1: Review and accept Minutes of previous meeting held on November 14, 2023

On motion made by Councilor Phillips, seconded by Councilor Sykes, the Committee voted 3-0 to accept the Minutes.

Item #2: City Council meeting held on January 3, 2024, referral to the Committee for review and vote on a recommendation back to the City Council regarding Order #92 23/24-Waiving the Beano/Bingo License Fee for the Veterans of Foreign Wars Post 6859 and

Waiving the Class III and IV, and Indoor Entertainment Application Fees for the Maine Irish Heritage Center

Greg Watson introduced this item by noting during their January 3, 2024, meeting, the City Council voted 9-0 to refer the request from the Veterans of Foreign Wars (VFW) Post 6859 to waive the calendar year Beano/Bingo License Fee of \$104, and the request from the Maine Irish Heritage Center to waive the calendar year Class III & IV Fee of \$906 and the Indoor Entertainment Application Fee of \$500 to the Committee for a review and recommendation back to the City Council. Jessica Hanscombe is available to answer any questions.

The Committee requested guidance from Corporation Counsel regarding the current policy guidelines. Michael Goldman read from Chapter 15-12.1 that “the city council may, in its discretion, waive or reduce any fee required of any nonprofit organization where the council determines that the purpose of the licensed activity or the funds to be raised by the activity are of direct benefit to the citizens of the city.” He further noted the Committee should consider the written request from the non-profit organizations, along with public comment in their review. There are no prior examples to rely upon.

Councilor Rodriguez arrived 5:48

The Committee held a discussion regarding maintaining the fees, reducing the fees, or waiving the fees. Mr. Goldman noted the Committee could both forward a recommendation regarding the requests in front of them, and also forward the recommendation to the City Council requesting the Committee review Chapter 15-12.1 for possible amendment.

Jessica Hanscombe offered that during a future review of Chapter 15-12.1, the Committee may create licensing fee classifications for non-profit organizations.

Councilor Ali opened the item for public comment. Seeing no one, the public comment period was closed.

The Committee discussed the equity of waiving fees equally for all non-profits, and discussed conducting a review through an equity lens. The Committee would like to receive fiscal notes to understand the fiscal ramifications.

On a motion made by Councilor Rodriguez, seconded by Councilor Phillips, to waive 50% of the Beano/Bingo License Fee for the Veterans of Foreign Wars Post 6859, and waive 50% of the Class III and IV fee and 50% of the Indoor Entertainment Application fee for the Maine Irish Heritage Center, amended by Council Rodriguez and second by Councilor Phillips to bifurcate the vote to first waive 50% of the Beano/Bingo License Fee for the Veterans of Foreign Wars Post 6859, the Committee voted 3-1 (Councilor Sykes), and to waive 50% of the Class III and IV fee, and 50% of the Indoor Entertainment Application fee for the Maine Irish Heritage Center, the Committee voted 3-1 (Councilor Sykes).

Item #3: Review and recommendation to the City Council on the proposed merger of the Portland Fish Pier Authority and Portland Fish Exchange.

Greg Watson introduced this item and turned over the presentation to Bill Needelman. The Portland Fish Pier Authority and Portland Fish Exchange each operate as a quasi-municipal not-for-profit owned by the City of Portland; each entity operates with an independent board of directors. A merger between the entities has been discussed as a potential for years as a means to secure financial and management stability for the services provided. Following a strategic planning process during 2020-2021, both Boards of Directors voted in late 2022 to create a Governance Subcommittee of the Boards to explore potential merger of the entities. The Governance Subcommittee voted unanimously on October 18, 2023 to recommend the merger.

The Portland Fish Pier Authority Board voted 4-1 to recommend the merger on October 25, 2023, and the PFE Board voted 5-1 to recommend the merger on November 9, 2023. Merging the entities will also merge the finances, resulting in a rational budget, better fiscal accountability, and improved transparency to the fishing industry and the City Council.

The Committee discussed their support for the merger.

Councilor Ali opened the item for public comment. Seeing no one, the public comment period was closed.

On a motion made by Councilor Sykes, seconded by Councilor Phillips, the Committee voted 4-0 to recommend the merger.

Item #4: Review and recommendation to the City Council on additional funding for 45 Dougherty Project. NOTE: Pursuant to 1 M.R.S.A. 405(6)(F) and 5 M.R.S.A. 13119—A, the Committee may go into executive session to review proprietary confidential information associated with this item.

On a motion made by Councilor Phillips, seconded by Councilor Sykes, the Committee discussed entering into Executive Session.

Councilor Ali opened the item for public comment. Seeing no one, the public comment period was closed.

The Committee voted 0-4 to enter into Executive Session; motion failed.

Greg Watson introduced this item with a high level overview of the project and earlier funding approval. The project affordability has changed from mixed-income to 100% affordable. As the developers moved through the process of securing funding, finalizing construction plans, and obtaining construction bids, they ran into significant issues which resulted in a \$2.4 million gap in the project budget. After an extensive review of the project,

which included value engineering reductions, they identified a \$1.2 million funding gap. The project experienced increased costs associated with supply chain, material costs, interest rates. Staff is requesting the Committee approve and recommend to the City Council approval of up to \$1,200,000 in financial assistance in the form of a loan from the Jill C. Duson Housing Trust Fund for the 45 Dougherty project.

The Committee asked about the outcome of the project if the funding is not provided. Per the developer Nathan Szanton, if the gap is not filled, then this shovel-ready project would not move forward. Additionally, during the three-year period since the initial proposal, construction prices have gone up enormously (approximately 50%; from \$193/ square foot to \$299/square foot). The requested funding amount would be reduced if MaineHousing or Evernorth can increase their funding commitments or the developer locates additional funding sources.

The Committee inquired into the current Housing Trust Fund balance and asked about future deposits into the fund. Per Mary Davis, the Housing Trust Fund has under \$7.5M (which includes \$5.1M of ARP funding). Two projects, from one development team, have requested a total of \$6.9M in funding from the remaining balance of the Housing Trust Fund. The City is aware of four to five other potential development projects (the exact number and funding requests will be clearer after the 2024-2025 Affordable Housing Development and AHTIF Application is issued). Anticipated deposits into the HTF for 2024 total approximately \$200,000.

The Committee requested additional information about the terms of the loan. Per Greg Watson, the loan would be paid back from cash flow beginning in year 10. Additional loan terms would be brought to the full Council.

Councilor Ali opened the item for public comment. Seeing no one, the public comment period was closed.

On a motion made by Councilor Phillips, seconded by Councilor Rodriguez, the Committee voted 4-0 to recommend approval of up to \$1,200,000 in financial assistance from the Jill C. Duson Housing Trust Fund for the 45 Dougherty project.

Item #5: Review of 2024 Housing Policies and Goals for the Jill C. Duson Housing Trust Fund Annual Plan and the Affordable Housing Tax Increment Financing Application.

Mary Davis provided a high level overview of the Jill C. Duson Housing Trust Fund Annual plan, including priorities and goals imposed on the funds. The Affordable Housing Application and AHTIF will mirror those priorities and goals. Staff is requesting recommendations from the Committee regarding goals they would like incorporated into the HTF Annual plan.

The Committee would like to ensure staff is applying an equity lens when conducting outreach to potential housing developers. Mary Davis noted conversations with the Justice, Diversity, Equity and Inclusion Director, and the Office of Economic Opportunity Director, and a future speaking engagement in Boston regarding opportunities for housing developers of color.

The Committee asked if the Affordable Housing Development and AHTIF Application prioritizes applications submitted by developers of color. Mary Davis indicated the current application does not, but that priority could be included.

The Committee noted the funding for the Housing Trust Fund is partially based on Inclusionary Zoning fee-in-lieu payments from developers not creating low-income housing. Therefore, is the City trading low-income housing units for missing-middle units? Greg Watson indicated subsidy funding to create low-income/deeply affordable residential housing is easier to find than funding for middle-income projects. Without the IZ fee-in-lieu payments, middle-

income housing (80 to 120% AMI) would not have a subsidy funding source from the City.

Item #6: Draft Calendar Year Work Plan for review and discussion

The Committee held a discussion regarding the scheduling of future meetings. The Committee will continue to meet at least the third Tuesday of each month. Every other month, the Committee may also meet on the first Tuesday of the month, as necessary. Due to the school break occurring on the third Tuesday in February, the Committee moved February's meeting to February 27th. Councilor Ali will work with staff to bring forth a work plan.

On a motion made by Councilor Rodriguez, seconded by Councilor Phillips, the Committee voted 4-0 to adjourn the meeting at approximately 7:40 p.m.

Respectively submitted, Victoria Volent

AMENDED MEMO

To: Councilor Pious Ali, Chair
Members of the Housing and Economic Development Committee

From: Mary Davis, Division Director, Housing and Community Development Division

CC: Greg Watson, Director, Housing and Economic Development Department

Date: February 20, 2024 AMENDED February 23, 2024

Re: Dissolution of the Rental Housing Advisory Committee

The Rental Housing Advisory Committee met on February 15, 2024 and voted 5-1-1 to forward the attached memo to the Housing and Economic Development Committee with a recommendation to dissolve the Committee.

DRAFT

MARK DION (MAYOR)
PIOUS ALI (A/L)
APRIL D. FOURNIER(A/L)
ROBERTO RODRÍGUEZ (A/L)

CITY OF PORTLAND IN THE CITY COUNCIL

ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANNA BULLETT (4)
KATE SYKES (5)

AMENDMENT TO PORTLAND CITY CODE CHAPTER 6 RE: REPEAL RENTAL HOUSING ADVISORY COMMITTEE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. *That Section 6-225 of the Portland City Code Chapter 6 is hereby repealed to read as follows:*

6-225. ~~Rental Housing Advisory Committee~~

~~(a) There is hereby created a Rental Housing Advisory Committee (the "Committee").~~

~~(b) The Committee shall be comprised of nine (9) members, including three (3) members who are landlords, three (3) members who are tenants, one (1) member who is not a landlord or a tenant, one (1) member experienced in legal rights/interest of tenants, and one (1) member experienced in legal rights/interests of landlords.~~

~~(1) All members of the Committee, excluding the members experienced in legal rights/interests of tenants and landlords, shall be residents of the City of Portland. The members experienced in legal rights/interests of tenants and landlords shall be either a resident of or work in the City of Portland.~~

~~(2) All members shall be appointed by the City Council to serve staggered terms set by City Council order.~~

~~(3) The Southern Maine Landlord Association may submit one name for consideration for the member experienced in legal rights/interests of landlords. If the Southern Maine Landlord Association fails to do so, the City Council may appoint the member without the Association's recommendation or approval.~~

~~(4) Pine Tree Legal Assistance may submit one name for the member experienced in legal rights/interests of tenants. If Pine Tree Legal Assistance fails to do so, the City Council may appoint the member without Pine Tree's recommendation or approval.~~

~~(c) The Committee shall be co-chaired by one (1) landlord representative and one (1) tenant representative as agreed to by the members of the Committee.~~

~~(d) The Committee shall meet not less than quarterly and shall undertake the following duties:~~

~~1. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues; and~~

~~2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.~~

TO: Housing and Economic Development Committee
FROM: Rental Housing Advisory Committee
RE: Dissolution of the Rental Housing Advisory Committee
DATE: February 15, 2024

Dear Councilors:

We write to recommend that you dissolve the Rental Housing Advisory Committee. We do this with deep regret that a more constructive partnership could not have been built with the Housing and Economic Development Committee (HEDC) that would have made this committee's work meaningful and more useful to the residents of Portland.

We are not recommending dissolution because we think our mission has been accomplished. In fact, we are dealing with once-in-a-generation forces that make it more urgent than ever that the City tackle issues related to rental housing. While we have been eager to help be a part of the solution to these challenges, we have sought guidance and counsel from the HEDC without response, which ultimately frustrates our ability to carry out our charge.

The Rental Housing Advisory Committee (RHAC) was established in the wake of a City tragedy – the Noyes Street fires – to form a working group that could propose policy suggestions and assist in educational efforts with respect to landlord-tenant relationships and housing safety in the City of Portland.

Since the committee's inception, the RHAC has attempted to communicate with the Housing and Economic Development Committee about housing challenges in Portland. THE RHAC never received an explicit charge from the HEDC, or the City Council, and it was left to the committee, and City staff, to develop a focus for the committee.

The RHAC's focus ultimately included research and a recommendation regarding application fees that was ultimately significantly revised and diminished before passage by the City Council, without continued communication with the RHAC itself. It is worth noting that in the years since, the City, and the State, have adopted language consistent with the initial intention of the RHAC around this issue.

Following the RHAC's creation, our community has seen many large-scale changes to the housing market and critical views of conventional housing policies.

In 2020, the Black Lives Matter movement sought to address systemic barriers across all levels of government and society, including in the areas of housing quality, housing safety, and affordability.

Our community weathered a global pandemic during which rapid and significant changes to the housing market and housing law occurred. The market changes included a sharp increase in costs as well as increased demand for housing resulting in a high volume of Mainers, and Portlanders, facing homelessness. We are still dealing with the impact of those market changes, and a State study identifies a housing shortage in Maine of close to 80,000 units.

Most recently, and as a cumulative result of these forces, we have seen large numbers of people camping out in Portland because they are unhoused.

The housing crisis, across nearly all economic levels, has not abated and there are still market pressures that will impact our most vulnerable residents well into the future.

There is work to be done, and we have eagerly reached out, via memo and through City staff, to ask how we can help.

It is impossible to fulfill our mission without that direction, and thus, though there is much work for the City to do on these vital issues, we reluctantly request that the City dissolve the Rental Housing Advisory Committee.

City of Portland | Office of the Mayor and City Council
Kate Sykes, *Councilor (District 5)*



To: Mark Dion, Mayor and members of the Legislative and Nominating Committee
From: Kate Sykes
Date: Jan 12, 2024
Re: Request to Disband the Rental Housing Advisory Committee (RHAC)

Mayor Dion and fellow Committee Members,

It has come to my attention that we have two citizen boards: the Rental Housing Advisory Committee (RHAC) and the Rent Board, which exist in significant redundancy with one another, causing an ongoing confusion of purpose for members of the RHAC, difficulties in recruiting members to both Boards, and challenges achieving a quorum on the Rent Board. Furthermore, the continued support of both boards diverts valuable staff time from other administrative work.

I therefore request that this committee develop and bring forward an Order to Disband the Rental Housing Advisory Committee and submit it for the City Council's deliberation and vote at our next available meeting. This committee might consider giving eligible members of the RHAC the opportunity to interview for the Rent Board to pursue similar work there. We may further wish to preserve the RHAC's unique responsibilities by assigning them to the Rent Board, namely the examination of *all* policy relating to rental housing in the city (not just the rent stabilization ordinance), and making public education a more explicit charge of the Rent Board.

I strongly recommended that this matter be resolved before the next round of interviews for open positions on the RHAC/Rent Board in February to avoid ongoing bureaucratic wheel spinning.

Background:

The Rental Housing Advisory Committee (RHAC) was established by ordinance (Chapter 6 Article 11, 6-225 of the city code) in 2016 at the request of the Housing Committee. It's purpose is to:

- (1) Provide the [City Council] Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues; and
- (b) Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

The Rent Board was established by citizen referendum in 2020, when Portland voters passed the rent stabilization ballot initiative. (Chapter 6, Article XIII, Sec. 6-250-263 of the City Code) The duties of the Rent Board are numerous and relate specifically to the rent stabilization ordinance:

(a) To hear, review, and approve or deny Landlord applications for rent increases greater than those allowed by the Rent Stabilization Ordinance;

(b) To hear, review and approve or deny Landlord applications for increases in Base Rent due to the renovation or reconfiguration of existing Covered Units, as provided for in Section 6-234;

(c) To hear, review, and grant or deny appeals from Tenants regarding allegations violations or Maine Statute regarding the habitability of residential units;

(d) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed;

(e) To hear, review, and decide the appropriate outcome of all disputes arising between Landlords and Tenants on matters falling within the scope of Article XII of Chapter 6, if both parties consent to such mediation and resolution by submitting the landlord/tenant dispute form, as maintained and edited by the Housing Safety Office, signed by both Landlord and Tenant no later than fourteen days before the date on which such a hearing shall be scheduled;

(f) To impose such fines as are necessary and allowed for violations of the provisions of the Rent Stabilization Ordinance;

(g) To prepare and recommend to the City Council changes and amendments to the City's Rent Stabilization Ordinance;

(h) To prepare an annual report on the state of the City's rental unit availability, which shall be presented to the City Council as part of a regularly-scheduled public hearing. This report shall include a summary of rents within each of the five council wards. Such reporting may or may not be done in conjunction with similar reporting required by the City's Rental Housing Advisory Committee, as established by Chapter 6; and

(i) To initiate changes and amendments to this Article, as well as to the City's Rent Stabilization Ordinance. support for landlords and tenants around rent increases, and only mechanism by which landlords can request rent increases in excess of the rent control ordinance.

The redundancies and potential conflicts of the two boards are described in detail in a memo from Mary Davis to Councilor Thibodeau, Chair of the Economic Development Committee, dated January 15, 2021. In this memo, Ms Davis recommends action by the Economic Development Committee to change the scope of the RHAC to avoid redundancies and conflicting recommendations. For reasons unknown, the Committee did not take action to address this.

Two years later, in January 2023, the RHAC sent a memo to the (combined) Housing and Economic Development Committee, again asking for clarification of its purpose *vis-a-vis* the Rent Board and suggesting that in the absence of clear direction, they would advocate to be disbanded.

"Because the RHAC was formed prior to the citizen initiatives creating the Rent Board, and in light of the recent expansion of the Rent Board's authority via the most recent initiative, the RHAC seeks clarification of its purpose and/or role. Understanding that the RHAC is separate from, and independent of, the Rent Board and its activities, and seeking to avoid any duplicative and otherwise redundant work, the RHAC seeks a restatement or reaffirmation of its mission from the City Council/H&ED, as well as defined procedure by which we can be regularly heard by the Housing and Economic Development Committee, and the City Council as need be.

"The RHAC also considered that, without a viable charge and mechanism(s) by which we can be effective and heard, we would suffer a frustration of purpose, and would ultimately advocate for our disbandment. Each and every member of the RHAC sought appointment because they genuinely care about the issues and the people involved, and if we are unable to serve the City and its citizens effectively through the RHAC, we would appreciate the opportunity to serve our community in other capacities."

This request still has not been addressed by any Council Committee. The RHAC has met only twice since then, in March 2023 and in December 2023, when newly appointed members again raised questions about the committee's purpose.

I have spoken with Councilor Ali, Chair of the Housing and Economic Development Committee about this issue. He stated that determining the fate of the RHAC is not within the purview of his Committee and rather should be addressed by the Legislative and Nominating Committee.

Finally, this issue should not be considered in isolation from the Rent Board, which has recently had difficulty achieving a quorum, leaving tenants and landlords waiting for months on decisions about requested rent increases. Some members of the RHAC have expressed interest in serving on the Rent Board, which could help solve these quorum issues. I urge thus committee to move forward swiftly to resolve these concerns.

MEMORANDUM

FROM: Rental Housing Advisory Committee

TO: Housing & Economic Development Committee and City Council

DATE: January 9, 2023

SUBJECT: RHAC Duties and Charge

I. Summary

As the Rental Housing Advisory Committee (“RHAC”) enters its seventh year of existence (though fourth year of operation), and in light of the significant changes to regulation of rental housing in Portland since its inception, the RHAC seeks a restatement/clarification of the charge and duties for the committee, so that we can better serve the City and its citizens. Absent such revised guidance, the committee feels it is unable to take any meaningful action, and would recommend that the City Council disband the RHAC.

II. History

The RHAC was formed in November of 2016, as part of the Tenant Housing Rights Ordinance (Chapter 6 Article XI, Section 6-225; Council Orders [76-16/17](#) and [32-18/19](#)). The Ordinance cited addressing housing insecurity and educating tenants among its purposes, and specifically charged the RHAC with two duties:

1. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues; and
2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

The RHAC’s first meeting was on September 24, 2019, and it very quickly set to work on an issue raised by RHAC members in early meetings: rental housing application fees. After much debate and hard work, on December 16, 2019, the RHAC made a formal recommendation to the then-Housing Committee, recommending that the City adopt an ordinance prohibiting landlords from charging prospective tenants application fees (or any fees prior to move-in, aside from first month’s rent and security deposit). *See* RHAC Memo, 12/16/2019. Through a process in which the RHAC’s recommendation and work went mostly unconsidered, on August 3, 2020, the City Council ultimately enacted its own, and very different, ordinance restricting rental application fees. *See* [206-19/20](#). (This would ultimately be superseded by the [Act to Protect Tenants in Portland](#), passed via citizen initiative (Question C) on November 8, 2022, which, in part, prohibits application fees for rental housing. *See* Chapter 6, 6-223.1 and 223.1(c).)

On April 27, 2020, the RHAC sent a recommendation to the Housing Committee and City Council, providing committee members' feedback, questions, and suggestions regarding Councilor Cook's proposed amendments to the City's Stay-at-Home Order (#156-19/20) as they pertained to short-term and long-term rental housing. The memo also included a recommendation that the City enact a temporary prohibition on rent increases, to run concurrent with other pandemic protections. *See* RHAC Memo, 4/27/2020.

At some point, the RHAC discussed hosting or otherwise coordinating a housing-related forum to facilitate the exchange of information and provide education to Portland tenants and landlords, similar to the event previously held at King Middle School in (to the best of our recollection) 2015. City staff informed the RHAC that such activities were outside the scope of the RHAC's charge, and so the RHAC ceased its efforts in that regard.

In November of 2020, Portland voters approved the citizen initiative enacting the Rent Stabilization Ordinance, effective as of January 1, 2021. This Ordinance created the [Rent Board](#), and gave it the authority to "conduct hearings in response to tenant complaints, mediate disputes between tenants and landlords, and consider landlords' requests for rent increases outside the scope of this Ordinance."

This past November, Portland voters approved the Act to Protect Tenants in Portland, which built upon and expanded the authority granted to the Rent Board by the initial Ordinance. These new provisions give the Rent Board the jurisdiction and authority to, among other things, "adopt or amend ... such rules and regulations as are necessary to implement" the Ordinance, and to "initiate changes and amendments to the city's Rent Stabilization Ordinance."

III. Request

Because the RHAC was formed prior to the citizen initiatives creating the Rent Board, and in light of the recent expansion of the Rent Board's authority via the most recent initiative, the RHAC seeks clarification of its purpose and/or role. Understanding that the RHAC is separate from, and independent of, the Rent Board and its activities, and seeking to avoid any duplicative or otherwise redundant work, the RHAC seeks a restatement or reaffirmation of its mission from City Council / H&ED, as well as a defined procedure by which we can be regularly heard by the HEDC, and the City Council as need be.

The RHAC has also considered that, without a viable charge and mechanism(s) by which we can be effective and heard, we would suffer a frustration of purpose, and would ultimately advocate for our disbandment. Each and every member of the RHAC sought appointment because they genuinely care about the issues and the people involved, and if we are unable to serve the City and its citizens effectively through the RHAC, we would appreciate the opportunity to serve our community in other capacities.

[REDACTED]

[REDACTED]

[REDACTED]

IV. Summary

The RHAC is, and has always been, comprised of members who are not only knowledgeable about Portland's rental housing environment, but are dedicated and committed to working on finding solutions to the many issues therein. We all remain eager to do so, and seek the City's guidance on how we can better do that in light of the significant changes to rental housing regulation since our committee's inception.

MEMORANDUM

FROM: Rental Housing Advisory Committee
DATE: February 5, 2020
SUBJECT: Rental Application Fees

I. SUMMARY

The Rental Housing Advisory Committee recommends that the City enact an ordinance to ban application fees for rental housing units.

II. BACKGROUND

The Rental Housing Advisory Committee (RHAC) is charged with providing the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues and identifying education opportunities, seminars, and materials that would be useful to landlords and tenants.

At the RHAC's first meeting on September 24, 2019, group members brainstormed issues of concern to landlords and tenants. Several members expressed concern that rental housing application fees are a significant barrier preventing low and moderate income residents from securing housing in Portland. City staff informed the committee that staff in the Housing and Community Development Division had heard concerns about application fee fraud and abuse and had made the Housing Committee aware of that issue. City staff informed the group that the Housing Committee suggested that application fees might be a topic the RHAC could take up.

The RHAC discussed the fact that there is no state law or city ordinance limiting application fees. There is no requirement that a fee charged be linked to the landlord's cost in running a background check. Tenants are generally not in a position to know whether they have actually been considered for an apartment for which they have paid an application fee. Mindful that RHAC's charge includes education, members of the group discussed whether there are education solutions to these issues.

At the October 28, 2019 meeting of the RHAC members of committee articulated several areas of concern: landlords who collect application fees with no intention of renting to the applicant, landlords who collect application fees from multiple applicant and do not conduct background checks, and landlord who do not supply copies of reports to applicants who are not selected as tenants. The group discussed the concern that application fees price low and moderate income tenants out of Portland at multiple meetings.

The RHAC discussed several ways to address application fees. Proposals included a limitation on the amount that could be charged, a requirement that fees collected be refunded to tenants, a requirement that landlords provide copies of background checks to tenants, a prohibition on charging application fees when a tenant provides a landlord with a copy of a recent background check, and a ban on application fees.

Members of the Committee expressed concern that landlords could continue charging application fees by giving those fees another name and the proposed language banning fees is phrased to allow only a security deposit and first month's rent to be charged at the beginning of a tenancy.

On December 16, 2019 the RHAC voted 5-3 to recommend to the Housing Committee that the City prohibit landlords from charging application fees. (the committee currently has 8 members because a tenant member resigned) The RHAC drafted a resolution at the December 16th meeting to accompany the recommendation to explain the committee's rationale and the RHAC approved the resolution 6-2.

III. ANALYSIS AND BACKGROUND

RHAC understands that the Housing Committee would like to see “more than anecdotal” evidence demonstrating that application fees are a significant problem in the community. RHAC members have researched this issue and we have not found any studies that are responsive to this request.

Pine Tree Legal Assistance (PTLA) was asked whether they track calls about application fees. RHAC member Katherine McGovern explained that PTLA tracks cases based on the legal issue involved and so can provide data on the number of tenants who called about issues like evictions or security deposits but because there are no state or local laws limiting application fees, inability to afford application fees is not categorized or tracked as a legal problem. Ms. McGovern shared throughout the RHAC’s discussion about this issue that PTLA’s clients struggle to find affordable housing in Portland and application fees are a significant problem for PTLA’s clients.

RHAC co-chair Meredith Cook, who has worked as a housing specialist at Through These Doors and is currently employed by Preble Street as the Maine Hunger Initiative Social Change Advocate, told the committee that application fees are such a significant barrier for low-income tenants that Preble Street caseworkers searching for housing with clients do not even apply with landlord who charge application fees.

RHAC member Wendy Harmon conducted a survey of members of the Southern Maine Landlord Association regarding members’ practices regarding application fees. Ms. Harmon submitted the results of the survey to the group and these results are attached. Some members reported not charging application fees and those that charge application fees reported that they charge between \$25 and \$50 per adult applicant. Landlords who charge application fees reported collecting those fees from somewhere between one and nine applicants per available apartment.

Each RHAC meeting has included time for public comment. At the November 25, 2019 RHAC meeting three members of the public offered their views and testimony about their experiences with application fees. Jenna Dorr described her family’s experience of scrambling to find new housing and spending more than \$500 in application fees without know whether background checks were actually being conducted or whether they were truly being considered for apartments. Alyssa Floyd described paying application fees and never knowing why she was not offered an apartment. Jim Devine encouraged the committee to propose rules that are easy to understand and coherent. (Public comment for this meeting is summarized the meeting minutes and in the Bangor Daily News story attached).

IV. RECOMMENDATION

RHAC recommends that the following provision be added to Chapter 6 of the City’s ordinances:

“At or prior to the commencement of any tenancy, no lessor may require a tenant or prospective tenant to pay any amount in excess of the following:

- (i) Rent for the first full month of occupancy; and
- (ii) A security deposit as defined in 14 MRS 6032”

V. LIST ATTACHMENTS

1. Resolution including proposed ordinance language submitted to the Housing Committee
2. “Renters say application fees a barrier to living in Portland’s pricey housing market.” Bangor Daily News article by Nick Schroeder, December 2, 2019
3. “Unregulated application fees make Portland’s housing crisis even more expensive for renters.”

4. Examples of ordinances/statutes from other jurisdictions: Minnesota, Oregon, Minneapolis
5. Survey of Southern Maine Landlord Association members conducted by Wendy Harmon.

Prepared by: Katherine McGovern and approved by the Rental Housing Advisory Committee on a vote of 5-3

Date: February 5, 2020

Resolution

WHEREAS, application fees are a significant barrier to low and moderate income people in finding housing in the City of Portland; and

WHEREAS, tenants are likely to pay multiple fees before finally securing housing; and

WHEREAS, there are no laws in Maine regulating application fees.

THEREFORE BE IT RESOLVED, the Rental Housing Advisory Committee sees application fees as a significant burden on tenants when securing housing; and

THEREFORE BE IT FURTHER RESOLVED, the Rental Housing Advisory Committee recommends to the City Council Housing Committee to address this concern through the recommended policy change in City ordinance, below.

Application Fee Ban:

At or prior to the commencement of any tenancy, no lessor may require a tenant or prospective tenant to pay any amount in excess of the following:

- (i) Rent for the first full month of occupancy, and
- (ii) A security deposit as defined in 14 MRS 6032

Renters say application fees a barrier to living in Portland's pricey housing market

<https://bangordailynews.com/2019/12/02/news/portland/renters-say-application-fees-a-barrier-to-living-in-portlands-pricy-housing-market/>

By Nick Schroeder, BDN Staff • December 2, 2019 2:00 am

Updated: December 2, 2019 6:28 am

PORTLAND, Maine — A newly formed rental-housing committee is discussing how and whether to regulate application fees landlords charge tenants.

In a city with a rental-housing market as competitive as Portland, the push to regulate application fees, otherwise known as screening fees, has sparked debate in a new committee comprised of landlords and renters. Social service officials say some landlords have abused the practice of charging tenants for fees for background checks, which can be as high as \$75 an application.

“Moving is a very expensive process for low-income people generally and the situation is worse when people have to spend their limited income on these fees,” said Katherine McGovern, an attorney with Pine Tree Legal Assistance who sits on the city’s Rental Housing Advisory Committee.

The abuse of application fees was the first item on the agenda for the committee on Nov. 25.

Because there aren’t limits on application fees at the state or local level, there is no requirement that any fee be tied to expenses a landlord actually incurs when running a background or credit check, McGovern said. Tenants may suspect but not be able to prove that some landlords are pocketing fees without seriously considering tenants for apartments.

“We know from talking with our clients that it has been getting harder and harder to find affordable housing, especially in the greater

Portland area, and low-income tenants can end up spending a lot of money on application fees before finding a unit,” McGovern said.

The Rental Housing Advisory Committee wants to crack down on landlords collecting fees with no intention of renting to the applicant and those who don’t run background checks; commercial property owners charging multiple screening fees per applicant or for units in the same building; and landlords charging screening fees to immigrants and “new Mainers” for background checks when they have not yet been given Social Security numbers — in other words, they have no credit report to check.

Social services agencies and city officials have so far called instances of the abuses “anecdotal” and not necessarily widespread. Tenants have no recourse besides showing proof of abuse through the legal system, an option which many renters won’t pursue because it can be costly and consumer protection laws make such evidence hard to obtain.

Citizens say that onerous fees serve as a barrier in Portland’s increasingly pricey rental market. Jenna Dorr said she saw firsthand how rental fees limited her apartment search when she paid more than \$500 on them during a two-week period in May.

“We paid all this money and then never heard from all these landlords who did these checks on us,” Dorr said during the committee’s public comment period last month. “We really have no way to know if these checks have been done.”

Dorr said she contacted more than 40 landlords, treating each application process like a job interview. She would pay the nonrefundable application fee, and then send an immediate follow-up, thanking the landlord or lessor for their time and that she looked forward to hearing back from them either way.

Dorr’s family eventually found housing. But the process was hard enough that it gave her reason to speak up.

“We felt desperate. We have a 2-year-old daughter. We were also lucky compared to a lot of people, [because we] had considerable savings to cover those fees.

Crow Jonah Norlander, a landlord representative on the Rental Housing Advisory Committee, said that landlords are essentially business owners, and that running a background check on a potential tenant should be considered part of the cost of doing business.

“It’s a customer acquisition cost,” Norlander said. “If I want someone to live in my home, it’s my responsibility to vet them.”

That’s not a universally shared view among property owners. Rents might be even higher if the cost of application fees is absorbed by the landlords, said Travis Heynan, director of property management for Avesta Housing, and a landlord representative on the committee.

Landlords, however, can also write off most screening fees on their taxes.

Another potential solution proposed by the committee would force landlords to accept a copy of a background check run on a prospective tenant in the previous 30 days, limiting the number of times a tenant’s credit would be run.

A survey conducted by the Southern Maine Landlord Association found that 57 percent of apartments in the Portland area come tied to application fees of some kind.

Among the respondents, 59 landlords and property owners said they did not charge rental application fees for the 644 units they owned.

The committee meets again on Dec. 16, and hopes to submit a recommendation to the Portland City Council’s Housing Committee soon after.

“I don’t understand how a city [of] this size with this kind of competition doesn’t have guidelines of this sort,” advisory committee member Nora Givens said.



October 17, 2019



Cara DeRose

Unregulated application fees make Portland's housing crisis even more expensive for renters

For renters who earn minimum wage or are just starting out in the workforce, affordable housing options in Maine — which has one of **the least affordable** rental markets in the country — are increasingly limited. In the Portland area, renters compete with dozens, if not hundreds, of others for apartments that often cost 33 percent or more of their income and require the payment of a security deposit, along with first and last month's rent.

Adding to the stress and expense of finding somewhere to live are fees that some landlords now charge simply to apply to rent an apartment.

No laws in Maine currently regulate how much can be charged for these fees, what they can be used for and from how many applicants they can be accepted for the same property, a system that affordable housing advocates say can create a significant obstacle for low-income renters and a situation ripe for abuse.

“As the rental market has gotten more challenging, as rents have gone up and the number of affordable units has gone down, people have ended up spending more on application fees because they're having to apply to more units before they find a place,” explained Katherine

McGovern, directing attorney for legal advocacy organization Pine Tree Legal's Portland office. "It's a real barrier for low- and moderate-income tenants."

While New England neighbors [Massachusetts](#) and [Vermont](#) have outlawed application fees, most states have no laws addressing these costs.

Application fees vary landlord to landlord and are usually not refundable. Two of Portland's biggest property management companies, [Port Property](#) and [Schneider Management](#), charge a non-refundable \$35 application fee, close to the \$40 McGovern says is the average in Portland.

Portland residents have raised concerns to McGovern about paying these fees, which can quickly add up to hundreds of dollars in the search for a single apartment. McGovern said her clients often feel like they are being cheated by property owners.

"You may be paying fees without any real prospect of getting an apartment," McGovern said.

Paying without prospect

There are anecdotal reports that abuses of these fees may already be occurring, with some landlords accepting fees from applicants to whom they have no intention of renting.

Housing advocate Adam Rice told *Beacon* that when he worked for his family's business, the Portland-based property owner Apartment Mart, he observed that the company would often settle on a desired tenant while still collecting fees of up to \$40 from other applicants.

"Say you have somebody come in, they look like they're a clean-cut person, well-kept. They're probably going to take care of the apartment. They apply for it," he said. "And then [Apartment Mart] could have that apartment booked all day long, every hour, and every person comes in and applies for that. And [Apartment Mart] knows only one person is going to get it."

This practice, Rice noted, contributes to the "false hope" that potential renters competing for a dwindling stock of affordable units feel when applying for an apartment.

"It's weird that you wouldn't say, 'Hey, somebody's already viewed this. I'm going to give it until the end of the day to see if their application passes,'" Rice said. "You could at least not be giving everyone false hope when you already know maybe five or six of these people aren't going to get it regardless."

Already beyond affordability

A recent [housing report](#) drafted by Portland's Division of Housing and Community Development highlights the economic situation facing low-wage workers in the city. The report, presented at

an Oct. 9 meeting of the city council's Housing Committee, warns about the lack of rental options for the city's low-wage residents and the financial burden this places on many Portlanders.

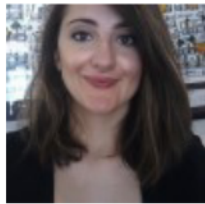
As much as 47 percent of Portland's renter households reported paying more than 30 percent of their income towards rent and utilities, which is considered unaffordable according to the rubric used in the report. A survey of city residents found that the median rent for a two-bedroom unit in 2018 was \$1,380. In order for this to be affordable, a renter must make \$26.61 an hour or \$55,480 per year. The median income for an individual renter is \$33,654 per year.

(Photo: [Kurt Bauschardt](#) | Creative Commons via flickr)

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Category [housing](#) [municipal](#)

ABOUT AUTHOR



Cara DeRose 211 posts

Cara DeRose is a staff writer for Beacon. A graduate of the University of Southern Maine, she served as writer and copy editor for the USM Free Press and interned at the Portland Press Herald.

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504B.173 APPLICANT SCREENING FEE.

Subdivision 1. **Limitations.** A landlord may not:

- (1) charge an applicant a screening fee when the landlord knows or should have known that no rental unit is available at that time or will be available within a reasonable future time;
- (2) collect or hold an applicant screening fee without giving the applicant a written receipt for the fee, which may be incorporated into the application form, upon request of the applicant; or
- (3) use, cash, or deposit an applicant screening fee until all prior applicants have either been screened and rejected, or offered the unit and declined to enter into a rental agreement.

Subd. 2. **Return of applicant screening fee.** (a) The landlord must return the applicant screening fee if:

- (1) the applicant is rejected for any reason not listed in the disclosure required under subdivision 3; or
 - (2) a prior applicant is offered the unit and agrees to enter into a rental agreement.
- (b) If the landlord does not perform a personal reference check or does not obtain a consumer credit report or tenant screening report, the landlord must return any amount of the applicant screening fee that is not used for those purposes.
- (c) The applicant screening fee may be returned by mail, may be destroyed upon the applicant's request if paid by check, or may be made available for the applicant to retrieve.

Subd. 3. **Disclosures to applicant.** If a landlord accepts an applicant screening fee from a prospective tenant, the landlord must:

- (1) disclose in writing prior to accepting the applicant screening fee:
 - (i) the name, address, and telephone number of the tenant screening service the landlord will use, unless the landlord does not use a tenant screening service; and
 - (ii) the criteria on which the decision to rent to the prospective tenant will be based; and
- (2) notify the applicant within 14 days of rejecting a rental application, identifying the criteria the applicant failed to meet.

Subd. 4. **Remedies.** (a) In addition to any other remedies, a landlord who violates this section is liable to the applicant for the applicant screening fee plus a civil penalty of up to \$100, civil court filing costs, and reasonable attorney fees incurred to enforce this remedy.

(b) A prospective tenant who provides materially false information on the application or omits material information requested is liable to the landlord for damages, plus a civil penalty of up to \$500, civil court filing costs, and reasonable attorney fees.

History: 1999 c 150 s 1; 1999 c 199 art 1 s 174; 2010 c 315 s 4

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2017 ORS 90.295¹

Applicant screening charge

- limitations
- notice upon denial of tenancy
- refund
- remedy

- (1) A landlord may require payment of an applicant screening charge solely to cover the costs of obtaining information about an applicant as the landlord processes the application for a rental agreement. This activity is known as screening, and includes but is not limited to checking references and obtaining a consumer credit report or tenant screening report. The landlord must provide the applicant with a receipt for any applicant screening charge.
- (2) The amount of any applicant screening charge shall not be greater than the landlord's average actual cost of screening applicants. Actual costs may include the cost of using a tenant screening company or a consumer credit reporting agency, and may include the reasonable value of any time spent by the landlord or the landlord's agents in otherwise obtaining information on applicants. In any case, the applicant screening charge may not be greater than the customary amount charged by tenant screening companies or consumer credit reporting agencies for a comparable level of screening.
- (3) A landlord may not require payment of an applicant screening charge unless prior to accepting the payment the landlord:
 - (a) Adopts written screening or admission criteria;
 - (b) Gives written notice to the applicant of:
 - (A) The amount of the applicant screening charge;
 - (B) The landlord's screening or admission criteria;
 - (C) The process that the landlord typically will follow in screening the applicant, including whether the landlord uses a tenant screening company, credit reports, public records or criminal records or contacts employers, landlords or other references; **and**
 - (D) The applicant's rights to dispute the accuracy of any information provided to the landlord by a screening company or credit reporting agency;

- (c) Gives actual notice to the applicant of an estimate, made to the best of the landlord's ability at that time, of the approximate number of rental units of the type, and in the area, sought by the applicant that are, or within a reasonable future time will be, available to rent from that landlord. The estimate shall include the approximate number of applications previously accepted and remaining under consideration for those units. A good faith error by a landlord in making an estimate under this paragraph does not provide grounds for a claim under subsection (8) of this section;
 - (d) Gives written notice to the applicant of the amount of rent the landlord will charge and the deposits the landlord will require, subject to change in the rent or deposits by agreement of the landlord and the tenant before entering into a rental agreement; **and**
 - (e) Gives written notice to the applicant whether the landlord requires tenants to obtain and maintain renter's liability insurance and, if so, the amount of insurance required.
- (4) Regardless of whether a landlord requires payment of an applicant screening charge, if a landlord denies an application for a rental agreement by an applicant and that denial is based in whole or in part on a tenant screening company or consumer credit reporting agency report on that applicant, the landlord shall give the applicant actual notice of that fact at the same time that the landlord notifies the applicant of the denial. Unless written notice of the name and address of the screening company or credit reporting agency has previously been given, the landlord shall promptly give written notice to the applicant of the name and address of the company or agency that provided the report upon which the denial is based.
- (5) Except as provided in subsection (4) of this section, a landlord need not disclose the results of an applicant screening or report to an applicant, with respect to information that is not required to be disclosed under the federal Fair Credit Reporting Act. A landlord may give to an applicant a copy of that applicant's consumer report, as defined in the Fair Credit Reporting Act.
- (6) Unless the applicant agrees otherwise in writing, a landlord may not require payment of an applicant screening charge when the landlord knows or should know that no rental units are available at that time or will be available within a reasonable future time.
- (7) If a landlord requires payment of an applicant screening charge but fills the vacant rental unit before screening the applicant or does not conduct a screening of the applicant for any reason, the landlord must refund the applicant screening charge to the applicant within a reasonable time.
- (8) The applicant may recover from the landlord twice the amount of any applicant screening charge paid, plus \$150, if:
- (a) The landlord fails to comply with this section and does not within a reasonable time accept the applicant's application for a rental agreement; **or**

- (b) The landlord does not conduct a screening of the applicant for any reason and fails to refund an applicant screening charge to the applicant within a reasonable time. [1993 c.369 §26; 1995 c.559 §10; 1997 c.577 §11; 1999 c.603 §14; 2011 c.42 §2; 2013 c.294 §6]

¹ Legislative Counsel Committee, *CHAPTER 90—Residential Landlord and Tenant*, https://www.oregonlegislature.gov/bills_laws/ors/ors090.html (2017) (last accessed Mar. 30, 2018).

judgment has been duly stayed by such a court. This subsection shall become effective January 1, 2008.

(12) There is no active arrest warrant for a Minneapolis Housing Maintenance Code or Zoning Code violation pertaining to any property in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance.

(13) a. Any person(s) who has had an interest in two (2) or more licenses revoked pursuant to this article or canceled pursuant to section 244.1925 or a combination of revocations or cancellations shall be ineligible to hold or have an interest in a rental dwelling license or provisional license for a period of five (5) years.

b. Any person(s) who has had an interest in a license revoked pursuant to this article or canceled pursuant to section 244.1925, shall be ineligible from obtaining any new rental dwelling licenses for a period of three (3) years.

(14) No new rental dwelling license shall be issued for the property during the pendency of adverse license action initiated pursuant to section 244.1940.

(15) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the director of inspections in accord with the provisions of section 244.1840.

(16) a. Before taking a rental application fee, a rental property owner must disclose to the applicant, in writing, the criteria on which the application will be judged.

b. Application forms must allow the applicant to choose a method for return of the application fee as either 1) mailing it to an applicant's chosen address as stated on the application form, 2) destroying it 3) holding for retrieval by the tenant upon one (1) business-day's notice.

c. If the applicant was charged an application fee and the rental property owner rejects the applicant, then the owner must, within fourteen (14) days, notify the tenant in writing of the reasons for rejection, including any criteria that the applicant failed to meet, and the name, address, and phone number of any tenant screening agency or other credit reporting agency used in considering the application.

- d. The landlord must refund the application fee if a tenant is rejected for any reason not listed in the written criteria.
 - e. Nothing in this section shall prohibit a rental property owner from collecting and holding an application fee so long as the rental property owner provides a written receipt for the fee and the fee is not cashed, deposited, or negotiated in any way until all prior rental applicants either have been screened and rejected for the unit, or have been offered the unit and have declined to take it. If a prior rental applicant is offered the unit and accepts it, the rental property owner shall return all application fees in the manner selected by the applicant, pursuant to section (b).
 - f. Violation of this subsection, 244.1910(16), may result in an administrative citation, or may contribute to the denial or revocation of a rental license.
 - g. This subdivision shall become effective December 1, 2004.
- (17) An owner shall not have any violations of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, at any rental dwelling which they own or have an ownership interest. A violation of Minnesota Rule Chapter 1300.0120 subpart 1 shall result in a director's determination of noncompliance notice being sent, pursuant to 244.1930 to the owner regarding the rental dwelling where the violation occurred. A second violation, at any rental dwelling in which the owner has an ownership interest, of Minnesota Rule Chapter 1300.0120 subpart 1, related to required permits, shall result in the issuance of a director's notice of denial, non-renewal, or suspension of the license or provisional license, pursuant to 244.1940 of the Code, for the rental dwelling where the second violation occurred.
- (18) The owner, where the owner pays the water bill for a rental dwelling, shall not allow the water to be shut off for non-payment. If water to a rental dwelling has been turned off, for lack of payment by the owner it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license or provisional license.
- (19) The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
0	No	N/A	0
1	No	N/A	1
1	No	N/A	Non . will use airbnb for week long rentals on lake
1	No	N/A	0
1	No	N/A	1
1	No	N/A	0
1	No	N/A	2
2	No	N/A	0
2	No	N/A	I Air BNB my units
2	No	N/A	0
2	No	N/A	0
2	No	N/A	0
2	No	N/A	4
2	No	N/A	3
2	No	N/A	0
2	No	N/A	1
2	No	N/A	

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
2	No	N/A	
3	No	N/A	0
3	No	N/A	0
3	No	N/A	0
3	No	N/A	
3	No	N/A	1
3	No	N/A	2
3	No	N/A	0
3	No	N/A	
4	No	N/A	
4	No	N/A	
5	No	N/A	0
5	No	N/A	0
5	No	N/A	2-3
5	No	N/A	0
5	No	N/A	0
5	No	N/A	

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
6	No	N/A	0
6	No	N/A	0
6	No	N/A	
7	No	N/A	
8	No	N/A	0
8	No	N/A	1
8	No	N/A	0
8	No	N/A	0
8	No	N/A	0
9	No	N/A	0
10	No	N/A	0
10	No	N/A	0
10	No	N/A	0
11	No	N/A	2-3, we usually wait until we find a candidate that is likely to meet our standards, before we do reference checks.
13	No	N/A	0
14	No	N/A	0
14	No	N/A	0

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
15	No	N/A	3
16	No	N/A	0
21	No	N/A	
25	No	N/A	
30	No	N/A	0
31	No	N/A	1
60	No	N/A	0
70	No	N/A	0
130	No	N/A	3
1	No	We have used a tenant finder and have paid a fee!	When we have used a tenant finder service—it usually takes 2 to 3 credit credit and background checks time find someone
1	Yes	Cost of TenantNet	8
2	Yes	\$25 - \$35	1
3	Yes	\$50	2
3	Yes	\$50	1-2
3	Yes	\$29	1 to 5 - but I reimburse the fees to the tenant who ultimately signs a lease.
4	Yes	\$39.99 for one applicant. \$49.98 for two.	1-2
4	Yes	\$40	1

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
4	Yes	\$35	2
5	Yes	\$25	9
5	Yes	\$30	1
5	Yes	\$35	3
5	Yes	Whatever RentPrep charges	So far, 1
5	Yes	\$30	2
6	Yes	\$25 per adult applicant	Usual, just one. If applicant is approved, the app. fee is credited to their sec. dep. If rejected, it is refunded, unless lies on the app. I use judgement experience to
6	Yes	\$45	8
6	Yes	\$40	2 max - I have a conversation before collecting \$
6	Yes	\$35	
7	Yes	\$25	2
7	Yes	\$30	5

How many rental units do you own?	Do you currently charge an application fee?	If so, what amount do you charge?	On average, how many background and credit checks do you collect fees for before you find an appropriate tenant?
8	Yes	\$35	3
9	Yes	\$30	2
10	Yes	Tenant net/\$25	1-2
10	Yes	\$30	1
12	Yes	\$30	2
14	Yes	\$35	1
16	Yes	\$25	One or two
18	Yes	\$30	4
36	Yes	\$35	2 max
47	Yes	\$35	3-4
50	Yes	\$25	1
50	Yes	\$40	Only the ones we want to rent to - so NO extra
62	Yes	\$38	6
74	Yes	\$30	4
83	Yes	\$35	1-3
100	Yes	\$30	1-2
180	Yes	\$40	4

MEMORANDUM

FROM: Rental Housing Advisory Committee

TO: Housing Committee and City Council

DATE: April 27, 2020

SUBJECT: Short-Term Rental Housing Proposals by Councilor Cook:

- Amendment 1 to Order 156-19/20; and
- Amendment 2 to Order 156-19/20.

Prohibition on Rent Increases During “Stay-At-Home” Period + 30 Days

I. SUMMARY

Councilor Cook has proposed two Amendments to the City’s “Stay-At-Home Order,” #156-19/20, summarized as follows:

Amendment 1:

Short-term rental (“STR”) owners who convert their STR to a long-term rental (“LTR”) unit, register it as such, and “provide evidence to the Housing Safety Office that the person has entered into a lease agreement for the unit of at least one year’s duration” are entitled to: (1) a full refund of all STR fees paid for 2020; and (2) a waiver of all LTR registration fees for 2020.

Amendment 2:

STR owners who convert an STR to an LTR and “provide evidence to the Housing and Community Development Division that the person has entered into an agreement to lease the unit to an individual(s) for a minimum of 1 year, and that individual will be receiving either Section 8 funds or General Assistance funds for the unit” will be entitled to a one-time payment of \$1,000.00, which “shall be paid out of the Housing Trust Fund.”

The Rental Housing Advisory Committee (“RHAC”) met remotely on April 23, 2020, and, per its directive to “provide recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues,” discussed Councilor Cook’s proposals. Although there was no consensus within the RHAC as to recommending adopting or rejecting either of the proposals as written, there were a number of questions and concerns, as well as suggestions for revisions that were shared among committee members, and we felt merit raising to the Housing Committee, and to the full City Council, to take into consideration as it evaluates these proposals.

The RHAC also considered a proposal to enact a moratorium on rent increases for rental properties in Portland during the duration of the City’s Stay-At-Home Order, and for a period of thirty (30) days after.

II. Amendment 1

To the extent committee members expressed a preference for one of Councilor Cook's proposals over another, Amendment 1 was a distant second choice.

Among committee members' concerns was that the amount of the incentive, a refund of 2020 STR registration fees, either \$100 or \$200 per STR, plus a waiver of the \$35 LTR fee, would be insufficient to generate a significant number of conversions. A few committee members also raised the fact that some rental units are registered as *both* an STR and an LTR, and therefore a refund of fees would be unnecessary to bring about a conversion of those units. Committee members generally felt that this proposal fell short by not including incentives to lease to tenants in rental assistance programs.

III. Amendment 2

The second of the proposals garnered a great deal more discussion, and, based on feedback and comments from committee members, was the preferred option of the two. There were a number of questions, concerns, and suggestions shared by many committee members, summarized as follows:

1. *Inclusion of Other Rental Assistance Programs*

- Committee members would like to see the \$1,000 incentive program expanded to include leasing to renters in other rental assistance programs, not just GA and Section 8, to include, for example, Shelter + Care, Stability Through Engagement, HUD, VASH, Bridging Rental Assistance Program, HOPWA, etc. (This list is not intended to be exhaustive; these are only some examples of such programs.)

2. *Inclusion of Long Term Rentals in Incentive Program*

- Several committee members suggested including LTR units in the \$1,000 incentive program, to encourage more owners of current LTRs to rent to tenants in rental assistance programs.
- One committee member raised concerns with including LTRs in the program; specifically that a number of LTR owners already rent to tenants in rental assistance programs, and substantial participation by LTR owners could cause a depletion of the Housing Trust Fund without significantly adding to the number of units available to renters in rental assistance programs.
- One committee member suggested that, to the extent the City is considering providing financial assistance to landlords, it should consider providing assistance to LTR owners that are working with their tenants who are having difficulties paying rent due to the pandemic.¹

¹ - The RHAC is aware that this is outside the scope of Councilor Cook's proposed Amendments, however, given the circumstances created by the COVID-19 pandemic, and the importance of moving quickly, the RHAC encourages the Housing Committee and City Council to investigate any available options to assist renters during these times. To the extent the Housing Committee or City Council seek further advice or guidance on any such proposals, the RHAC is available to do so

3. *Status of STR Registration During and After LTR Term*

Committee members had a number of questions and concerns about how the STR registration is treated during the time the unit is being rented out as an LTR, and even more about what happens when the LTR is over, and the owner seeks to return the unit to STR status.

- For an STR converted under the program, would that STR registration remain in place, or would the STR be cancelled, and the owner required to get in line and re-register the STR at the end of the LTR term?
- With approximately 800 STRs, and City Code only allowing 400, are STR owners who participate in this program essentially forfeiting their STR registration(s) forever?
- Would prospective STR registrants, who are currently on the waiting list, be eligible to register their STRs during this time, if sufficient STRs convert?
- Assuming the incentive program is successful, and numerous STRs convert to LTRs for one year, what happens at the end of that one year, when these LTRs go back to STRs? There were concerns that, a year from now, there could be a ripple effect with lot of people on assistance looking for housing at the same time, concurrent with an immediate reduction in available units as these converted back to STRs.

4. *Length of STR Registration Suspension*

- Some committee members suggested that, in order for STR owners to qualify for the \$1,000 incentive payment, they would need to relinquish the right to register the unit as an STR for a period of two years, being next eligible to re-register as such in 2022.
- Other committee members suggested that there be a type of transition period after the one-year LTR conversion, so that LTR tenants aren't immediately removed at the end of the one-year period and the unit converted back to an STR.

5. *Enforcement*

- Committee members expressed concerns about enforcement of the incentive program, noting that, as written, an STR owner need only present a one-year lease in order to receive the payment, and that they could evict a tenant – legally or otherwise – and still receive the full \$1,000 payment without actually renting the unit for a full year to tenants on assistance.
- The legal representatives on the committee reported dealing with leases that contain “no cause eviction” clauses that would be problematic, to say the least, to enforcement of the one-year lease requirement as currently written. Since City staff can't review every lease submitted for these kinds of issues, the committee's legal representatives would like to see more stringent requirements and/or protections for tenants to prevent abuse of the incentive program.
- One committee member suggested that the \$1,000 incentive be limited to one per STR owner, not one per STR unit, as it is currently proposed.

6. *Application to Islands*

- There were questions raised as to whether this would apply to rental properties on the islands, since they have been exempted from previous regulations and ordinances regarding STRs.
- Committee members felt that, given the seasonal nature of island properties, and the fact that many cannot be converted to all-season (*a.k.a.* LTR) use, they should not be included in, or covered by these programs.

7. *Use of Housing Trust Fund*

- Some committee members expressed concerns regarding the propriety of using Housing Trust Fund monies to pay STR owners, and whether or not it was appropriate for the City to make payments from the Fund to out-of-state STR owners.
- There were also concerns raised with the amount of the Housing Trust Fund that could potentially be spent on the incentive program (\$800,000) in light of the Fund's balance and pending requests from it for other programs.

IV. **TEMPORARY PROHIBITION ON RENT INCREASES**

In addition to Councilor Cook's proposals, the committee also discussed the possibility of recommending a temporary prohibition on rent increases, to remain in place as long as the Stay-At-Home Order is in effect, plus at least thirty days afterwards. Time and logistics prevented the committee from fully fleshing out a written proposal and recommendation on this, and, recognizing that any specific language would need to be vetted by Corporation Counsel, the committee simply recommends herein that the Housing Committee and/or City Council consider the issue.

To date, the measures enacted by federal and state government have addressed evictions and notices, but not rent increases during this time. Committee members believe that such a provision, with a clause extending the protection for at least thirty days past the effective date of the Stay-At-Home Order, would protect tenants from rent increases during a time when their incomes are severely reduced, and from rent increases immediately after the pandemic is over.

V. **SUMMARY**

At this stage, the RHAC does not have a specific recommendation regarding the adoption or rejection of Councilor Cook's proposals. There was more support shown for the second of the two proposals, but with the number of questions and concerns raised, the RHAC recommends that the Housing Committee and City Council take those into consideration, and seek to answer those as thoroughly as it can, as it debates these proposals.

The RHAC also recommends that the City Council consider its proposal to enact a temporary prohibition on rent increases as outlined herein.

Members of the RHAC will be available to answer any questions the Housing Committee or City Council may have at its April 27, 2020 meeting, and those that follow, addressing these proposals.

MEMORANDUM

TO: Councilor Ali, Chair
Members of the Housing and Economic Development Committee
FROM: Mary Davis, Division Director
Housing and Community Development Division
CC: Gregory Watson, Director
Housing and Economic Development Department
DATE: February 20, 2024
SUBJECT: **2024-2025 Housing Program Budget**

SUMMARY OF ISSUE

Review and recommendation to the City Council of the 2024-2025 Housing Program Budget.

REASON FOR SUBMISSION

The Housing and Economic Development Committee recommends the Housing Program Budget to the City Council for final approval.

HOME Program: The Home Investments Partnerships Program (HOME) was established by Congress in 1992. Since 1992, the City of Portland and the Cumberland County HOME Consortium have received almost \$24 million dollars in HOME funding. In 2009 the City became the lead entity in the Cumberland County HOME Consortium (CCHC). The Consortium is a partnership of the communities in Cumberland County that administers HOME Program funds in Cumberland County. The creation of the consortium expanded the financial resources for affordable housing activities in the region. The City retains independent operation of its HOME program. Because the City serves as the “Lead Entity” and City staff administers the County portion of the funding, all administrative funds are retained by the City. The County’s Municipal Oversight Committee controls the allocation of the County’s portion of the HOME funds.

When the Consortium was formed in 2009, it included a “hold harmless” clause to ensure that the City, as an existing HOME grantee, would continue to receive funding equal to its allocation prior to the formation of the consortium. The “hold harmless” formula was based on a comparison ratio to the HOME funding for the Lewiston/Auburn (L/A) Consortium. The formula identified Portland’s “hold harmless” amount at 118% of the HOME allocation for the L/A Consortium. The Cumberland County HOME Agreement did allow for adjustments to be made if the current level of funding to the L/A HOME Consortium varied from historic levels. Over the years the L/A allocation has decreased which has resulted in the Portland “hold harmless” amount to decrease. As a result, by agreement with the other members of the CCHC, the annual allocation is divided with

57% of the allocation, after the administrative set-aside, to the City and 43% of the allocation to the County.

As a point of reference, if the City were a stand-alone grantee, the estimated HOME allocation for Portland (using a HUD HOME Allocation estimated calculation) would be approximately \$528,440. Of that amount 10% would be set aside for administrative costs (\$52,844) leaving \$475,596 for program funding. Under the current consortium agreement, the city receives the administrative set-aside (\$107,019) along with approximately \$532,103 in program funds. Participation in the HOME consortium benefits Portland as well as the county as a whole.

HUD has not announced the allocation amount for FY 2024-2025. Since we do not have the final allocation amounts, we are estimating the HUD HOME allocation at the same level as the previous year (\$1,037,237). \$401,411 is reserved for County projects. The budget proposal was developed after a historical review of HOME funding allocations, previous year's budget allocations, program expenditures and program income (loan repayments) received. Currently, the City's HOME Program is divided into three funding categories:

1. Administration
2. Tenant Based Rental Assistance (TBRA)
3. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

HOME Program Budget	FY 2023-2024 Budgeted (entitlement + program income)	FY 2024-2025 Budget proposal (entitlement + program income)
Administration	\$112,665	\$107,019
Tenant Based Rental Assistance	\$136,392	\$136,392
Affordable Housing Development includes CHDO requirement	\$395,711	\$395,711

LEAD SAFE HOUSING (Program Income): Lead Safe Housing Program Income is generated through repayment of loans given under prior Lead Safe Housing Grants. These funds can only be used for lead safe housing eligible activities. The City also has a Lead Hazard Reduction Grant of \$2,038,041 (over 42 months 1/2/2020-6/30/2024*) in funding for lead paint remediation and \$503,655 in funding to assist with code and life safety improvements

Lead Safe Housing Program Income	FY 2023-2024 Budgeted	FY 2023-2024 Budget Proposal
	\$13,827	\$18,825

*Due to delays caused by the Covid-19 pandemic, contractor capacity, and a staff vacancy, the City received a one-year extension to complete the unit goals associated with this grant.

HOUSING TRUST FUND: Revenue for the Housing Trust Fund is generated from fees triggered by the City’s Housing Preservation and Replacement Ordinance, fee-in-lieu contributions from the Inclusionary Zoning Ordinance and Hotel Inclusionary Zoning fee. Including the current balance of the Housing Trust Fund in the Housing Program Budget gives budget authority for the use of the funds. The amount budgeted is the maximum that might be expended in FY25. However, staff continues to recommend a minimum balance in the Trust, so the *effective budget would be \$1,565,297* (\$2,065,297 less \$500,000.) If additional funds are allocated to the Trust based on current discussions, this number might be adjusted based on the outcome.

Housing Trust Fund (HTF) Budget	FY 2023-2024 Budgeted	FY 2023-2024 Budget Proposal
	\$3,704,156	\$2,065,297

STAFF ANALYSIS AND RECOMMENDATION – The proposed Housing Program Budget will be adjusted when HUD announces the fiscal year allocation for the HOME Program. The budget is brought forward at this time to facilitate the release of the City’s Affordable Housing Development and TIF Application on a schedule that works with the Low-Income Housing Tax Credit Program at MaineHousing. This budget will be forwarded to the full City Council for two Public Hearings (tentatively scheduled for March 18 and April 8), as part of the overall HCD budget. The final budget allocations and Annual Action Plan are submitted to HUD 45 days in advance of the start of the fiscal year (May 15 for the fiscal year beginning July 1, 2024).

At this time staff is requesting Committee approval and recommendation to the City Council of the FY 24/25 Housing Program Budget as outlined above and summarized in the attached spreadsheet. If the HUD allocation amount is different from the estimate used in this budget, program budgets will be adjusted proportionately.

FY 24/25 Housing Program Budget - Attached

2024-2025 HOUSING PROGRAM BUDGET

DRAFT 02.20.2024

Total HUD HOME Entitlement Allocation	1,037,237
Portland Program Portion	532,103
Portland Admin Portion	103,724
County Program Portion	401,411

Recommended by HEDC (X-X) XX.XX.2024
Approved by Council XX.XX.2024
HUD Allocation Date: XX.XX.2024

REVENUES- Housing Programs

2024-25 HOME Consortium Admin (10% of allocation)
2024-25 HOME Consortium Programming
2023 Calendar Year HOME Program Income*
2023 Calendar Year HOME Program Income Recaptured Funds*
2023 Calendar Year HOME Program Income and Recapture Deduction for County*
2023-2024 Housing Trust Fund
2023 Lead Safe Housing Program Income

REVENUE TOTALS (Portland)

*For FY25 budget PI & Recapture based on actuals from Jan -Dec 2023

HOME	LEAD Safe Housing Program Income	Housing Trust Fund	TOTAL BUDGET
103,724			103,724
532,103			532,103
32,956			32,956
60,000			60,000
-89,660			-89,660
		2,065,297	2,065,297
	18,825		18,825
639,122	18,825	2,065,297	2,723,244

2024-25 HOUSING Budget by Activity (Portland)

Administration 243025QQ01 (includes 10% of PI)
Tenant-Based Rental Assistance 443025QT01
Affordable Housing Development 243025QA00
CHDO 243025QA00
Lead Safe Housing 243019PLL1 (PLL036)

EXPENDITURE TOTALS (Portland)

HOME	Housing	Housing Trust Fund	TOTAL BUDGET
107,019			107,019
136,392			136,392
307,027		2,065,297	2,372,324
88,684			88,684
0	18,825		18,825
639,122	18,825	2,065,297	2,723,244

2024-25 HOME Consortium COUNTY - approved by MOC on XX.XX.2024

County HOME Program budget provided for reference only; **adjusted for final HUD Allocation XX.XX.2024**

Allocation of County funds is done by the County's Municipal Oversight Committee

REVENUES- Housing Programs

2024-25 HOME Consortium Non-Portland Programming
2023 HOME County Program Income and Recapture
Unexpended Prior Year Balance

County
401,411
89,660
380,144
871,215

2024-25 HOUSING Budget by Activity

Affordable Housing Development 243025QC00
CHDO 243025QC00

County
804,313
66,902
871,215

TO: Councilor Pious Ali, Housing and Economic Development Chair
Members of the Housing and Economic Development Committee

FROM: Mary Davis, Division Director, Housing and Community Development

CC: Greg Watson, Director, Housing and Economic Development Department

DATED: February 23, 2024

RE: Agenda Item #4: Review and Recommendation to the City Council
a. 2023 Jill C. Duson Housing Trust Fund Annual Plan
b. 2023 Affordable Housing TIF CEA and Affordable Housing Development Fund Application

Introduction

Staff is seeking approval of guidelines and priorities for the allocation of city resources (i.e. HOME, Jill C. Duson Housing Trust Fund, and Affordable Housing Tax Increment Financing) as outlined in the attached *2024 Affordable Housing Development and Tax Increment Financing Application* (Application), and the *2024 Jill C. Duson Housing Trust Fund Annual Plan* (Plan). Additionally, staff is requesting that the Committee vote to recommend that the City Council adopt the 2024 *Jill C. Duson Housing Trust Fund Annual Plan*, as required under the Housing Trust Fund Ordinance.

Background

The Affordable Housing Development and Tax Increment Financing Application is amended on an annual basis to reflect the City Council's housing policy goals. Since 2002, the City of Portland has utilized an annual application and/or RFP process for the allocation of city resources budgeted for the development of affordable housing. In 2013, with the approval of the City Council's Housing Committee, the current application format was implemented. The application establishes the goals for distribution of funds and/or the designation of an affordable housing TIF.

The Jill C. Duson Housing Trust Fund Annual Plan is amended annually by the City Council's Housing and Economic Development Committee during public hearings with a referral to the council for adoption (per Section 18.3 of the Land Code). The plan establishes the priorities in which the current balance of the Housing Trust Fund would be allocated.

Both the Application and Plan include the City Council Common Goal requirement to use an equity analysis in order to recommend the most qualified application based on the information submitted.

The Application will be distributed and made available to the public in several different ways. The Housing and Economic Development Department has several interested parties lists. The application

will be distributed through these email lists. In addition, HCD staff will work with the City's Communication office to utilize all available public notice and social media tools. The application will be available on the City's website as well as through an online portal called Neighborly. Staff will be available to provide technical assistance to any person or organization interested in completing the application. Additionally, HCD staff reviewed the application with Umaru W. Balde, the City's Justice, Diversity, Equity and Inclusion Director and Melissa Hue, Director of the Office of Economic Opportunity to craft language that encourages BIPOC and women developers to apply.

The chart below identifies the affordability restrictions associated with the each of the financial resources available to the City for investment in housing development.

	at or below 60% AMI		over 60% to 80% AMI		over 80% to 100% AMI		over 100% to 120% AMI	
	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental	Homeowner	Rental
HOME	X	X	X					
Jill C. Duson Housing Trust Fund	X	X	X	X	X	X	X	X
Affordable Housing TIF	X	X	X	X	X	X	X	X

2024 Housing Investment Goals and Priorities

The priorities below, are included in the Plan, and General Information (Section B) of the Application.

Shovel ready projects are strongly encouraged. The term shovel ready is defined as a project that has received funding approvals from federal, state, local or private sources and demonstrates the ability to move to a construction loan closing by January 2025.

Priority for the use of Jill C. Duson Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning at or below 100% (\$119,500 for a 4-person household) of the area median income, with a preference for households earning at or below 80% (\$94,600 for a 4-person household) of the area median income..

Priority for the use of HOME Program funds will be given to developments that provide rental housing units to households earning at or below 50% (\$59,150 for a 4-person household) of the area median income and below.

Projects with mixed income targeting and a mix of bedroom size, including family size units of 3+ bedrooms, are strongly encouraged.

Priority for the use of the Affordable Housing Tax Increment Financing Program

(AHTIF) will be to support projects receiving assistance through the Low-Income Housing Tax Credit Program or projects that create housing units that are affordable to households earning at or below 80% of the area median income. To comply with the AHTIF Statute's requirements, at least 33% of the housing units in the district shall be affordable housing.

Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in the Scoring Section as well as the 2024 City Council Common Goal requirement to use an equity analysis in order to recommend the most qualified application based on the information submitted.

The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Project Guidelines

The guidelines below, are included in the Scope of Work (Section A General Specifications-Eligible Projects) portion of the Application and Eligible Projects section from the Plan are for Committee review to ensure agreement with the City Council 2024 Common Goals.

Projects receiving HOME, HTF or an AHTIF Credit Enhancement Agreement funding must create housing units which promote economic diversity within the development and within the neighborhood in which the development is located. HOME funds will be awarded to projects creating rental units.

Staff Recommendation

Staff is seeking Committee approval to establish the 2024 affordable housing investment priorities, goals for distribution of funds, and eligible project guideline for incorporation into the 2024 Affordable Housing Development and Tax Increment Financing Application and the 2024 Jill C. Duson Housing Trust Fund Annual Plan. Additionally, staff is requesting that the Committee vote to recommend that the City Council approve and adopt the 2024 Affordable Housing Development and Tax Increment Financing Application and the 2024 Jill C. Duson Housing Trust Fund Annual Plan (required under the Housing Trust Fund Ordinance).

Attachments

- a. 2024 Jill C. Duson Housing Trust Fund Annual Plan
- b. 2024 Affordable Housing Development and Tax Increment Financing Application

JILL C. DUSON HOUSING TRUST FUND **2024 ANNUAL PLAN**

The Jill C. Duson Housing Trust Fund (also referred to as Housing Trust Fund or HTF) is established by Chapter 14, Section 18.3 of the City's Code of Ordinances. Section 18.3.4 states that "each fiscal year the city council shall adopt a housing trust fund annual plan" and that the "housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action."

The Annual Plan establishes the priorities in which the current balance of the Housing Trust Fund would be allocated and should be in conformity with the 2024 City Council Common Goals.

2024 ANNUAL PLAN

City Ordinance requires that the Jill C. Duson Housing Trust Fund Annual Plan include a description of funding priorities, the amount of funds budgeted, and a description of how funds will be distributed among very-low, low, and moderate income households.

Funding Budget

The funding budget is based on the balance ~~of \$4,204,156~~ in the Housing Trust Fund as of February 20, 2024~~March 1, 2024~~. ~~It has been the City Council's practice to~~ The Housing Trust Fund designs ~~to~~ maintain a minimum balance of \$500,000 in order to have resources to act quickly when there is an emergency, such as a need to cure a potential mortgage default that could result in loss of an affordable unit. This right to cure will be included in the affordable housing covenants that are recorded in the Cumberland County Registry of Deeds for each affordable unit.

~~In addition to the funding noted above, the Portland City Council allocated \$1,000,000 from the first tranche of American Rescue Plan Act (ARPA) funding and \$4,110,000 from the second tranche of ARPA funding for housing development. These funds are to be administered through the Jill C. Duson Housing Trust Fund.~~

The funding available from the Jill C. Duson Housing Trust Fund is \$1,565,2973,704,156 (\$2,065,2974,204,156 less \$500,000) ~~plus \$5,110,000 for a total of \$8,814,156~~. See Attachment 2.

Funding Priorities

Housing Trust Fund resources should focus on opportunities where other funding sources do not work or are not effective, such as projects designed to create housing affordable to households earning at or below 8050% of the area median income (i.e. \$94,60055,850 for a four person household), or projects designed to create housing affordable to households earning up to 100% of the area median income (i.e. \$ 119,500111,700 for a four person household).

Priority for the use of Housing Trust Funds will be to support public/private partnerships that create workforce housing units that are affordable to households earning up to 100% of the area median income with preference for households earning 8050% of the area median income and below. Shovel ready projects with a mix of bedroom size are strongly encouraged.

The term shovel ready is defined as a project that has received all other funding approvals from federal, state, local, or private sources and demonstrates the ability to move to a construction loan closing by January 202~~5~~4.

Funding Distribution

Housing Trust Funds will be distributed through a competitive application process. The *Affordable Housing Development and Tax Increment Financing Application* will be issued, at a minimum, on an annual basis to notify potential applicants that the application is available. Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in Attachment #1 as well as the 2024 City Council Common Goal requirement to use an equity analysis in order to recommend the most qualified applicant based on the information submitted~~a lens that prioritizes racial, social and justice equity in order to recommend the most qualified application based on the information submitted.~~

Recommendations will be forwarded to the City Council's Housing and Economic Development Committee for review. Housing and Economic Development Committee recommendations will be forwarded to the City Council for final review and approval.

Goals for Distribution

The goal for the distribution of these funds is for the “promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city” (Chapter 14 Section 18.3.B of the City's Code of Ordinances). Development should be consistent with the Annual City Council Common Goals, the City's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should incorporate quality, sustainable design.

Eligible Projects

Projects receiving Housing Trust Funds must create housing units that promote economic diversity with the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible

In this Plan, adaptive reuse is defined as creating housing in an existing building that was originally built or designed for a use other than housing.

Housing Trust Fund resources are also intended to promote the retention of affordable housing. Housing Trust Fund resources should also be made available, if necessary, to exercise the City's

right of first refusal in connection with potential foreclosure issues with affordable homeownership units. The City shall have a right of first refusal if an affordable unit is forced to sell due to increased fees or has become delinquent in its payments and is in risk of foreclosure or any other legal threats to the Unit's affordability restrictions. The City shall also have the option of using Housing Trust Funds to support affordable units facing large special assessments that may pose a risk to the owner household's ability to maintain their unit's affordability. The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit owner. The intent is to ensure affordability of the unit for eligible households.

Financing Parameters

Housing Trust Funds should be a resource of last resort and should be focused on opportunities where other funding sources do not work or are not effective. Applicants requesting financial assistance from the Housing Trust Fund must provide documented efforts made to obtain other private, federal, state or local resources for the project.

Form of Awards

A variety of funding mechanisms will be utilized including no-interest loans, below-market loans, forgivable loans, and grants. Type of funding will be determined after review of a number of factors including amount necessary to make the project feasible, the project type, income targeting, number of affordable units, and duration of the affordability period.

Maximum Award Amount

Awards will be determined on a per affordable unit basis. The average City investment per unit, excluding TIF financing, is approximately \$10,000. The City contribution per unit will not exceed \$18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals can move forward ~~is needed~~. In those cases, the higher cost per unit ~~ratio~~ must be tied into the goals outlined in the City's Comprehensive Plan and/or City Council Common Goals.

Affordability Restrictions

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit, which is presumed to be a minimum of thirty (30) years but may be longer. In the case of ownership housing, the units must remain affordable for the longest feasible time while maintaining an equitable balance between the interests of the owner and the interest of the City of Portland. These restrictions must be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds

Affordable Housing Agreement

In the case of ownership housing, the owner of each affordable unit will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the City and to include the affordability restrictions as a covenant to the project's deed. The Affordable Housing Agreement shall be referenced directly in the property's deed unless prohibited by federal, state, or local law. In order to guarantee affordability in homeownership units, this recorded covenant will limit increases in sales price according to the calculation defined by the City as defined in the implementation regulations. It will limit the incomes of subsequent buyers to the same income limits initially applied. It will also provide a right of first refusal and other purchase rights to the City or its designee (e.g. another eligible household, or a nonprofit corporation).

Sales must be made through an arms-length arrangement. No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for a unit financed with Housing Trust Funds or receive any benefit related in any way to the administration or compliance with the conditions contained therein.

Affordability

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance and taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

Right of First Refusal

The City of Portland shall have the right of first refusal to purchase any affordable unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The City's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the affordable unit's owner. The intent is to ensure affordability of the unit for eligible households.

Implementing Regulations

Regulations to further specify the details of the parameters outlined in this Annual Plan, maybe developed, including, but not limited to:

1. Specific methodology for income verification; and
2. Underwriting criteria.

Attachments

- 1) Point System for Evaluating and Scoring Applications
- 2) Sources and Uses of Jill C. Dusen Housing Trust Fund

Attachment 1

Point System for Evaluating and Scoring Applications (Max 115)

Policy Objectives: Total 50 Points

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need.

26 points

Maximum points will be awarded for those applications that:

1. Market Demand - 4 points
 - a. 4 points - high demand, meets the City's income targeting and rental housing priority, and preferences noted above,
 - b. 1 point - moderate demand, sufficiently meets the City's income targeting priority
 - c. 0 points - does not demonstrate sufficient market demand, does not meet the City's income targeting priority
2. Zoning - 8 points
 - a. 8 points - development requires no zoning amendments or contract or conditional zone
 - b. 5 points - development requires a zoning amendment which is consistent with the City Comprehensive Plan
 - c. 0 points - development requires rezoning that is not consistent with the City's Comprehensive Plan
3. Economic diversity - 6 points
 - a. 6 points - creates housing options which promote economic diversity within the development and within in the neighborhood in which the development is located, while meeting the income preferences noted above.
 - b. 5 points – creates housing options which promote economic diversity within the neighborhood in which the development is located, while meeting the income preferences noted above.
 - c. 4 points – creates housing options which promote economic diversity within the development (a mixed-income development), while meeting the income preferences noted above.
 - d. 0 points does not promote economic diversity
4. CHDO - 2 points
 - a. 2 points - developer and owner are both controlled by CHDO
 - b. 1 points - either developer or owner are controlled by CHDO
 - c. 0 points neither developer nor owner are controlled by CHDO
5. City Subsidy - 6 points
 - a. 6 points - investment from City is <\$10,000/unit
 - b. 5 points - investment from City is > or = \$10,000 and <\$12,000/unit
 - c. 4 points - investment from City is > or = \$12,000 and <\$14,000/unit
 - d. 3 points - investment from City is > or = \$14,000 and <\$16,000/unit
 - e. 2 points - investment from City is > or = \$16,000 and <\$18,000/unit
 - f. 0 points - investment from City is > or = \$18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues.

24 points

Maximum points will be awarded for those applications where:

1. Site Selection - 7 points
 - a. 7 points – fully appropriate for use, project supports Comprehensive Plan goal for development along transit nodes and corridors
 - b. 5 point – appropriate, some concerns
 - c. 0 points – significant concerns, project does not support Comprehensive Plan goal for development along transit nodes and corridors
2. Exterior Design - 5 points
 - a. 5 points - the design is fully consistent with neighborhood design characteristics,
 - b. 3 points - the design is an adequate fit with the neighborhood design,
 - c. 0 points - the design is a significant outlier
3. Amenities and unit design - 7 points
 - a. 7 points -amenities & unit design are well thought out and appropriate for residents,
 - b. 5 points - amenities & unit design are adequate,
 - c. 0 points -amenities and unit design raise significant concerns that resident needs will not be adequately addressed
4. Environmental - 5 points
 - a. 5 points – Phase I identifies no environmental issues
 - b. 3 points - Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets;
 - c. 0 points - there are significant unresolved environmental issues, or no Phase I has been received.

Underwriting Criteria: Total 65 Points

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

1. Development budget & sources and uses - 10 points
 - a. 10 points - EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
 - b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
 - d. 0 points - more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”
2. Operating pro forma – 10 points
 - a. 10 points - EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary;
 - b. 8 points - ONE budget line item falls outside City guidelines or outside the standard of “reasonable & customary”;

- c. 6 points - TWO budget line items item falls outside City guidelines or outside the standard of “reasonable & customary”;
- d. 0 points - more than two budget items fail to meet City guidelines or fall outside “reasonable and customary”

Applicant's ability to complete and operate project, including development team experience, capacity, property management track record, project readiness and timeframe for completion. 45 points

Maximum points will be awarded for those applications that:

1. Readiness to proceed - 10 points
 - a. 10 points – project meets the shovel ready definition noted in the Funding Priorities section above.
 - b. 7 points - at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City’s prior experience with the funder.
 - c. 5 points - ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City’s prior experience with this funder.
 - d. 0 points - one or more sources are projected on terms that are not consistent with the City’s prior experience with the funder and are not documented by letter(s) from funder(s).
2. Construction Time Line – 5 points
 - a. 5 points – There is a strong likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents;
 - b. 2 points -There is a small likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents;
 - c. 0 points -it is unlikely the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
3. Track record of development team - 10 points
 - a. 10 points - every development team member has a successful track record with this type of project and at this scale
 - b. 7 points - all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
 - c. 3 points - two development team members, while having relevant experience, are new to this type of project or this scale of development
 - d. 0 points - the development team does not meet the criteria above
4. Current Capacity of development team - 10 points
 - a. 10 points - development team members have exceptional depth of human and financial resources to complete this project;
 - b. 8 points - development team members have the human and financial resources to complete this project;

- c. 3 points - development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward;
- d. 0 points - the development team does not meet the criteria described above

5. Sound Property Management - 10 points

- a. 10 points – property manager agent demonstrates a successful track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent’s management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored above average or better in physical inspection scores;
- b. 5 points -property manager agent demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent’s management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored satisfactory in physical inspection scores;
- c. 0 points – the property manager agent has either on-going violations, or has been issued an IRS form 8823 in the last three years, or has scored below average or lower

Attachment 2

	Sources and Uses of Jill C. Duson Housing Trust Fund				
YEAR	DEPOSITS		YEAR	EXPENDITURES	
2002/03	Maine Medical Center HRO	\$ 315,580.00	2011	Avesta Oak Street Lofts	\$ (380,585)
2002	Sportsman's Grill HRO	\$ 40,000.00	2014	Housing First Pre-Development RFP	\$ (75,000)
2009	Berlin City Auto HRO	\$ 116,000.00	2015	65 Hanover & 52 Alder Sts Feasibility Study	\$ (9,250)
2010	Stop n Shop HRO 2010	\$ 289,250.00	2017	65 Munjoy Street	\$ (175,000)
2012	Rockbridge/Eastland Park HRO	\$ 42,500.00	2018	37 Front Street	\$ (55,500)
2012	Riverwalk/Ocean Gateway HRO	\$ 250,000.00	2018	63 Front Street (not yet spent)	\$ (37,000)
2012	118 Congress LLC Easement	\$ 3,500.00	2018	977 Brighton Avenue (Wessex Woods)	\$ (300,000)
2017	91 & 97 Belfort Street (sale of TAP)	\$ 86,423.99	2019	60 Parris Terr. Downpayment Assistance	\$ (24,000)
2017	116 Upper A Street (sale of TAP)	\$ 78,526.74	2019	83 Middle Street	\$ (136,734)
2017	443 Congress Street IZ	\$ 280,000.00	2019	18 Luther Street	\$ (36,000)
2018	62 India Street IZ	\$ 276,500.00	2020	200 Valley Street	\$ (49,154)
2018	Short Term Rental Fee transfer	\$ 33,138.80	2022	200 Valley Street	\$ (442,386)
2018	0 Thames Street (WEX) sale	\$ 1,000,000.00	2020	Affordable Rental Housing Incentive Program	\$ (1,000)
2019	20 Thames Street IZ & Easement	\$ 270,000.00	2021	155 Danforth	\$ (15,000)
2019	20 Thames Street (for balcony overhang)	\$ 7,500.00	2022	37 Front Street	\$ (499,500)
2019	Short Term Rental Penalty	\$ 15,200.00	2023	155 Danforth Street	\$ (135,000)
2020	Short Term Rental Penalty	\$ 200.00	2023	Riverton Park - (not yet spent)	\$ (910,103)
2020	Short Term Rental Penalty	\$ 7,500.00	2023	Dougherty Commons Condos (not yet spent)	\$ (1,500,000)
2019	Short Term Rental Fee transfer	\$ 176,118.00	2023	63 Front Street	\$ (333,000)
2019	56 Hampshire Street Easement fee	\$ 12,123.00	2023	45 Dougherty (not yet approved/spent)	\$ (1,200,000)
2019	121 Middle Street HOTEL IZ	\$ 41,866.00	2023	Lambert Woods South (not yet approved/spent)	\$ (4,000,000)
2019	17 Sumac Street (sale of TAP)	\$ 79,617.86	2023	HOPE Program Funding (not yet spent)	\$ (229,385)
2020	99 Capisic Street (sale of TAP)	\$ 163,168.93			
2020	Short Term Rental Fee transfer	\$ 122,964.50		Total	\$ (10,543,597)
2020	22 Bramhall Street (MMC overhang)	\$ 3,799.00			
2020	50 Monument Square IZ	\$ 222,789.00			
2020	121 Middle Street HOTEL IZ	\$ 30,448.00			
2020	Order 89 20/21 Appropriation	\$ 500,000.00			
2021	56 Hampshire Street IZ	\$ 198,928.00			
2021	40 Free Street IZ	\$ 10,609.00			
2021	1 Center Street HOTEL IZ	\$ 513,810.00			
2021	Short Term Rental Fee transfer	\$ 109,681.26			
2021	Newell Street sale	\$ 900.00			
2021	10 Hammond Street (IZ)	\$ 169,744.00			
2021	22 Hope Avenue (IZ)	\$ 150,000.00			
2021	ARP Allocation Order 84 21/22	\$ 1,000,000.00			
2022	5 India Street (IZ)	\$ 261,086.40			
2022	18 Luther Street (repayment of loan)	\$ 36,000.00			
2022	Short Term Rental Fee transfer	\$ 79,459.60			
2022	City Manager Allocation	\$ 250,000.00			
2022	ARP Allocation Order 100 22/23	\$ 4,110,000.00			
2022	Newell Street (sale of TAP)	\$ 8,100.00			
2022	Stroudwater (partial IZ fee)	\$ 16,233.90			
2022	75 Chestnut IZ	\$ 587,444.00			
2023	Short Term Rental Transfer Fee	\$ 129,378.47			
2023	218 Washington Ave IZ	\$ 461,250.00			
	Previous INTEREST EARNED	\$ 51,555.81			
	Total Deposits	\$12,608,894.26		BALANCE	\$2,065,297.26
HRO - Housing Replacement Ordinance; IZ = Inclusionary Zoning Fee-in-lieu; TAP = Tax Acquired Property					
as of 2.20.2024					

Overview

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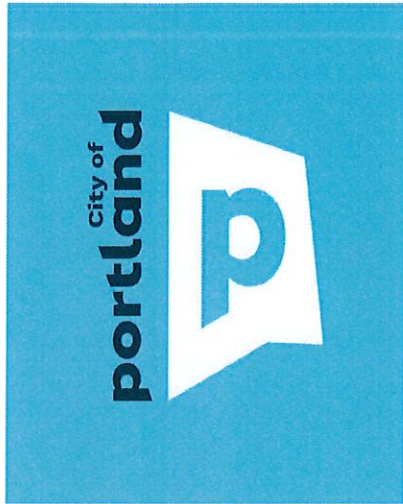
Case Id:

Name: DRAFT 2.22.2024

Address:

Overview

Please provide the following information.



City of Portland Affordable Housing Development and Tax Increment Financing Application

Housing & Economic Development
Department
Victoria Volent
389 Congress St
Portland, ME 04101
207-874-5028
Vvolent@portlandmaine.gov

GENERAL INFORMATION

Availability of Funding

Housing is a necessity within our community to preserve human dignity, provide shelter and safety, ensure quality of life, and promote self-determination and economic growth.

- The City of Portland has made the development of affordable housing a priority, as identified in the City of Portland's draft 2022-2026 HUD 5-year Consolidated Plan, City Council Common Goals, and the Comprehensive Plan. To accomplish this priority, the City of Portland will accept applications for financial assistance that facilitate the development of affordable housing in the City of Portland.
- The City of Portland strongly encourages BIPOC and women developers to apply for the resources made available through this application. Staff from the City's Housing and Community Development Division are available to provide assistance throughout the application process. Information regarding the City's Housing Development programs and resources is Available Here
- Certified Community Housing Development Organizations (CHDO's) or organizations eligible for CHDO certification are strongly encouraged to apply. The HUD definition of a CHDO organization is [Available Here](#)
- The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit to accomplish specific objectives and provide fair access to all applicants. Applications for the development of affordable housing utilizing HOME and/or Housing Trust Funds will be accepted until all budgeted funds are allocated.
- The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria. Material changes to the application after approval of the award of funds may result in the cancellation of award and recapture of awarded funds. Cancellation shall be at the sole discretion of

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the City of Portland.

- The approval process to establish an Affordable Housing Tax Increment Financing (AHTIF) District involves three steps. First, the City Council's Housing and Economic Development Committee provides a recommendation to the City Council regarding the establishment of an Affordable Housing TIF district. If the City Council approves the recommendation, the City submits an application to the Maine State Housing Authority. MaineHousing reviews the application from the City to ensure compliance with MRS Title 30-A, §5245-5250-G. The process begins with the submission of a completed Affordable Housing Development and Tax Increment Financing application to the City of Portland.
- The City of Portland is making available a combination of FY 202~~43~~⁵⁴ HUD Home Investment Partnership Program (HOME) funds (which includes a mandatory set-aside for CHDO organizations or organizations eligible for CHDO certification) and local funds from the Jill C. Duson Housing Trust Fund (HTF) for Affordable Housing Development. City staff will determine which funding source is best for each project and then make funding recommendations to the City Council for final approval.
- Estimated Total Funding Available: \$~~395,711,458,270~~ (HOME) + \$~~1,565,2978,814,156~~ (HTF) = \$~~1,961,0089,272,426~~

General Guidelines

- Developments shall provide decent, safe, and sanitary dwellings such as single-family homes, apartments, condominiums, or other living accommodations for households whose income does not exceed 120% of the median income for the area as defined by the U.S. Department of Housing and Urban Development (HUD). Affordable housing does not include facilities such as shelters, nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, student dormitories, or unattached mobile homes, regardless of income level. Projects must show that the development meets an identified community housing need, the City's participation is financially necessary in order for the project to proceed, and the applicant has the financial capacity to support their project.

View % Median Income adjusted for household size [HERE](#)

- Priority for the use of HOME Program funds will be given to developments that provide rental housing units to households earning at or below 50% of the area median income and below (\$~~59,1505,850~~ for a four-person household).
- Priority for the use of Housing Trust Funds will be to support public/private partnerships that create workforce housing units affordable to households earning up to 100% of the area median income (\$~~119,500111,700~~ for a four-person household) with preference for households earning 8050% of the area median income (\$94,600 for a four-person household) and below. Shovel ready projects with mixed income targeting and a mix of bedroom size, including family size units of 3+ bedrooms, are strongly encouraged. The minimum term of affordability depends on the funding source, but is not generally less than 30 years, and in some cases may be 90 years. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds. HOME and HTF resources cannot be used to finance a developer's minimum obligations under the city's Inclusionary Zoning ordinance.
- The term shovel ready is defined as a project that has received all other funding approvals from federal, state, local or private sources and demonstrates the ability to move to construction loan closing by January 202~~54~~.
- Priority for the use of the Affordable Housing Tax Increment Financing Program (AHTIF) will be to support projects receiving assistance through the Low Income Housing Tax Credit Program or projects that create housing units affordable to households earning up to 80100% of the area median income with preference for

households earning 50% of the area median income or below. At a minimum, to comply with MRS Title 30-A, §5250, at least 33% of the housing units in the district shall be affordable housing. Tax increment financing cannot be used to finance the requirements of the City's Inclusionary Zoning ordinance. However, tax increment financing can be used to provide affordability that exceeds Inclusionary Zoning requirements. The ongoing affordability period will match the length of the term of the district. The affordability term is to be secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds. A minimum of \$500,000 in new taxable investment property value for affordable housing development is needed to qualify for an Affordable Housing TIF.

- For purposes of this application and the use of Housing Trust Funding or the AHTIF, affordable means that the percentage of income a household is charged in rent and other housing expenses including utilities, or must pay in monthly mortgage payments (including real estate taxes, mortgage insurance, condominium/HOA fees, insurance and utilities), does not exceed 30% of a household's gross income, or other amount established in city regulations that does not vary significantly from this amount. See Exhibit #2 [Available Here](#).
- Projects seeking funding through these City resources must also apply for Inflation Reduction Act (IRA) Green/Clean energy related funding, even if those funds become available after submission of the application to the City.

Federal Requirements

The following requirements apply for any project that is awarded HOME or other federal funding.

- **Environmental Review Requirements**

Projects receiving HOME funding are subject to environmental review, clearance, and release of funds by the U.S. Department of Housing and Urban Development. Once an application has been submitted to the City of Portland, the applicant cannot take any "choice limiting actions" prior to receiving notification from the City that the environmental review process, including historic preservation review and clearance, has been completed and a release of funds has been received from the U.S. Department of Housing and Urban Development. *A Phase I ESA along with a lead and asbestos testing report is required before HUD Environmental Review Requirements can be completed.*

Choice limiting actions include, but are not limited to, (1) actions having an adverse impact – e.g. demolition, dredging, filling, excavation, including soliciting bids for these activities; (2) actions limiting the choice of reasonable alternatives – e.g. execution of a legally binding agreement; signing a purchase and sale agreement; signing an option agreement that does not allow the purchaser to elect to terminate the option agreement if the property is not desirable; entering into real property acquisition (including making bids on auctioned properties); leasing, rehabilitation, demolition, environmental remediation, related site improvements, relocating buildings or structures, conversion of land or buildings/structures (including soliciting bids to undertake these activities).

- **Federal Labor Standards and Other Wage Rate Requirements**

As may be applicable, projects receiving HOME or AHTIF funding must ensure that they and all contractors and subcontractors meet requirements for federal or state prevailing wage rates specified under the Davis-Bacon Act and the City's TIF policy, respectively. The Davis-Bacon and Related Acts require all laborers and mechanics employed by contractors or subcontractors in the performance of construction work over \$2,000, financed in whole or in part with assistance received under HUD programs, shall be paid the prevailing wage as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5). Projects that include 12 or more HOME-assisted units must meet the requirements of the Davis-Bacon and Related Acts. Any project approved for a site-specific tax increment financing district (AHTIF) utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate

all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S. §1306, or Portland City Ordinance Ch. 33 §33-1 to 33-12, whichever is greater. **State prevailing wage rates may exceed Davis-Bacon wage rates.**

- Section 3

All HOME projects must comply with Section 3 regulations at 24 CFR Part 75. Contractors and subcontractors performing work on Section 3 covered projects must provide, to the greatest extent feasible, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to the businesses that provide economic opportunities to low- and very low-income persons. Projects that utilize over \$200,000 in HUD federal funding from any source or combination of sources, including MaineHousing, must report on Section 3 accomplishments. Developers can search for Section 3 eligible workers and business concerns at <https://hudapps.hud.gov/OpportunityPortal/>.

- Minority and Women Owned Business (MWBE) Participation

All HOME projects must complete, track, and report on outreach and contracts given to women- and minority-owned businesses to ensure their inclusion, to the maximum extent possible, in the procurement of property and services. Applicants are encouraged to utilize firms certified as a Minority Business Enterprise or Women's Business Enterprise as part of the development team. The development team members include the developer, architect, attorney, general contractor, and management agent. Forms will be provided to the developer for tracking.

- Lead-Based Paint

All HOME funded residential rehabilitation, adaptive re-use and construction activities must comply with 24 CFR Part 35 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act.

- Access to the Internet

All new construction and substantial rehabilitation projects of multifamily rental housing will be required to provide the installation of broadband internet access to its residents to help narrow the digital divide for households in need.

- Fair Housing and Equal Opportunity

[Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115); Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

- Affirmative Marketing

Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of

the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

- Violence Against Women Act

Developers must comply with the Violence Against Women Act (VAWA) requirements in 24 CFR §92.359 and 24 CFR Part 5, subpart L. The Violence Against Women Act was reauthorized in 2022 with increased protections for victims of domestic violence, dating violence, sexual assault, and stalking. HUD is currently formulating guidance on compliance with the reauthorization. Projects receiving funding during this program year will be required to follow this guidance, regardless of whether it is released after award.

- Relocation and Displacement

Developers must comply with all applicable federal requirements, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, for any persons or businesses displaced at any point during the project.

- Equal Employment Opportunity

All projects shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

- Build America Buy America (BABA) Requirements

Developers must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

On November 15, 2021, the Build America, Buy America Act (the Act) was enacted as part of the Infrastructure Investment and Jobs Act (IIJA). Pub. L. 117-58. The Act establishes a domestic content procurement preference, the BAP, for Federal programs that permit Federal financial assistance to be used for infrastructure projects. In Section 70912, the Act further defines a project to include "the construction, alteration, maintenance, or repair of infrastructure in the United States" and includes within the definition of infrastructure those items traditionally included along with buildings and real property. Starting May 14, 2022, new awards of Federal financial assistance from a program for infrastructure, and any of those funds obligated by the grantee, are covered under the Build America, Buy America (BABA) provisions of the Act, 41 U.S.C. 8301 note.

US Department of Housing and Urban Development (HUD) has implemented a department wide public interest de minimis, Small Grants, and Minor Components waiver to the BAP requirement as applied to iron, steel, manufactured products, and construction materials of the Act for recipients of Federal Financial Assistance, with the threshold for the waiver being set at \$250,000.00 for total project development cost.

This means that if the total project development cost is \$249,999.99 or less, the project is currently exempt from

BABA requirements. If the total project development cost totals \$250,000.00 or more, the project is subject to BABA requirements.

Conditions for Approval

Designation of an Affordable Housing Development TIF District is subject to the following conditions.

1. Projects must comply with the City of Portland's Tax Increment Financing Policy.
2. At least 25%, by area, of the real property within an Affordable Housing Development district must be suitable for residential use; be a blighted area; or in need of rehabilitation or redevelopment.
3. The Affordable Housing Development program must show that the development meets an identified community housing need.
4. The district must be primarily a residential development on which at least 33% of the dwelling units are affordable for households at or below 120% of Area Median Income (AMI) and that may be designed to be compact and walkable and to include internal open space, other common open space and one or more small-scale nonresidential uses of service to the residents of the development.
5. Projects approved for a site-specific tax increment financing district utilizing a credit enhancement agreement must ensure that any firms employed in the construction phase of a TIF-assisted project compensate all employees the current wage rates and fringe benefits as required under applicable state prevailing wage law under 26 M.R.S.A. §1306, or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater. State prevailing wage rates may exceed Davis-Bacon wage rates. Projects that are required to meet the local TIF policy wage rate requirements and federal Davis-Bacon wage requirements must use the higher wage rate based on job classification.

Goals for the Distribution of HOME and Jill C. Duson Housing Trust Funds (HTF) or the Designation of an Affordable Housing TIF District

The goal for the distribution of HOME and HTF funds, or the designation of an Affordable Housing TIF district, is to increase, preserve, and modify the overall supply of housing citywide to meet the needs, preferences and financial capabilities of all Portland residents. Development should be consistent with the Annual City Council Goals, the City's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects that create contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicant's funding request; may impact scoring outcome. Developments should incorporate quality, sustainable design. The City will prioritize rental housing projects with a preference for projects that create units affordable at or below 50% of the area median income.

Applications will be reviewed by an evaluation team of City of Portland staff who will evaluate and score each application utilizing the scoring factors outlined in the Scoring Section as well as the 2024⁴³ City Council Common Goal requirement to use a lens that prioritizes racial, social and justice equity in order to recommend the most qualified application based on the information submitted.

Disbursement of Funds

The developer may not request disbursement of funds until the funds are needed for the payment of specified and actual costs. The amount of each request must be limited to the amount needed for the payment of actual costs. The City will disburse up to 90% of the loan proceeds during construction at 50% of completion. The remaining 10% will be disbursed upon receipt of an architect's certificate of substantial completion of the project. Any modification to the

disbursement schedule must be agreed to by the City in writing prior to closing.

SCOPE OF SERVICES

All applications submitted for this funding must meet the following criteria to be considered further in the review process.

Eligible Projects

- Projects receiving HOME, HTF or AHTIF Credit Enhancement Agreement funding must create ~~rental~~ housing units which promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing, and rehabilitation of existing rental units that creates accessible units or maintains affordable units is eligible. Projects that have previously received HOME funds are not eligible for additional HOME assistance. HOME funds will be awarded to projects creating rental units.
- ~~Projects receiving HTF Funds or an AHTIF District Credit Enhancement Agreement must create housing units that promote economic diversity within the development and within the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing units that creates or maintains affordable units is eligible.~~
- All projects must meet the affordability targets referenced ~~in~~ in the General Guidelines -Section ~~I.B.~~ along with all applicable income and rent restrictions of the City's funding source (HOME, HTF or AHTIF Programs).
- Projects must ensure that the affordable units within a mixed income development will be equal in square footage and comparable to the market rate units.
- Housing First developments are encouraged.
- Single Room Occupancy (SRO) and other supportive housing projects specifically for special needs populations are eligible under this application.
- Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.
- HOME eligible projects receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter. The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds.
- Projects receiving assistance through this application are encouraged to participate in the Public Housing Authority Family Self Sufficiency Program.

Site Information and Criteria

- Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 202~~4~~3.
- Local Approvals: Local land use approval is not required prior to submission of the application, however approval is required before the City Council will approve the funding request or AHTIF request. The applicant must submit

an analysis of the project in relation to local land use regulations and site feasibility; the analysis must include the completion of the Site Information and Criteria Table available as [Exhibit #3](#).

- Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request or Affordable Housing TIF request.

Financial Feasibility

- Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.
- Use of Funds: All projects will be reviewed for the proposed use of funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding. The average City investment per unit, excluding TIF financing, is approximately \$10,000. The City contribution per unit will not exceed \$18,000. This amount may be adjusted at the discretion of the City Council, only for unusual circumstances where a larger amount is the only way a project that meets other City goals is needed. In those cases, the higher cost per unit ratio must be tied to the goals outlined in the City's Comprehensive Plan.

Market Demand

- Applicants must show that the development meets an identified community housing need and provide an analysis and discussion of market demand justifying the need for the proposed project.

Applicant Capacity

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

- Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed time frame.
- An architect, general contractor, and professionals on the team with the experience and capacity to complete the project.
- A management team with qualified personnel and the capacity and experience to operate, manage, and maintain the affordable rental property of size and mix of the proposed project. Applicants should demonstrate that properties under the property management team's responsibility are violation free, have not been issued an IRS form 8823 within the last three years and have scored above average or better in physical inspection scores.
- Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting, and oversight of management and maintenance.
- A portfolio of current affordable housing projects that are financially sound and meeting their established goals.
- Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

Term of Affordability

- Rental housing projects funded with HOME and/or Housing Trust Funds must have a minimum affordability period of 90 years, secured by a land use restriction covenant in the deed.
- Projects receiving HOME funding may be charged an annual fee to cover the actual costs of federally required HOME monitoring, per 24 CFR 92.214(b)(1)(i).

- AHTIF projects must have an affordability period that matches the term of the district and is secured by a declaration of covenants and restrictions recorded in the Cumberland County Registry of Deeds.

Financing Terms

The following are general guidelines and the City reserves the right to partially fund application requests or deny any application that does not meet the application criteria, and adjust the terms of funding on a case-by-case basis based on changes in conventional lending and other financing sources.

The City's funding is generally in the form of soft "gap" financing. To allow for future investment in affordable and workforce housing, the City seeks to achieve a reasonable return of capital and where possible a return on investment based on the financing features of each funding request. The City allows flexibility for creativity by development teams by establishing funding terms based on the financial structure of each development project.

A key tool used to perform the financial analysis is the Debt Coverage Ratio (DCR). The City will underwrite to a 1.15 DCR in year 1 for capital subsidy and TIF.

Capital Subsidy: Capital subsidy repayment is a priority for the City. Amortizing repayment of capital subsidy is expected. During the underwriting process, capital subsidy repayment terms will be determined based on projected cashflow available in year 1 and year 6 of projected operations. Based on a financial analysis of the development project, funding in the form of loans may range from:

- 30-year amortizing loans with interest rates of up to 5%, to
- Up to a 5-year deferral prior to start of amortizing payments, to
- non-amortizing, deferred loans at 0%. Projects serving substantially underserved households may receive grants or deferred loans based on the demonstrated needs of the project.

TIF: Per the TIF legislative standard of financial necessity, TIFs will be sized to meet the projected needs of the project. Reducing project reliance on TIF subsidy over the term of the TIF subsidy is a priority for the City.

- During the underwriting process, the City will evaluate the level of the TIF at year 11 and 21 of projected operations. The percentage of the TIF will be adjusted downward if projections show a DCR above 1.20 in those years.
- For projects serving substantially underserved households, in the unusual event that a year 1 DCR of 1.15 results in a negative DCR in the 30-year operating projections, a TIF may be sized to up to 1.20 in year 1 to maintain positive DCR through the 30-year period.

For 2024, the definition of "substantially underserved households" are households with incomes below 30% AMI and unhoused people.

Affordable Housing TIF: During the term of the Affordable Housing District and the Development Program, tax increment revenues from the Affordable Housing District claimed by the City as captured assessed value may be used to pay authorized project costs. Authorized project costs are noted in 30-A M.R.S.A. §5249. Tax increment revenues will be paid by the City to the Project owner pursuant to a Credit Enhancement Agreement to be entered into by and between the City and the Project owner.

Financing Terms

The following are general guidelines and the City reserves the right to partially fund application requests or deny any application that does not meet the application criteria, and adjust the terms of funding on a case-by-case basis based on changes in conventional lending and other financing sources.

The City's funding is generally in the form of soft "gap" financing. To allow for future investment in affordable and workforce housing, the City seeks to achieve a reasonable return of capital and where possible a return on investment based on the financing features of each funding request. The City allows flexibility for creativity by development teams

by establishing funding terms based on the financial structure of each development project.

Funding in the form of loans may range from 30 years non-amortizing, deferred at 0% interest, to 30 year, amortizing loans based on a financial analysis of the development project. A key tool used to perform the financial analysis is the Debt Coverage Ratio (DCR). Projects with a DCR greater than or equal to 1.25 will be considered for a fully amortizing loan with a corresponding rate that either achieves a DCR of 1.15.

Other DCR features are as such:

- Projects that have a DCR of less than 1.25 will be considered for interest only loans. The interest rate will be set at a percentage rate that will achieve a DCR of 1.15.
- Projects that are submitted at a DCR of 1.15 will be considered for a deferred cash flow loan.
- Grants may be considered when a project serves a substantially underserved population.
- A project with a sustained DCR greater than 1.5, after the application of a fully amortizing loan will be considered over subsidized. The funding request will be reduced to achieve a sustained DCR of no more than 1.4. This may result in the funding request being reduced to zero. Projects of this nature are candidates for private financing.

~~Affordable Housing TIF: During the term of the Affordable Housing District and the Development Program, tax increment revenues from the Affordable Housing District claimed by the City as captured assessed value may be used to pay authorized project costs. Authorized project costs are noted in 30-A M.R.S.A. §5249. Tax increment revenues will be paid by the City to the Project owner pursuant to a Credit Enhancement Agreement to be entered into by and between the City and the Project owner.~~

Design Compatibility

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines.

Project designs:

MUST comply with all applicable City Codes and Ordinances, including but not limited to the City's Green Building Code (Chapter 6, Article VII, Sec. 6-165, as amended by Referendum, 11-3-2020) and the Affordable Housing Section of the City's Land Use Ordinance (Chapter 14 Article 18.2, as amended by Referendum, 11-3-2020). Please note that the Green Building Code may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual. Applicants must provide evidence reasonably satisfactory to the City of Portland demonstrating that the project was designed, constructed and rehabilitated in accordance with the Green Building Code.

PLEASE NOTE: An application for a building permit must include the documentation outlined in the Green Building Code Section 6-168. A Certificate of Occupancy will not be issued until the terms of Section 6-169 of the Green Building Code have been met.

Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.

Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.

MUST meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.

Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

Time Frame

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

APPLICANT REQUIREMENTS

The City of Portland will consider applications on a rolling basis. Those who require a conditional commitment of funds as part of other financing applications must apply as soon as possible because the application process can be lengthy. Applicants may contact the City of Portland to confirm the availability of funds prior to submitting an application.

Planning Board approval will be required before a funding award can be made. Applicants are *highly encouraged* to file the required Major Site Plan and Subdivision application with the Planning Department as soon as possible, in order to provide sufficient time for the local land use approval process to occur. Applicants should budget approximately four months from the date of application filing to Planning Board approval and submit all materials accordingly. Please be advised that timelines may be impacted based on the quality of application materials received and reviewed by the Planning Department. Please contact Kevin Kraft, Deputy Director, at kkraft@portlandmaine.gov for additional specifics on the land use approval process.

POINT SYSTEM FOR EVALUATING AND SCORING APPLICATIONS (MAX 115)

Policy Objectives: Total 50 Points

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 26 points

Maximum points will be awarded for those applications that:

1. Market Demand - 4 points
 - 4 points - high demand, meets the City's income targeting priority and preferences noted above
 - 1 point - moderate demand, sufficiently meets the City's income targeting priority
 - 0 points - does not demonstrate sufficient market demand, does not meet the City's income targeting priority
2. Zoning - 8 points
 - 8 points - development requires no zoning amendments or contract or conditional zone
 - 5 points - development requires a zoning amendment which is consistent with the City Comprehensive Plan
 - 0 points - development requires rezoning that is not consistent with the City's Comprehensive Plan
3. Economic diversity - 6 points
 - 6 points - creates housing options which promote economic diversity within the development and within in the neighborhood in which the development is located, while meeting the income preferences noted above
 - 5 points – creates housing options which promote economic diversity within the neighborhood in which the development is located, while meeting the income preferences noted above
 - 4 points – creates housing options which promote economic diversity within the development (a mixed-income development), while meeting the income preferences noted above
 - 0 points does not promote economic diversity
4. CHDO - 2 points
 - 2 points - developer and owner are both controlled by CHDO
 - 1 points - either developer or owner are controlled by CHDO
 - 0 points neither developer nor owner are controlled by CHDO
5. City Subsidy - 6 points
 - 6 points - investment from City is <\$10,000/unit
 - 5 points - investment from City is > or = \$10,000 and <\$12,000/unit
 - 4 points - investment from City is > or = \$12,000 and <\$14,000/unit
 - 3 points - investment from City is > or = \$14,000 and <\$16,000/unit
 - 2 points - investment from City is > or = \$16,000 and <\$18,000/unit

- 0 points - investment from City is > or = \$18,000/unit

Impact on surrounding neighborhood, including design compatibility and environmental issues. 24 points

Maximum points will be awarded for those applications where:

1. Site Selection - 7 points
 - 7 points – fully appropriate for use, project supports Comprehensive Plan goal for development along transit nodes and corridors
 - 5 point – appropriate, some concerns
 - 0 points – significant concerns, project does not support Comprehensive Plan goal for development along transit nodes and corridors
2. Exterior Design - 5 points
 - 5 points - the design is fully consistent with neighborhood design characteristics
 - 3 points - the design is an adequate fit with the neighborhood design
 - 0 points - the design is a significant outlier
3. Amenities and unit design - 7 points
 - 7 points -amenities & unit design are well thought out and appropriate for residents
 - 5 points - amenities & unit design are adequate
 - 0 points -amenities and unit design raise significant concerns that resident needs will not be adequately addressed
4. Environmental - 5 points
 - 5 points – Phase I identifies no environmental issues
 - 3 points - Phase I identifies an environmental issue, but a Phase II shows a feasible, economically viable resolution which is included in the budgets
 - 0 points - there are significant unresolved environmental issues, or no Phase I has been received

Underwriting Criteria: Total 65 Points

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 20 points

Maximum points will be awarded for those applications that:

1. Development budget & sources and uses - 10 points
 - 10 points - EVERY development budget line item for which there is a City of Portland guideline complies with that guideline AND all other line items are "reasonable and customary"
 - 8 points - ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary"
 - 6 points - TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary"
 - 0 points - more than two budget items fail to meet City guidelines or fall outside "reasonable and customary"
2. Operating pro forma – 10 points
 - 10 points - EVERY operating pro forma line item for which there is a City of Portland guideline complies with that guideline AND all other line items are reasonable and customary
 - 8 points - ONE budget line item falls outside City guidelines or outside the standard of "reasonable & customary"
 - 6 points - TWO budget line items item falls outside City guidelines or outside the standard of "reasonable & customary"
 - 0 points - more than two budget items fail to meet City guidelines or fall outside "reasonable and

customary”

Applicant's ability to complete and operate project, including development team experience, capacity, property management track record, project readiness and timeframe for completion. 45 points

Maximum points will be awarded for those applications that:

1. Readiness to proceed - 10 points
 - 10 points – project meets the shovel ready definition noted in the Funding Priorities section above
 - 7 points - at least one letter of commitment or interest is included and ALL projected sources are projected at terms and conditions consistent with the City's prior experience with the funder
 - 5 points - ALL projected sources of funding include letters of commitment, letters of interest, or, if no letter is included, are projected at terms and conditions consistent with the City's prior experience with this funder
 - 0 points - one or more sources are projected on terms that are not consistent with the City's prior experience with the funder and are not documented by letter(s) from funder(s)
2. Construction Time Line – 5 points
 - 5 points – There is a strong likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
 - 2 points - There is a small likelihood the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
 - 0 points - It is unlikely the project could proceed into construction within the first six months of the year following funding appropriation based on the timeline, narrative, and supporting documents
3. Track record of development team - 10 points
 - 10 points - every development team member has a successful track record with this type of project and at this scale
 - 7 points - all but one development team members have a successful track record with this type of project and at this scale; one development team member has relevant experience but at a smaller scale or not of this project type
 - 3 points - two development team members, while having relevant experience, are new to this type of project or this scale of development
 - 0 points - the development team does not meet the criteria above
4. Current Capacity of development team - 10 points
 - 10 points - development team members have exceptional depth of human and financial resources to complete this project
 - 8 points - development team members have the human and financial resources to complete this project
 - 3 points - development team has a staffing gap in a significant role and a plan to address that gap, OR there are some concerns about the financial resources of the team to move the development forward
 - 0 points - the development team does not meet the criteria described above
5. Sound Property Management - 10 points
 - 10 points – property manager agent demonstrates a successful track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored above average or better in physical inspection scores
 - 5 points - property manager agent demonstrates a successful but limited track record in projects of similar size, scale, type and complexity to the proposed project. Properties under the agent's management are violation free, have not been issued an IRS form 8823 within the last three years, and have scored satisfactory in physical inspection scores;
 - 0 points – the property manager agent has either on-going violations, or has been issued an IRS form

8823 in the last three years, or has scored below average or lower

A. Organization Information

No data saved

Case Id:
Name: Draft 2.22.2024
Address:

A. Organization Information

Please provide the following information.

ORGANIZATION INFORMATION

A.1. Organization Name/Developer/Agency

A.2. Address

A.3. Federal Tax ID No:

A.4. UEI # - [SAM.GOV](#)

A.5. Type of Organization

AUTHORIZED REPRESENTATIVE INFORMATION

A.6. Authorized Representative Name

A.7. Authorized Representative Title

A.8. Phone Number

A.9. Email

B. Project Information

No data saved

Case Id:

Name: Draft 2.22.2024

Address:

B. Project Information

Please provide the following information.

B.1. Property Address

B.2. Project Name

B.3. Tax chart, block, and lot number

B.4. Zoning Designation

B.5. Is the requested funding type HOME/HTF?

B.6. Requested amount of Affordable Housing Development Funding
\$0.00

B.7. Is the requested funding type AHTIF?

B.8. Total number of housing units to be constructed:

B.9. Total number of housing units to be rehabilitated:

B.10. Total Number of market rate units:

B.11. Total number of deed restricted units:

B.12. Total number of Units at 120% AMI:

B.13. Total number of Units at 110% AMI:

Printed By: Mary Davis on 2/20/2024

B.14. Total number of Units at 100% AMI:

B.15. Total number of Units at 80% AMI:

B.16. Total number of Units at 60% AMI:

B.17. Total number of Units at 50% AMI:

B.18. Total number of Units at 40% AMI:

B.19. Housing Type

B.20. Total number of studio/efficiency units:

B.21. Total number of one-bedroom units:

B.22. Total number of two-bedroom units:

B.23. Total number of three-bedroom units

B.24. Total number of four-bedroom units

B.25. Total number of five-bedroom units

B.26. Property Manager

B.27. When is construction expected to begin?

B.28. Please use the box below to answer the remaining questions and provide a narrative description of the project that includes:

- Description of municipal housing need and how the development addresses that need;
- Requested amount of Affordable Housing Development Funding;
- Description of how City's participation is financially necessary in order for the project to proceed;
- Description of allowed uses in the zone;
- Description of residential and non-residential uses in the area;
- Description of accessory uses relating to residential use, if any;
- Indicate if this project requires relocation of existing commercial or residential tenants;
- Description of relocation plan for persons temporarily or permanently displaced by development activities;
- Description of how the development is consistent with the Comprehensive Plan
- Description of how housing and facilities in the development will be operated after completion;
- Description of planned uses of tax increment revenues from the district (AHTIF projects only).

C. Funding

No data saved

Case Id:

Name: Draft 2.22.2024

Address:

C. Funding

Please provide the following information.

C.1. Total Funding Request

\$0.00

C.2. Does your application include a request for Affordable Housing Tax Increment Financing?

C.3. Is your organization planning to apply for LIHTC for this project?

C.4. In your organizations preceding completed fiscal year, did the organization receive:

1. 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and
2. \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

C.5. Does the public have access to information about the compensation of the executives in the organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (18 U.S.C. 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986?

D. Required Documents

Case Id:
Name: Draft 2.22.2024
Address:

No data saved

D. Required Documents

Please provide the following information. If something is not applicable to your project, please upload a document with a statement about why it is not applicable.

Documentation

☐ Evidence of Site Control ***Required**

***No files uploaded*

☐ Zoning Opinion ***Required**

***No files uploaded*

☐ Green Building Code Evidence ***Required**

***No files uploaded*

☐ Site Location Map and Photographs of the Site and Area ***Required**

***No files uploaded*

☐ Site and Floor Plans ***Required**

***No files uploaded*

☐ Project Schedule ***Required**

***No files uploaded*

☐ Corp/partnership Articles and By-Laws ***Required**

***No files uploaded*

☐ Organizational Chart ***Required**

***No files uploaded*

☐ Team Summary Description ***Required**

***No files uploaded*

☐ Organization's UEI number Registration ***Required**

***No files uploaded*

☐ Audits and Tax Returns with Attachments for 3 Most Recent Years ***Required**

****No files uploaded**

☐ Income and Expense Report ***Required**

****No files uploaded**

☐ CHDO Documentation ***Required**

****No files uploaded**

☐ Evidence of Financial Commitments ***Required**

****No files uploaded**

☐ Evidence of Commitment of Supportive Services ***Required**

****No files uploaded**

☐ Construction Cost Estimate ***Required**

****No files uploaded**

☐ Capital Needs Assessment, Completed by an Independent Party, for Renovation Projects ***Required**

****No files uploaded**

☐ Management Plan ***Required**

****No files uploaded**

☐ Relocation Plan and Budget ***Required**

****No files uploaded**

☐ Market Demand Study ***Required**

****No files uploaded**

☐ Phase I ESA ***Required**

****No files uploaded**

☐ MaineHousing Multifamily Housing Finance and LIHTC Application with 30 Year Operating Pro Forma with inflators of 2% on income and 3% on expenses, and Operating Budget with debt service coverage ratio over the 30 year timeline ***Required**

****No files uploaded**

Submit

No data saved

Case Id:

Name: Draft 2.22.2024

Address:

Submit

Please provide the following information.

☐ The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting an application for the same.

☐ The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the invitation for bids, and that their application is made in accordance with same.

☐ The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this application or in any portion of the profits that may be derived there from, has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of Portland employee who would be paid to perform services under this application. An example of indirect interest would be a City of Portland employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

Authorized Signature

***Not signed*

Name and Title