Housing & Economic Development Committee Meeting
Tuesday, July 2, 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).

REMOTE ACCESS INFORMATION

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.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:
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Webinar ID: 815 1076 0134

International numbers available: https://portlandmaine-gov.zoom.us/u/kzYtMCott

1. **Review and accept Minutes of previous meeting held on June 25, 2024.**

    a. See attached draft Minutes.

2. **(Public Comment) Review and Recommendation to the Finance Director and Finance Committee regarding FY2025 TIF Funding for Portland Adult Education's continuation of workforce training programs.**

    a. See attached Memo and backup.

    b. See attached TIF Presentation to HEDC on 5/21/2024.

3. **(Public Comment) Review and vote on a recommendation to the City Council on proposed amendments to the Short Term Rental Ordinance.**

    a. See attached backup.

4. **Executive Session: Pursuant to 1 M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119-A, the Committee will go into executive session to discuss negotiations and timeline update for the Lambert Woods South project (165 Lambert Street).**

Next Meeting Date: July 16, 2024

Minutes

Remote Housing and Economic Development Committee

June 25, 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, June 25, 2024, at 5:30 p.m. via Zoom. Present from the HEDC were Chair Pious Ali, and members Regina Phillips, Roberto Rodriguez, 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, Associate Corporation Counsel Avery Dandreta, Assistant City Manager Dena Libner, Director of Permitting and Inspections Jessica Hanscombe, Principal Administrative Officer Lori Paulette, and Housing Program Manager Victoria Volent.

Item #1: Review and accept Minutes of previous meeting held on May 21, 2024

On motion made by Councilor Rodriguez, seconded by Councilor Sykes, the Committee voted 4-0 to accept the Minutes.

Item #3 (Taken out of Order): Committee Discussion on proposed amendments to the Short-Term Rental Ordinance.

Greg Watson introduced this item noting a public comment period will be held on this item on the July 2 meeting of the HEDC.

Councilor Sykes presented the draft amendments to Chapter 6, Article 6 regarding Residential Rental Unit Registration Requirements. Policy goals include: restore and/or preserve Portland's existing long-term housing stock; give law-abiding citizens the option use their primary residence as a short term rental; limit the number of non-owner occupied short-term rentals, in proportion to the amount of rental housing stock/vacancy rate; ensure that speculators do not buy up single family homes, including condominiums, to turn them into pseudo hotels; prevent rental arbitrage from eroding long term rental housing stock; protect the year-round community, labor force, and economy on Peaks Island by preserving their existing year-round housing stock; prevent the disruption of the residential character of neighborhoods and buildings; leverage legal precedent that has been set by other communities in requiring booking services to verify registration with the City before charging for services; decrease the threat or harm to public health, safety, or general welfare that results from unlawful vacation rentals; provide greater public transparency into short term rental; and create a clear public complaint process that aids enforcement to the Short Term.

Committee members held a discussion regarding the definition of a healthy number of short term rentals within a community. As a redlined version of the Ordinance will be available during the July 2, HEDC meeting, members will have another opportunity to discuss this item again.

Item #2: Review and Recommendation to the City Council regarding Funding Request received from the Affordable Housing Development and Tax Increment Financing Application. (Note: The Committee may go into executive session pursuant to 1 M.R.S.A. 405(6) (C) and 5 M.R.S.A. 13119-A to provide staff direction on negotiations for any or all of these items) (Public Comment)

a) Community Housing of Maine (CHOM) – 186 Woodford Street

b) CHOM – 202 Woodford Street

c) Portland Housing Authority – 70 E. Oxford Street

Greg Watson provided a high level overview of the three affordable housing development projects that have been reviewed by underwriting and are ready for further review regarding affordable housing development funding and Tax Increment Financing. There are other applications currently under review with underwriting that may be brought forward at a future meeting.

Mary Davis provided a review of the three affordable housing development projects and their funding requests. Also noted was staff's request that the HEDC recommend the City Council appropriate the use of the additional funding in the Jill C. Duson Housing Trust Fund, which would almost fully fund all applications received to date. The three applications presented this evening are requesting Tax Increment Financing and a total of $1,592,000 in capital funding. These three projects, as proposed, would create a total of 134 affordable and 5 market rate rental units. Timing of approval from the full City Council is of importance as these funding requests also apply for 9% Low Income Housing Tax Increment Financing (LIHTC) from MaineHousing and must meet the filing deadline with MaineHousing.

Community Housing of Maine (CHOM) is requesting an Affordable Housing TIF (75% for 30 years) and subsidy funding of $492,000 to demolish the Parish House connected to the existing Woodfords Church and then construct a four-story elevator-assisted building with 41 rental units for low income households at 186 Woodford Street. The building would be comprised of 13 studio and 28 one-bedroom apartments. Of the 41 units, 16 would be reserved for households earning at or below 60% AMI, and 25 units would be reserved for households earning at or below

50% AMI. Staff is forwarding the recommendation from underwriting of a loan from the Jill C. Duson Housing Trust Fund of up to $492,000 with a maximum term of 30 years at 3% interest, with repayment from 25% of cashflow, and Affordable Housing Tax Increment Financing of 75% for 30 years.

Community Housing of Maine (CHOM) is requesting an Affordable Housing TIF (75% for 30 years) and subsidy funding of $450,000 to convert the existing parking lot at Woodfords Church into 43 one-bedroom apartments for adults aged 55 years and older at 202 Woodford Street. This would be phase two to the redevelopment of the Woodfords Congregational Church site. The building would be comprised of 43 one-bedroom apartments affordable to 17 households earning at or below 60% AMI, and 26 units for households earning at or below 50% AMI. Staff is forwarding the recommendation from underwriting of a loan from the Jill C. Duson Housing Trust Fund of up to $155,511 plus $294,489 in HOME funds with a maximum term of 30 years at 3% interest, with repayment from 25% of cashflow, and Affordable Housing Tax Increment Financing at 50% for 30 years. A representative from CHOM was not able to attend the meeting, but has expressed the concern the project does not work without the full 75% TIF.

Portland Housing Development Corporation (PHDC) is requesting an Affordable Housing TIF (75% for 30 years) and subsidy funding of $650,000 to demolish the four existing ten-unit multi-family buildings located between Cumberland, Oxford, Mayo and Boyd Streets (COMB Block), to construct Phase 1 of a multi-phase project to redevelop the site. During Phase 1, PHDC is proposing to construct a six-story, 55-unit affordable housing building comprised of 5 studio, 15 one-bedroom, 16 two-bedroom, and 19 three-bedroom apartments at 70 East Oxford Street. Units would be affordable to 17 households earning at or below 60%

AMI, 33 households earning at or below 50% AMI, and the remaining 5 units would be market rate housing. Staff is forwarding the recommendation from underwriting of a loan from the Jill C. Duson Housing Trust House in the amount of $650,000 with a 30 year term, 3% interest, payable out of cashflow with a minimum of 10% of cashflow to the City until the sooner of Deferred Developer Fee loan is retired, or 10 year of operations, which ever is first, then 25% of cashflow to the City, and Affordable Housing Tax Increment Financing at 75% for 20 years.

Staff also noted the motion to recommend the City Council remove a portion of 70 East Oxford Street from the Downtown Transit Oriented Development and Omnibus Tax Increment Financing District to allow for the creation of the 70 East Oxford Street Affordable Development and Tax Increment Financing District.

Sarah Tatarczuk of Portland Housing Authority indicated the 75% for 20 year term is not ideal with the competitive 9% Low Income Housing Tax Credit scoring as funding awards can be decided based on 1 or 2 points. Also, any excess cash flow is being used as a key source to reinvest in redevelopment within Portland.

Councilor Sykes indicated MaineHousing's competitive 9% Low Income Housing Tax Credit system of awarding points based on how high a TIF you receive seems to encourage over subsidizing a project. Staff has and will continue to have discussions with MaineHousing regarding this point.

Councilor Sykes inquired into the Developer Fee in the pro forma for 70 East Oxford Street. Per Sarah Tatarczuk of the Portland Housing Authority, the developer fee is $750,000 and the deferred developer fee is $500,000 for a total of $1.25 M. As staff noted, MaineHousing imposes a cap on the Maximum Developer Fee, the Net Developer Fee, and the Deferred

Developer Fee. Per the underwriting review, the “Developer fee of $1,250,000 is reasonable by industry standards at 5.5% of Total Development Cost, excluding reserves and developer fee. It is the only project in this round adding Deferred Developer Fee above the $750,000 developer fee cap imposed by Maine Housing. Given the larger size of the project and complexity of the site, this fee is reasonable.” Jay Waterman of the Portland Housing Authority further noted, the additional $500,000 in deferred developer fee will be put into the project to generate more tax credits.

Councilor Phillips asked if there are still people residing within the buildings at the COMB Block, and which households are eligible to live in the new buildings. Per Sara Tatarczuk, the four buildings did house thirty-six households. The majority of households were rehoused in early March; the five remaining households have plans to transfer to other apartments owned by PHA during construction. After construction, PHA plans to relocate these households back into the COMB Block location. And in answer to Councilor Philips question regarding the creation of larger bedroom units, PHA noted they are one of the few developers to offer four and up to six bedroom apartments.

Councilor Sykes noted PHA has bonding authority which would allow them to forgo applying for LIHTCs. Bonding is a more efficient way to finance affordable housing, and is a means to create social housing in-lieu of LIHTC housing. She will not support the project.

Jay Waterman of PHA noted the Maine State Housing Authority controls the bond cap for the state. When PHA asked MSHA if they could issue a bond for this project, MSHA said no.

Councilor Ali asked if members would like to enter into Executive Session. Seeing no one, the Committee did not enter into Executive Session.

Councilor Ali opened the meeting to public comment- seeing none, Councilor Ali closed public comment.

On motion made by Councilor Rodriguez, seconded by Councilor Phillips, the Committee voted 4-0 to recommend to the City Council approval of an amendment to the Funding Budget for the 2024 Jill C. Duson Housing Trust Fund Annual Plan to increase the available funding to $3,041,717.

On motion made by Councilor Rodriguez, seconded by Councilor Phillips, the Committee voted 4-0 to recommend to the City Council approval of a loan from the Jill C. Duson Housing Trust Fund in the amount of $492,000 for the CHOM 186 Woodford Street Phase I Project, with the terms as presented by staff.

On motion made by Councilor Rodriguez, seconded by Councilor Sykes, the Committee voted 4-0 to recommend to the City Council approval of an Affordable Housing Tax Increment Financing District and Credit Enhancement agreement for the CHOM 186 Woodford Street Phase I Project, with the terms as presented by staff of 75% for 30 years.

On motion made by Councilor Rodriguez, seconded by Councilor Sykes, the Committee voted 4-0 to recommend to the City Council approval of a loan in the amount of $450,000 ($294,489 in HOME funds and $155,511 in JCD HTF) for the CHOM 202 Woodford Street Phase II Project, with the terms as presented by staff.

On motion made by Councilor Rodriguez, seconded by Councilor Phillips, the Committee voted 4-0 to recommend to the City Council approval of an Affordable Housing Tax Increment Financing District and Credit Enhancement Agreement for the CHOM 202 Woodford Street Phase II Project, with the terms as presented by staff of 50% for 30 years.

On motion made by Councilor Rodriguez, seconded by Councilor Phillips, the

Committee voted 3-1 to recommend to the City Council approval of a loan from the JCD HTF in the amount of $650,000 for the PHDC 70 East Oxford Street COMB Block Project, with terms as presented by staff.

On motion made by Councilor Rodriguez, seconded by Councilor Phillips, the Committee voted 3-1 to recommend to the City Council to remove a portion of 70 East Oxford Street from the Downtown Transit Oriented Development and Omnibus Tax Increment Financing District.

On motion made by Councilor Rodriguez, seconded by Councilor Phillips, the Committee voted (3-1) to recommend to the City Council approval of an Affordable Housing Tax Increment Financing District and Credit Enhancement Agreement for the PHDC 70 East Oxford Street COMB Block Project, with the terms as presented by staff of 75% for 20 years

On a motion made by Councilor Phillips, seconded by Councilor Rodriguez, the Committee voted 4-0 to adjourn the meeting at approximately 7:19 p.m.

Next meeting is July 2, 2024

Respectively submitted, Victoria Volent

City of Portland | Housing and Economic Development Department
Gregory P. Watson, AICP, Director

MEMORANDUM

TO: Chair and Members of the Housing and Economic Development Committee

FROM: Greg Watson, Director

DATE: June 20, 2024

SUBJECT: Review of Portland Adult Education's (PAE) Update of FY2024 TIF Funded Workforce Development Programs and PAE's Request for FY2025 TIF Funds for Continuation/Creation of the Programs

I. SUMMARY

PAE will provide an update on its FY2024 TIF-funded Workforce Development Programs at the June 25, 2024, HEDC meeting, as well as request continued funding for FY2025 at the current level of $200,000. As in the past, funding for this program is anticipated to come from the Downtown TIF District.

II. BACKGROUND

TIF funding to PAE to augment its workforce training programs first began in FY2020 as a pilot program and was funded in the amount of $100,000. Because of PAE's success, the City again provided $100,000 to continue the programs in FY2021 and FY2022. For FY2023 and FY2024, the City increased funding to $200,000.

Please see attached PAE's memo to the HEDC of June 19, 2024, detailing outcomes to date for FY2024 and its proposal for FY2025, requesting level funding of $200,000.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is for PAE to continue and expand its workforce training program to provide skills to assist in addressing the region's labor shortage and local employer demand for qualified workers.

V. FINANCIAL IMPACT

The financial impact is level funding for PAE at $200,000 from the Downtown TIF District.

VI. STAFF ANALYSIS AND BACKGROUND

PAE is providing needed training for skills for the area's labor force shortage. In FY2024, PAE enrolled 135 unique students in TIF-supported workforce training programs through June 2024. These students represented 28 distinct countries of origin and 96% identified as BIPOC. PAE's programs have been successful and provides its students with skills to be productive members of the region and independent.

VII. RECOMMENDATION

Staff recommends that the HEDC vote to support continued level funding for FY2025 of $200,000 from the Downtown TIF District, which vote will be communicated to the Finance Committee and Finance Director.

VII. LIST ATTACHMENTS

- PAE's Update for FY2024 and FY2025 Proposal
- TIF Presentation to HEDC 5/21/2024

PORTLAND ADULT EDUCATION
academics | enrichment | workforce

To: Economic Development Committee
From: Miyabi M. Yamamoto, Ph.D., Executive Director
Date: 06/19/24
RE: TIF Funded Workforce Training Update and FY25 Proposal

This memo serves as an update regarding Portland Adult Education's FY24 TIFF-supported workforce training programs, as well as a proposal for FY25.

FY24 Outcomes To Date

PAE enrolled 135 students (99% of the projection) in TIF-funded programs between July 1, 2023 - June 2024 from 28 distinct countries of origin outside of the U.S. 96% identified as BIPOC, including 89% Black or African American, 4% Hispanic/Latino, 2% Asian and 1% more than one race.

Table 1: FY24 Outcomes to Date

Program	Unique Students Enrolled	Outcomes to Date	Leveraged Employer and Agency Funding
Clean Energy Pre-Apprenticeship Training Program	4 (20 total)	90% obtained 2 credentials of value (OSHA 10 and EPA 608 or PVIS certification) Employment outcomes TBD (in progress)	In-kind equipment, supplies, instructional support from ReVision Energy $30,000 - MDOL Apprenticeship Grant
Commercial Drivers License Prep Course	24	59% achieved CDL Class A or B License; out of whom 100% acquired jobs	$0
Education Academy	15 (24 total)	83% (20) completed course(s) required for MDOE Teacher certification/recertification 2 achieved Ed Tech 3 Certification and obtained jobs	$2,700 - Portland Public Schools

New Mainer Teller Training Program	16	5 obtained new jobs or advanced their careers (hourly rate increase of max. $4/hr.; average increase is $1.83/hr.) 8 partner financial institutions	In-kind instructional support (11 speakers and 1 instructor)
Employment and English Preparation Class for New Arrivals	25	88% obtained credential of value 65% job placement rate for those eligible to work 20% are awaiting work authorization	$0
ESOL Instruction with a Certified ESOL instructor	51	TBD (in progress)	$0
Total	**135** (160 total)		$32,700 In-kind contributions from employer partners

FY25 Proposal:
PAE seeks a $200,000 TIF investment in FY25 to continue successful programs and expand in key areas, specifically, Education Academy, Clean Energy Careers and Trades training preparation, in partnership with multiple employer partners and union organizations, to expand our sector-focused job training programs. We are also revamping our workforce training programs so that areas such as digital skills, sector-specific numeracy skills, and core professional skills will deserve the attention needed for better outcomes alongside funding continued ESOL instruction, which is crucial to success in the workplace.

Clean Energy Pre-Apprenticeship Program: For internationally-trained professionals who have prior experience or education in engineering, science, math, or construction to retool and enter Electrical and HVAC positions in the Clean Energy sector.
Job placement: ~40%
Employers: ReVision Energy, Maine Solar Solutions, Evergreen Home Performance
Partners: ReVision Energy, Maine AFL-CIO

Commercial Drivers License Prep Course Program: A 10-week CDL Permit Course for non-native English speakers combined with driving training and potential employment through PPS, Greater Portland METRO as a Class B School Bus or Class A CDL Driver. PAE continues to strengthen the partnership with METRO.
Job Placement Rate: 70%;
Employers: Greater Portland METRO, Portland Public Schools
Partners: Goodwill Workforce Solutions

Education Academy: A signature program in partnership with Portland Schools and regional school districts designed to support internationally-trained educators to re-enter the profession as Ed Tech IIIs and by obtaining Maine State Teacher Certification. Ed Academy is seen as a national model and PAE's NMRC Coordinator has presented at national conferences on the topic. Program includes credential evaluation support provided by the newly expanded NMRC. This past year, the program has expanded to include current Portland Public School employees (some of whom are Education Academy graduates) who are on the way to obtain their first teaching credentials or to be recertified.
Job placement rate: ~70% → With the increase in current employees, we are expanding the focus to retention and advancement within their current jobs.
Employers: Portland Public Schools, other local schools districts
Partners: Portland Public Schools, Goodwill Workforce Solutions

New Mainer Teller Training Program: A 3-month, 150-hour program taught by PAE instructors, ProsperityME, and 7 bank and credit union partners, this program prepares internationally-trained finance and business professionals for positions as bank tellers. It includes contextualized English, customer service, digital skills, personal finance, as well as networking/job search support, and the ABA Today's Teller Certification.
Job placement: ~50%
Employers: Bank of America, Bangor Savings, Camden National, Androscoggin Bank, Gorham Savings, Norway Savings, CPort Credit Union, Infinity Credit Union, Bath Savings, Five County Credit Union
Partners: Goodwill Workforce Solutions, ProsperityME

Employment and English Preparation for New Arrivals is a blend of classroom instruction and advising to equip newly arrived immigrants with the skills and support to secure their first US jobs. Job Placement : ~70%
Employers: Multiple including Maine Medical Center, Sheraton Hotel, Shaw's, Market Basket

ESOL Instruction with a Certified ESOL instructor: ESOL classes with a Certified ESOL Instructor.

Supported CNA (NEW): For internationally-trained medical and healthcare professionals and those wishing to enter the healthcare field for the first time. This program provides additional English classes focused on field-specific language, preparation for the state CNA exam, digital literacy, and healthcare-specific numeracy skills.

Employers: Barron Center, Northern Light
Partners: Northern Light, Cedars, Maine Veterans Hospital

Table 1. FY 25 Workforce Training Program Overview

Program	**Participants**	**Position**	**Starting Wage**	**TIF Request**	**% of Total Cost**
Clean Energy Training Program	10	Electrician Apprentice at Revision or similar positions	$19/hr with benefits	$10,000	20%
Commercial Driver's License Program	15	CDL or Bus Driver	$22-27/hr with benefits	$30,000	60%
Education Academy	18	Ed Tech III Certified Teacher	$17.67/hr with benefits $38,000 min	$45,000	95%
New Mainer Teller Training Program	12	Bank/Credit Union Teller	$17-24/hr with benefits	$20,000	50%
Employment and English Preparation for New Arrivals	20	Multiple	$14-18/hr	$39,000	100%
ESOL Instruction (year-long)	50	N/A	N/A	$45,000	100%
Supported CNA	10	CNA	$20/hr	$11,000	20%
Total	**135**			**$200,000**	

Municipal Tax Increment Financing Overview

Housing & Economic Development Committee Meeting

May 21, 2024

What is Tax Increment Financing?

A public economic development financing program, funded by property taxes on the incremental new assessed value generated by a development project.

Why is TIF Used?

- To stimulate private sector investment and job creation;
- Expand existing or fund new transit service capital costs and limited operational costs, invest in public infrastructure, staff salaries, workforce training, housing programs and services to address homelessness for examples.
- To support Affordable Housing- up to 120% Area Median Income (AMI).
- To 'shelter' against adverse adjustments to State subsidies and County taxes based on total municipal valuation.

How Does TIF Work?

- A municipality designates a specific geographic area as a municipal development tax increment financing district.
- This "freezes" the assessed value of taxable property within the district (the original assessed value or "OAV").
- TIF revenues derive from taxes on incremental new assessed value above OAV.
- Municipality adopts a development program describing authorized uses of revenue.

Establishing the TIF District

TIF law places limitations on the size and assessed value of TIF districts

Size (Based on FY 2023 Annual TIF Report)

- 2% of City's total acreage for single district
- 5% of total acreage for all municipal, commercial, and affordable housing districts (619 acres total with 238 acres available) combined.

Value (Based on FY 2023 Annual TIF Report)

- Commercial Districts: All commercial districts combined may not exceed 5% of total value of taxable property ($743.5 Million total, with $585 Million in value remaining for new districts).
- Affordable Housing Districts: All affordable housing districts combined may not exceed 5% of total value of taxable property ($743.5 Million total, with $739 Million in value remaining for new districts).

Establishing the TIF District

TIF districts may be designated for a maximum of 30 years and at least 25% of the district area must include property that is:

- Blighted
- In need of rehabilitation, redevelopment or conservation;
- Suitable for commercial;
- Affordable Housing with 25% suitable for residential use

Authorized Uses of TIF Revenue

- Costs within the District (most flexible)
- Costs outside District but directly related to or made necessary by the District (less flexible)
- Community wide economic development (narrow list of uses)

Within The District

- Capital Costs
- Financing Costs
- Professional Services Costs
- Other Administrative or Organizational Costs

<u>Outside The District</u> – Directly related to the district, or made necessary by its establishment.

- Infrastructure improvements
- Other improvements related to Public Safety

How Does ‘Sheltering’ Work?

- With new investment, real estate valuation goes ⬆⬆
- As a result, State Subsidies go ⬇⬇ and county taxes go ⬆⬆
- TIF ‘shelters’ captured new value by excluding it from total municipal value reported to the State for the length of the TIF

Funding Mechanisms

- Municipal Bonds
  - Municipality established a Development Sinking Fund for debt service requirements
- Credit Enhancement Agreement
  - TIF revenues placed in a Project Cost Account for direct payment to company for authorized project costs
- Municipal Economic Development
  - TIF revenues placed in a Project Cost Account for direct payments by municipality for authorized project costs

TIF Approval Process

TIF Program

- District Boundaries
- Development Program
- Financial Plan

City Council Approval followed by:

- State DECD Approval for Commercial & Industrial Projects

OR

- Maine State Housing Authority for Affordable Housing TIFs

- Credit Enhancement Agreement with Projected Developer then executed after approvals.

Portland's Experience With TIF's

- Adopted Updated Council TIF Policy as of 02/22/2021
- As of FY 2023 Portland active TIF Districts include:
    - 3 area-wide TIF Districts (Bayside, Waterfront, and Downtown Transit Oriented District
    - 18 Affordable Housing District
    - 2 Commercial Districts
    - 1 Commercial District supporting housing projects (market and affordable)
    - 1 Transit Oriented Commercial District

Compliance With City TIF Policy

TIF Credit Enhancement Agreement (CEA) maximum terms include

- Affordable Housing TIFs: 30 years; 75% capture rate over term
- Commercial TIFs: 20 years; 65% capture rate over term

Additional CEA requirements:

- Compliance With The City Green Building Ordinance
- Affordable Housing TIF State Law and City TIF Policy-Requires that at least 33.3% of the units for households at or below 120% of AMI, which in Portland for a family of four is approximately $120,000
- Meet State Prevailing Wage standards
- Applicants must demonstrate financial capacity and need.

City of portland

Questions & Answers

Contact *edd@portlandmaine.gov*

Office of Corporation Counsel
Michael Goldman, *Corporation Counsel*
Amy McNally, *Associate Corporation Counsel*
Nicole Albert, *Associate Corporation Counsel*
Rachel Millette, *Associate Corporation Counsel*

City of portland

MEMORANDUM

To: Mayor Mark Dion; Councilor Kate Sykes MIG

Cc: Danielle West, City Manager; Dena Libner, Assistant City Manager; Greg Watson, Director of Housing and Economic Development; Jessica Hanscombe, Director of Permitting and Inspections

From: Michael Goldman, Corporation Counsel

Date: May 14, 2024

Subject: Initiatives Impacting Short Term Rental Ordinance

In light of the Housing and Economic Development Committee's potential plans to amend the short-term rental provisions in the City Code, I reviewed recent citizen initiatives to ensure that any ordinance amendments are consistent with the five-year rule in Section 9-46 of the City Code, which provides as follows:

> An ordinance enacted by a vote of the people at an initiative or referendum election shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide. After five (5) years from the effective date of the ordinance, the city council after public hearing may repeal or amend such ordinance by vote of five (5) of its members.

Accordingly, under the five-year rule, the Council is prohibited from amending an ordinance enacted by the citizen initiative process for five years after the effective date of the ordinance, unless such an amendment is approved at an election.

The provisions of the City Code that address short term rentals are included in Chapter 6, Sections 6-150 to 6-157 and 6-236. Although these sections address short and long term rental units, for purposes of this memo, I refer to those sections as the "Short Term Rental Ordinance." In the previous five years, there have been two citizen initiatives passed by the voters that amended the Short Term Rental Ordinance: (1) An Act To Protect Tenants (2020) (the "2020 Act") (Attachment 1); and (2) An Act To Protect Tenants In Portland (2022) (the "2022 Act") (Attachment 2).

The 2020 Act affected the Short Term Rental Ordinance as follows:

- It created Sections 6-151(c) and (d)
- It amended Section 6-152(b)
- It created Sections 6-236(a) and (b)[1]

The 2020 Act became effective on or about December 3, 2020, and, therefore, the changes listed above cannot be amended or repealed by the Council without a vote of the people until after December 3, 2025.

The 2022 Act affected the Short Term Rental Ordinance as follows:

- It amended Section 6-151(a)(1)
- It amended Sections 6-151(f)(2) and (4)
- It amended Section 6-152(e)
- It amended Section 6-236(a) and (b)

The 2022 Act became effective on or about December 8, 2022, and, therefore, the changes listed above cannot be amended or repealed by the Council without a vote of the people until after December 8, 2027.

At this time, I do not know what changes the HEDC might propose to the Short Term Rental Ordinance, so it is difficult to say what, if any, impact Section 9-45 might have on the proposed changes. The purpose of this memo is simply to ensure that the HEDC is aware of the restrictions that Section 9-45 place on the Council's ability to amend or repeal the portions of the Short Term Rental Ordinance that were enacted by the 2020 Act or the 2022 Act. As the Committee works through the process, I will plan to further review the prior initiatives to ensure that we do not run afoul of the five year rule. Please let me know if you have any questions or concerns in the meantime.

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[1] In the proposed ordinance drafted by the proponents of the initiative, subsections (a) and (b) were incorrectly referred to as (1) and (2) (see Attachment 1)

Attachment 1

AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE SEEKING PETITIONS FOR INITIATION OF ORDINANCE

Rent Control

The undersigned hereby depose and say as follow:

(1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;

(2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;

(3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;

(4) All notices to the Committee are to be sent to DSA the following address:

PO Box 11345 Portland Maine 04104

RECEIVED MAY 19 2020 CITY CLERK

Dated at Portland, this 15 day of May 20 20.

(Print) Name	Address	Signature
Crow Norlander	6A Mabel St. #2 Portland ME 04103	[signature]
Nicholas Pellenz	215 St John St	[signature]
Jai Kang	45 Rustic Ln.	[signature]
Jeanne Heil	45 Rustic Ln	[signature]
Jessica Falero	9 C st	[signature]
Aaron Berger	11 Grant st #6	[signature]
Sydney Avitia-Jacques	180 State St. #301 Portland 04101	[signature]
Grayson Lookner	1275 Westbrook st. #2	[signature]
KRYSTIAN BIGOSINSKI	73 ALBA ST	[signature]
Ana Laguna-z	139 Park St.	[signature]

Subscribed and sworn to before me this 14 day of May, 20 20.

[signature]
Signature of Notary Public/Attorney-at-law

8/19/2026
Date Commission Expires/Date Entered the Bar

JONATHAN D TORSCH
Printed Name

AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE SEEKING PETITIONS FOR INITIATION OF ORDINANCE

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Dated at Portland, this ______ day of ______ 20____.

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Subscribed and sworn to before me this 14 day of May, 20 20.

[signature]
Signature of Notary Public/Attorney-at-law

8/19/2026
Date Commission Expires/Date Entered the Bar

JONATHAN D TORSCH
Printed Name

An Act To Protect Tenants

An Act to Protect Tenants will cap most annual rent increases to the rate of inflation, ban discrimination against tenants with public vouchers, incentivize landlords to provide 90-day notice to tenants they are asking to vacate, and create a tenant/landlord board to permit additional rent increases when individual building circumstances warrant, such as major capital improvements.

1. That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 6, Article XII, which said article reads as follows:

ARTICLE XII. RENT CONTROL AND TENANT PROTECTIONS

Sec. 6-230. Purpose.

The purpose of this Article is to address increasing rental costs within the City of Portland; to promote neighborhood and community stability; to protect the City's tenant population; to limit arbitrary evictions; and to stabilize and make more predictable future rent increases, all while remaining in conformance with Maine law, and ensuring that Landlords within the City receive a fair return on investment.

Sec. 6-231. Applicability.

This Article shall apply to Rental Units in the City limits of Portland, exempting the following:

(a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;
(b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;
(c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;
(d) Rental Units within a building containing only two (2), three (3) or four (4) dwelling units, one of which the Landlord currently occupies as his or her principal residence;
(e) Accommodations where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency; and
(f) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code.

Sec. 6-232. Definitions.

Allowable increase percentage means the amount that the rent of a Covered Unit may be raised within a Rental Year, unless a Landlord is entitled to additional increases as laid out in Section 6-233 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2021, and shall be equal to 100 percent of the change in the Consumer Price Index for Greater Boston Metro Area, as published by the United States Bureau of Labor Statistics or its designee.

Base rent means the initial amount of rent that a Landlord charges for a Covered Unit, as more specifically defined in Section 6-233 of this Article.

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not charged to a Tenant during a particular Rental Year.

Constructed means a Rental Unit that has received its final certificate of occupancy from the City's Permitting and Inspections Department, or its designee.

Covered unit means a Rental Unit within the City of Portland that does not fall within a category exempted from this Article by Section 6-231.

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2021.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2021 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

Landlord means an owner, manager, managing agent, sublessor, or other person having the right to rent or sell or manage any housing unit or rental property or any agent of these individuals or entities.

Qualified family member means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage, or adoption.

Rent means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in consideration with, the use or occupancy of rental units and housing services. Such consideration includes, but is not limited to, monies and fair value of goods and services rendered to or for the benefit of the

Landlord under the Rental Agreement, or in exchange for a Rental Unit, or housing services of any kind.

Rent board means the set of appointed individuals responsible for the administration of this Article, in accordance with the terms set forth below.

Rent stabilization allowances means collectively the Allowable Increase Percentage, the Tax Rate Rent Adjustment, and any additional rent increase exemptions approved by the Rent Board under Section 6-234 of this Article.

Rent stabilization ordinance means Chapter 6, Article XII of the Code of Ordinances, City of Portland, Maine, as amended.

Rental agreement means a written legal contract between a Landlord and a Tenant for the use and/or occupancy of a Rental Unit.

Rental unit means any dwelling unit that is rented or otherwise made available for rent for residential use or occupancy, together with all additional rights, privileges, or services connected with use or occupancy of such a unit, including but not limited to vehicle parking spaces, storage, and commons areas and/or recreational facilities held out for use by the Tenant.

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2021, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tax rate rent adjustment means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City changes the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit.

Tenancy means the right or entitlement of a Tenant to use or occupy a rental unit.

Tenant-Based Rental Assistance means any and all forms of tenant-based rental assistance and vouchers, including but not limited to:

(a) Tenant-based rental assistance through the Section 8 Housing Choice Voucher Program, 42 U.S.C § 1437f (o)
(b) Tenant-based rental assistance through the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez

National Affordable Housing Act, as amended, 42 U.S.C § 12701 et seq.;

(c) Tenant-based rental assistance under the HOD-Veterans Affairs Supportive Housing (HUD-VASH), authorized by§ 8 (o) (19) of the United States Housing Act of 1937, 42 U.S.C. § 1437f (o) (19);

(d) Tenant-based rental assistance through the Shelter Plus Care Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11403-11407b, as amended;

(e) Tenant-based rental assistance through the Supportive Housing Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11381-11389, as amended;

(f) Tenant-based rental assistance through the Section 8 Disaster Voucher Program (DVP);

(g) Tenant-based rental assistance through the Housing Opportunities for Persons with AIDS (HOPWA) Program, 42 U.S.C. § 12901 -12912 as amended;

(h) Tenant-based rental assistance through the Community Block Grant Program, 42 U.S.C. § 5301 et seq. as amended;

(i) Tenant-based rental assistance through the Continuum of Care Program authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11381-11389;

(j) Tenant-based rental assistance through the Rural Development Voucher Program authorized through § 542 of the Housing Act of 1949, as amended. See 78 Fed. Reg. 49374 (Aug. 14, 2013) (proposed rule);

(k) Tenant-based rental assistance through the Maine Bridging Rental Assistance Program, authorized by M.R.S. Title 34-B § 3011;

(l) Tenant-based rental assistance through the Maine State Housing Authority Home To Stay Program, M.R.S. Title 30-A § 4771;

(m) Tenant-based rental assistance through the Maine State Housing Authority Stability Through Engagement Program, M.R.S. Title 30-A § 4771;

(n) Tenant-based rental assistance through the City of Portland's Tennant Based Rental Assistance Program, M.R.S. Title 30-A § 4771;

(o) Tenant-based rental assistance through the City of Portland's General Assistance Program, authorized by M.R.S. Title 22 § 4301 et seq.; and

(p) Such other Tenant-based rental assistance or rental vouchers or rental coupons as may be authorized under any federal, state, or local program.

Sec. 6-233. Establishment of base rent.

(a) *Base Rent for Current Covered Units.* Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151(c). Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance.

(b) *Base rent for Discontinued Covered Units.*

(i) If a Covered Unit is not registered with the City as of January 1, 2021, but is registered with the City after such date, the Base Rent shall be set by the Landlord.

(ii) If a Covered Unit is registered with the City as of January 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the Rental Year in which the Covered Unit was removed from the rental housing market.

(iii) If a Covered Unit is registered with the City as of January 1, 2021, but is subsequently removed from the rental housing market for a period of five (5) or more Rental Years, the Base Rent for such a Covered Unit upon reentry into the rental housing market shall be set by the Landlord.

(c) *Base rent following renovation or reconfiguration of Covered Units.* Upon the renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increase in rent. When determining the appropriate increase in rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, and any other factor determined relevant in the opinion of the Rent Board.

(d) *Base rent following consolidation of Covered Units.* When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage and the Tax Rate Rent Adjustment for the following calendar year.

(b) A Landlord may only increase the rent charged for a Covered Unit once within a Rental Year, by an amount that conforms to the following specifications:

(i) *Annual Increase Percentage.* Unless a Landlord qualifies for an additional increase as further described below, rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.

(ii) *Tax Rate Rent Adjustment.* If the mil rate within the City of Portland is altered for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.

(iii) *New Tenancy.* A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit. This increase may be applied at most once per year, regardless of the number of new tenancies.

(iv) *Banked Rent.* If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.

(v) *Additional Rent Board Approved Increases.* In addition to the above rent adjustments, the Rent Board may approve additional rent increases properly demonstrated by the Landlord, attributable to:

i. Capital improvement costs, including financing costs;
ii. Uninsured repair costs;
iii. Increased housing service costs; and
iv. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.

(c) Under no circumstances may a Landlord raise the rent of a Covered Unit by more than ten (10) percent within a Rental Year. Any rent increases available to a Landlord in excess of ten (10) percent must be banked for use in a subsequent Rental Year.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than seventy-five (75) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article.

(e) A Tenant who receives notice of a rent increase that they believe does not conform with this Section may file an appeal of said rent increase with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. If such an increase is more than is allowed by this Article, the Board may impose such fines as are allowed by this Article.

Sec. 6-235. Process of banking rent increases.

If a Landlord chooses to not impose any rent increases to which they are entitled pursuant to Section 6-234 above, these increases may be banked, in whole or in part. Banked increases may be used to raise the rent of Covered Units in subsequent Rental Years in addition to the Rent Stabilization Allowances established for that year by the Rent Board, provided that the total increase of such rent shall not exceed ten (10) percent within a single Rental Year.

Sec. 6-236. Termination of Tenancies-At-Will

(1) In order to be terminated by a Landlord, tenancies-at-will must be terminated by providing a minimum of 90 days' written notice to Tenant except as provided below:
   a. "For Cause" tenancies terminable on 7 days' notice pursuant to 14 M.R.S. § 6002(1) may be terminated in accordance with Section 6002(1);
   b. Short-term rentals with a term of fewer than 30 days' are exempt from the 90-day notice period outlined herein;
   c. Holdover tenancies are exempt from the 90 day notice period outlined herein;
   d. Where a Landlord provides $500.00 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will

may be terminated by notice to the Tenant of sixty (60) to eighty-nine (89) days;

e. Where a Landlord provides $1000 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will may be terminated by notice to the Tenant of thirty (30) to fifty-nine (59) days.

(2) Reimbursement amounts outlined in subsections (c) and (d) above are lump-sum amounts payable in a single installment for the collective benefit of all tenants of a unit. Tenants are responsible for allocating the reimbursement amount among themselves.

Sec. 6-237. Discrimination prohibited in sale or rental of housing units.

(a) A tenant shall have the right to secure a rental housing unit without being refused that right on the basis of discrimination because of race, color, sex, sexual orientation, physical or mental disability, ancestry, national origin, or family status, pursuant to 5 M.R.S. Section 4581-A, et. seq., as amended from time to time.

(b) A landlord shall not refuse to rent or impose terms of tenancy on any tenant who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual's status as a recipient as described in 5 M.R.S. §4581-A(4), as amended from time to time.

(c) It shall be prohibited for a landlord to refuse to rent or negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any tenant because of the tenant's source of income or because of the requirements of any program providing the source of income;

(d) It shall be prohibited for or a landlord to refuse to participate in or comply with any federal, state, or local requirements of a tenant-based rental assistance program, including, but not limited to the following:

1. Refusing to allow inspections of a dwelling by the public housing authority or other entity administering a tenant-based rental assistance program;
2. Refusing to make reasonable repairs necessary for the dwelling to meet the housing quality standards of the tenant-based rental assistance program; such repairs will be considered reasonable if they do not substantially alter or change the housing unit or do not require repairs substantially different from those that would be required to bring the rental unit into compliance with the Maine Warranty of Habitability Act or local building or housing codes applicable for new construction.

3. Refusing to complete any necessary paperwork, including but not limited to such documents as the Request for Tenancy Approval form, the Housing Assistance Payments Contract, and the Tenancy Addendum or applicable General Assistance forms; and,
4. Refusing to provide information required by the public housing authority or other entity administering the source of income or tenant-based rental assistance program.

Sec. 6-238. Notice of ordinance to tenants.

(a) The Planning Department or its designee shall create and make available on the City's publicly accessible web site a plain language document that explains the rights, responsibilities, and protections created by this Ordinance.

(b) The document referenced above shall be provided by Landlords to all Tenants in Covered Units at the commencement of the rental of the Covered Unit and shall be provided again upon any update to the document made by the City.

(c) An acknowledgement of receipt of the document described above must be signed by all Tenants, and a copy of the acknowledgement kept on file by the Landlord for at least three (3) years and made available for inspection at the request of the City of Portland.

(d) Landlords of buildings shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

Sec. 6-239. Non-waiver of rights.

No provision of, or right conferred by, this Article may be waived by a Tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage, or induce a Tenant to waive any provision hereof, or right hereby, shall be a violation of this Article. Nothing herein shall be construed to void any term of a Rental Agreement that offers greater rights than those conferred hereby.

Sec. 6-240. Enforcement and remedies.

Any violation of this Article is considered a civil infraction and shall be enforced pursuant to the Portland City Code Chapter 1, §1-15.

Sec. 6-241. Limitation of Liabilities

(a) Nothing in this Article shall be interpreted to contravene the general laws of the State of Maine; and

(b) Nothing in this Article shall be construed to create additional liabilities greater than those already existing under law or to create new private causes of action.

Sec. 6-242. Severability.

The provisions of this Article are severable. If any of its provisions are held invalid by act of a court of competent jurisdiction, all other provisions of this Article shall continue in full force and effect.

Sec. 6-243. - Sec. 6-249. Reserved.

2. *That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 6, Article XIII, which said Article reads as follows:*

ARTICLE XIII. RENT BOARD

Sec. 6-250. Creation; composition.

There shall be a Rent Board of seven (7) members. Members of the Rent Board shall be residents of the city and shall not be officers or employees of the city or any of its agencies or departments.

Two (2) members shall be appointed to fill at-large seats, and may reside in any part of the city. The remaining five (5) members shall be comprised of one member from each of the five (5) city council wards. Should the number or location of said city council wards be changed, the districts and number of Rent Board members shall change to mirror such changes.

The City shall take reasonable steps, but is not required, to appoint to the Rent Board with no more than three (3) landlords and at least three (3) tenants.

Sec. 6-251. Appointment; terms.

The members of the Rent Board shall be appointed by the City Council for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three (3) members shall expire in any calendar year.

Sec. 6-252. Vacancies.

Permanent vacancies on the Rent Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

Sec. 6-253. Removal of members.

Any member of the Rent Board may be removed for cause by the City Council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.

Sec. 6-254. Compensation.

Members of the Rent Board shall serve without compensation.

Sec. 6-255. Chair and vice-chair.

(a) The members of the Rent Board shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their number as vice-chair. The chair may administer oaths. The chair shall have the right, upon request, to designate any person or organization as a specially interested party for purposes of offering evidence and conducting cross-examination at hearings.

(b) In the absence of the chair, the vice-chair shall act as chair and shall have all the powers of the chair. The vice-chair shall have such other powers and duties as may from time to time be provided by the rules of the Rent Board.

Sec. 6-256. Staff secretary; minutes, public records.

The Housing Safety Office shall designate a member of its staff to serve as staff secretary of the Rent Board and attend all its proceedings. The staff secretary shall keep the minutes of the proceedings of the Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

Sec. 6-257. Quorum and necessary vote.

As to any matter requiring a hearing, no business shall be transacted by the Rent Board without a quorum, consisting of four (4) members being present. The concurring vote of at least four (4) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three (3) weeks at any one time. The staff secretary shall notify in writing al members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

Sec. 6-258. Meetings, hearings, and procedures.

(a) Regular meetings of the Rent Board shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any three (3) members of the Board or at the request of the city council. All meetings and hearings of the board shall be open to the public.

(b) The Rent Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the staff secretary and with the city clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.

Sec. 6-259. Public hearings.

Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Rent Board and shall be conducted in accordance with relevant state law, this code, and the rules of the board.

Sec. 6-260. Record and decisions.

(a) The minutes of the staff secretary, and the transcript if one (1) is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Rent Board, and the decision of the Board shall constitute the records.

(b) Every final decision of the Rent Board shall include written findings of fact, and shall specify the reason or reasons for such decision.

(c) The staff secretary shall mail notice of any decision of the Rent Board to the applicant and any designated interested parties within five (5) days of such decision.

Sec. 6-261. Conflicts.

No member of the Rent Board shall participate in the hearing or disposition of any matter in which they have an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended.

Sec. 6-262. Appeals to Superior Court.

An appeal from any final decision of the Rent Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 6-263. Jurisdiction and authority.

In addition to the jurisdiction conferred on it by other ordinances of the City and in accordance therewith, the Rent Board shall have the following jurisdiction and authority:

(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 above.

(c) To hear, review, and grant or deny appeals from Tenants regarding allegations violations of 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 this Chapter, 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 (14) 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 (5) council wards. Such reporting may or may not be done in conjunction with similar reporting required of the City's Rental Housing Advisory Committee, as established by this Chapter.

(i) To initiate changes and amendments to this Article, as well as to the city's Rent Stabilization Ordinance.

3. *That Chapter 6, Section 151, of the Code of Ordinances, City of Portland, Maine, is hereby amended as follows:*

Sec. 6-151. Registration required.

...

(c) *Additional Information Required for Covered Units.* A Covered Unit, as defined by Section 6-232 of this Chapter, shall not be considered registered unless and until the registrant has submitted the following additional information:

1. The current rent charged at the time of registration;

2. The increase in rent (if any) when compared to the previous Rental Year's rent;

3. Whether the increase (if any) is attributable to: (1) the Allowable Increase Percentage and Tax Rate Rent Adjustment, as defined in Section 6-232; or (2) also includes Banked Rent, as defined in Section 6-232;

4. The amount of Banked Rent, if any, accumulated in the previous Rental Year;

5. The amount of security deposits or other payments demanded in addition to rent for each Covered Unit; and

6. The number of bedrooms, number of bathrooms, and the presence or absence of a kitchen from each Covered Unit.

(d) *Registration data made available.* The City's Permitting and Inspections Department or its designee is required to make anonymized data from the registration of Covered Units available to the Rent Board at the Board's request. Such data shall not include the names, or street and unit numbers of any reported units.

4. *That Chapter 6, Section 152, of the Code of Ordinances City of Portland, Maine, is hereby amended as follows:*

Sec. 6-152. Registration Fees.

...

(b) *Long Term Rental Registration Fee.* The registrant of a long term rental shall pay fifty dollars ($50.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars ($30) from each registration fee shall be appropriated to Housing Safety Office to cover the administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

EXHIBIT A

An Act to Protect Tenants in Portland

An Act to Protect Tenants in Portland ensures that tenants receive 90-day notice for lease termination and/or rent increases. It discourages no-cause evictions by limiting the 5% rent increase to voluntary turnovers. It reduces costs to tenants by restricting deposits to one-month rent, prohibiting application fees, and further limiting the amount of standard annual rent increases that landlords are allowed to impose to 70% of CPI. It strengthens protections for tenants who exercise their rights under the ordinance, and provides greater clarity and authority to the rent board to ensure landlords receive a fair return on investment and that tenant complaints receive a fair hearing. It also sets a $25,000 fee for condominium conversions. The Act also makes various technical changes and corrections to allow the ordinance to better effectuate its originally intended purpose.

BE IT ORDAINED:

1. That Chapter 6, Sections 6-151, 6-152, 6-223, 6-223.1, 6-223.2, 6-231, 6-232, 6-233, 6-234, 6-235, 6-235.1, 6-236, 6-237, 6-240, 6-241, 6-250, 6-251, and 6-263 of the Portland City Code are hereby amended to read as follows:

Sec. 6-151. Registration required.

(a) *Registration of Ownership.*

1. Rental units must be registered in accordance with this article by January 1st of each year; Rental units entering the rental housing market must be registered within fourteen days. Registration must be renewed annually, on or before January 1st, including updating all changes in previously submitted registration information.

...

(f) *Additional Information Required for Covered Units.* A Covered Unit, as defined by Section 6-232 of this Chapter, shall not be considered registered unless and until the registrant has submitted the following additional information:

...

2. The increase in rent (if any) when compared to the previous ~~Rental Year's rent~~ registration;

...

4. The amount of Banked Rent, if any, accumulated ~~in~~ since the previous ~~Rental Year~~ registration;

...

Sec. 6-152. Registration Fees.

...

(e) Registrations that are not ~~renewed~~ received by ~~February 1~~ January 15, or within 14 days after entering the rental housing market, whichever is later, shall be subject to a late fee of ~~$10~~ $50 per unit, and registrations that are not received by February 15, or within 45 days after entering the rental housing market, whichever is later, shall be subject to a late fee of $200 per unit. Registrations shall not be renewed unless and until the registrant pays any applicable late fee. Incomplete or inaccurate registrations may be rejected and subject to all applicable late fees upon resubmission. The Permitting and Inspections Director may waive a late fee upon a showing of both hardship and good cause as to why the renewal was not timely.

...

Sec. 6-223. Notification of rent increases.

Notwithstanding 14 M.R.S. Section 6015, a Landlord shall give ~~seventy-five (75)~~ ninety (90) days' written notice of any rent increase to a Tenant.
(Ord. No. 76-16/17, 11-21-2016)

Sec. 6-223.1. Rental applications, generally; application fees ~~restricted~~ prohibited.

...

~~(b) Disclosure of Application Fee. Before accepting a rental application fee, a landlord shall disclose in writing to the applicant the rental application fee amount. The applicant shall not be charged more than the disclosed rental application fee for that application.~~

(~~c~~b) Availability of Units. Landlords shall only advertise rental housing units, receive applications, and screen applicants~~, and accept application fees~~ for rental housing units when such rental housing units are actually available and ready for occupancy or are expected to be available for occupancy within a reasonable time period; provided, however, that an applicant may consent to be screened and placed on a waiting list. For purposes of this Section, a rental housing unit is no longer considered available if a different applicant has been screened by the landlord, has been offered the rental housing unit and accepted it, and has placed a deposit on the rental housing unit. A rental housing unit may be considered available if a tenant of a unit has declared they will not be renewing a lease or have otherwise vacated the property. Landlords shall document the date and time that deposits are placed on rental housing units.

(~~d~~c) Application Fees. All application fees for rental housing units are prohibited ~~shall not exceed the actual cost of the screening process or thirty dollars ($30.00), whichever is lower. The actual cost of the screening process includes only the hard costs associated with a background check. Labor costs and other soft costs associated with application process must be excluded. Hard costs may include~~, including, but not ~~be~~ limited to, any fees or charges to applicants for the following: national, state and local criminal background checks, credit reports, rental history records and/or reference checks, eviction records and/or employment verification. ~~Each adult who intends to reside in a rental housing unit may be charged an application fee.~~

~~(e) Disposition and Use of Application Fee. Within ten (10) days of receipt of an application fee, a landlord must provide an explanation for the disposition and use of the application fee and provide a receipt to the applicant detailing how the application fee was used. An application fee shall be refunded in its entirety if a landlord does not incur hard screening costs. A landlord shall also provide the applicant with any paperwork or copies of electronic correspondence generated as result of the screening process, to the extent permitted by State and Federal law.~~

~~(f) Current Tenants. A current tenant of a rental housing unit shall not be charged an application fee to move to another rental housing unit owned by the landlord.~~

~~(g) Exemption. The provisions of this Section shall not apply to any landlord who does not charge a rental application fee.~~

Sec. 6-223.2 Maximum deposit.

Notwithstanding 14 M.R.S. Section 6032, a lease or tenancy at will agreement for a dwelling intended for human habitation may not require a security deposit equivalent to more than the rent for one (1) month.

...

Sec. 6-231. Applicability.

...

(d) Rental Units within a building containing only two (2), three (3) or four (4) dwelling units, one of which the ~~Landlord~~ property owner currently occupies as his or her principal residence;

...

Sec. 6-232. Definitions.

Allowable increase percentage means the standard amount that the rent of a Covered Unit may be raised within ~~a~~ the following Calendar ~~Rental~~ Year, unless a Landlord is entitled to additional increases as ~~laid out~~provided in Sections 6-233 or 6-234 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2021, and shall be equal to ~~100~~ 70 percent of the change in the Consumer Price Index (CPI-U) for Greater Boston Metro Area for the preceding twelve months, as published in August by the United States Bureau of Labor Statistics or its designee. For the purposes of this ordinance, the Rent Board shall presume that the Allowable increase percentage is sufficient to allow a reasonably prudent landlord who received a fair return on investment prior to the enactment of this ordinance to continue to maintain a fair net operating income that increases over time at a just and reasonable rate, yielding a fair return on investment under the normal course of doing business.

Base rent means the initial amount of rent that a Landlord charge~~s~~d for a Covered Unit prior to the increases allowed under this ordinance, as more specifically defined in Section 6-233 of this Article. For the purposes of the ordinance, the Rent Board shall presume that the Base Rent was sufficient to have provided the Landlord a fair return on investment prior to the enactment of this ordinance.

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not yet applied to the Rent charged to a Tenant ~~during a particular Rental Year~~.

...

Fair return on investment means an amount sufficient to allow a just and reasonable rate of return, to encourage the investment of capital in the rental housing market, to fairly compensate investors for the risks they have assumed, and to achieve minimum constitutionally protected standards. For the purposes of this ordinance, a Fair return on investment must be calculated using Maintenance of Net Operating Income methodology, as that term is used in other jurisdictions with similar ordinances, that presumes the net operating income the landlord earned from a Covered unit during calendar year 2019 yielded a fair return on investment, unless the landlord proves that special or peculiar circumstances prevented the landlord from receiving a fair return on investment during that period. The Rent Board may adopt rules or regulations to ensure the fair and consistent application of such methodology.

...

Major renovation or reconfiguration means one or more capital investments or improvements where the total cost of construction or improvement attributable to the Rental unit involved exceeds 20% of the property value, prior to improvement, of the Rental unit involved, as determined by the city's tax assessor.

...

Rent stabilization allowances means collectively the Allowable Increase Percentage~~, the Tax Rate Rent Adjustment,~~ and any additional rent increase exemptions approved by the Rent Board under Section 6-234 of this Article.

Rent stabilization ordinance means Chapter 6, Articles XII and XIII of the Code of Ordinances, City of Portland, Maine, as amended.

Rental agreement means a ~~written legal~~ contract between a Landlord and a Tenant for the use and/or occupancy of a Rental Unit.

...

~~*Tax rate rent adjustment* means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City changes the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit.~~

...

Tenants Union means any group, organization, committee, collective, association or entity, whether incorporated or unincorporated, of any kind, whatsoever, in which tenants participate and which exists for the purpose, in whole or in part, of dealing with Landlords concerning rental conditions or any matter related to the Landlord-tenant relationship, including but not limited to the rights and interests of tenants under this Chapter.

Sec. 6-233. Establishment of base rent.

(a) *Base Rent for Current Covered Units.* Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151~~(c)~~. Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance, except as otherwise provided within this section.

(b) *Base rent for Discontinued Covered Units.*

(i) If a Covered Unit ~~is~~ was not required to be registered with the City as of ~~January~~ April 1, 2021, but is required to be registered with the City after such date, the Base Rent shall be the amount of Rent charged 120 days prior to the date when the Covered Unit became required to be registered, or if no Rent was charged at such time, the first Rent charged by the Landlord any time thereafter. The Base Rent for any new Covered Unit entering the rental housing market for the first time shall be the Rent charged to the first Tenant, as set by the Landlord.

(ii) If a Covered Unit ~~is~~ was required to be registered with the City as of ~~January~~ April 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the ~~Rental Year in which~~ time the Covered Unit was removed from the rental housing market.

(iii) If a Covered Unit ~~is~~ was required to be registered with the City as of ~~January~~ April 1, 2021, but is subsequently removed from the rental housing market for a period of ~~five (5) or more Rental Years~~ at least sixty (60) months, the Base Rent for such a Covered Unit ~~upon reentry into the rental housing market~~ shall be ~~set by the Landlord~~ the Rent charged to the first Tenant upon reentry into the rental housing market, as set by the Landlord.

(c) *Base rent following major renovation or reconfiguration of Covered Units.* Upon ~~the~~ a major renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increased ~~in rent~~ Base Rent. When determining the appropriate increased ~~in rent~~ Base Rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, the amount necessary to ensure a fair return on investment, and any other factor determined relevant in the opinion of the Rent Board; the Rent Board may consider any amount of Banked Rent accrued for that unit, but after determining the appropriate Base Rent, all previously accrued Banked Rent shall be forfeited.

. . .

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage ~~and the Tax Rate Rent Adjustment~~ for the following calendar year, and shall announce and explain the methodology for calculating the Allowable Increase Percentage at the first meeting of the Rent Board following such publication. The Rent Board shall hear public comment after such announcement.

(b) A Landlord may not ~~only~~ increase the rent charged for a Covered Unit ~~once~~ within ~~a Rental Year~~ twelve (12) months following a previous Rent increase. After twelve (12) months, the Landlord may only increase the rent charged for a Covered Unit~~,~~ by an amount that conforms to the following specifications:

...

~~2. *Tax Rate Rent Adjustment.* If the mil rate within the City of Portland is altered for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.~~

~~3~~2. *New Tenancy.* A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit, but only if the previous Tenancy was terminated voluntarily by the previous Tenant, without coercion or unreasonable influence from the Landlord. This increase may be applied at most once per ~~year~~twelve (12) months, regardless of the number of new tenancies. The Housing Safety Office shall investigate any report that the Tenancy was not terminated voluntarily by the Tenant, or that the Tenant was coerced or unreasonably influenced by the Landlord to terminate the Tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the previous tenant voluntarily terminated the tenancy.

~~4~~3. *Banked Rent.* If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.

~~5~~4. *Additional Rent Board Approved Increases necessary to ensure a fair return on investment.* In addition to the above rent adjustments, upon receipt of an application submitted by the Landlord, the Rent Board may approve additional rent increases necessary to ensure a fair return on investment. ~~properly demonstrated by the Landlord, attributable to:~~

To calculate what amount is necessary to ensure a fair return on investment, the Rent Board shall employ generally acceptable Maintenance of Net Operating Income methodology, and may not consider any valuation-based or capitalization-based methodology or any calculation or methodology factoring market rent or market value of the Covered Unit.

Rent board approval under this provision is intended to ensure a fair rate of return under abnormal, unexpected, or irregular circumstances, including, but not limited to, capital improvements and minor renovations, uninsured repairs, the provision of new housing services, revaluation for property tax assessment, or other unusual expenses. The Rent Board shall presume that the Allowable Increase Percentage will be sufficient to satisfy all regular increases in operating costs, routine maintenance expenses, and other normal or regular costs or expenses, allowing the Landlord to maintain a fair return on investment.

The Landlord submitting an application for an additional rent increase bears the burden of proof, including the burden of providing all necessary documentation, to demonstrate that the increase is necessary to receive a fair return on investment. Such documentation shall include, but is not limited to: historical net operating income, revenue and expenses; the costs and expenses requiring Rent board approval of an additional increase; and what portion of shared costs and expenses can be fairly attributed to each individual covered unit.

~~a. Capital improvement costs, including financing costs;~~

~~b. Uninsured repair costs;~~

~~c. Increased housing service costs; and~~

~~d. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.~~

(c) At no time ~~Under no circumstances~~ may a Landlord raise the rent of a Covered Unit by more than ten (10) percent~~ within a Rental Year~~. Any rent increases available to a Landlord in excess of ten percent must be banked for later use~~ in a subsequent Rental Year~~.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than ~~seventy-five (75)~~ninety (90) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, the amount of the increase, any remaining Banked Rent that has not been included in the Rent increase, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article, and any notice not containing all such documentation shall be void.

(e) ~~A~~ Tenants, individually or collectively, who receive~~s~~ notice of a rent increase that they believe does not conform with this Section may file ~~an~~ complaint with the Housing Safety office. The Housing Safety office shall promptly investigate such complaint and take appropriate action. If, within fourteen (14) days of filing such a complaint, the notice is not rescinded by the Landlord, an appeal of said rent increase may be filed with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider de novo the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. ~~If such a~~An increase ~~is~~ determined by the Board to be more than is allowed by this Article shall be considered a violation~~,~~ and the Board may ~~impose such fines as are allowed by this Article~~ determine the appropriate penalty for any such violation in a manner consistent with the provisions of this Code. Multiple tenants collectively alleging the same or similar violations against a single Landlord, including but not limited to a Tenants Union or members of or participants in a Tenants Union, may file their complaints or appeals collectively as a single document, and the Rent Board shall hear all such matters together as a single complaint or appeal; but notwithstanding such consolidated hearing the Rent Board may elect to issue separate decisions.

(f) A landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section or any other provision of this Code or Maine statute.

Sec. 6-235. Process of banking rent increases.

If a Landlord chooses to not impose any rent increases to which they are entitled pursuant to Section 6-234 above, these increases may be banked, in whole or in part, with the annual registration required uder Sec. 6-151. Banked increases may be used to raise the rent of Covered Units in subsequent ~~Rental~~ ~~Y~~years in addition to ~~the~~ Rent Stabilization Allowances ~~established for that year by the Rent Board~~, subject to the limitations in Sec. 6-234, including ~~provided~~ that no single ~~the total~~ increase of such rent shall ~~not~~ exceed ten (10) percent ~~within a single Rental Year~~.

Sec. 6-235.1. Alternative calculation of maximum allowable rent.

At no time shall any Landlord charge Rent on a Covered Unit that exceeds the Base Rent plus any accrued increases allowed under this Ordinance, and any Landlord who charges Rent on a Covered Unit that is greater than such amount is in violation of this Ordinance. This section shall not be construed to retroactively revoke any allowable increases accrued under previous versions of this Ordinance.

Sec. 6-236. Termination of Tenancies~~-At-Will~~

(a) In order to be terminated by a Landlord, all tenancies~~-at-will~~ must be terminated by providing a minimum of 90 days' written notice to Tenant except as provided below:

1. "For Cause" tenancies terminable on 7 days' notice pursuant to 14 M.R.S. § 6002(1) may be terminated in accordance with Section 6002(1);

~~a~~2. Short-term rentals with a term of fewer than 30 days' are exempt from the 90-day notice period outlined herein;

~~b. Holdover tenancies are exempt from the 90 day notice period outlined herein;~~

~~c~~3. Where a Landlord provides ~~$500.00~~ the amount of one month's Rent as reimbursement to Tenant for the inconvenience of termination, tenancies~~-at-will~~ may be terminated by notice to the Tenant of sixty (60) to eighty-nine (89) days;

~~d~~4. Where a Landlord provides ~~$1000~~ the amount of two months' Rent as reimbursement to Tenant for the inconvenience of termination, tenancies~~-at-will~~ may be terminated by notice to the Tenant of thirty (30) to fifty-nine (59) days.

(~~2~~b) Reimbursement amounts outlined ~~in~~ under subsection~~s~~ (~~c~~a) ~~and (d)~~ above are lump-sum amounts payable in a single installment for the collective benefit of all tenants of a unit. Tenants are responsible for allocating the reimbursement amount among themselves.

...

Sec. 6-237. Discrimination prohibited in sale or rental of housing units.

...

(e) It shall be prohibited for a Landlord to refuse to rent or negotiate for the rental of, otherwise make unavailable or deny a dwelling to a Tenant, retaliate against, or otherwise discriminate against a Tenant because the Tenant, or a Tenants Union on behalf of the Tenant, has complained or initiated a complaint or appeal to assert the Tenant's rights or interests under this Ordinance, or because the Tenant is a member of or participates in a Tenants Union. There is a rebuttable presumption that any adverse action by the Landlord, including but not limited to forcible entry and detainer, was commenced in retaliation against the Tenant if, within 6 months prior to the commencement of the adverse action the Tenant, or a Tenants Union on behalf of the Tenant, complained or initiated a complaint or appeal to assert the Tenant's rights or interests under this Ordinance.

...

Sec. 6-240. Enforcement and remedies.

Any violation of this Article is considered a civil infraction; all such violations, including any penalty determined to be appropriate by the Rent Board, ~~and~~ shall be enforced pursuant to the Portland City Code Chapter 1, §1-15. Violations of this Article, including enforcement of penalties for all such violations, shall be given the highest enforcement priority by the City.

Sec. 6-241. Limitation of Liabilities

. . .

~~(b) Nothing in this Article shall be construed to create additional liabilities greater than those already existing under law or to create new private causes of action.~~

. . .

Sec. 6-243. Tenant Unions

(a) Any Tenants Union shall have standing as a party to assert the rights or interests of any Tenants, individually or collectively, under this Chapter in any complaint, appeal, or other proceeding brought before the Housing Safety Office, the Rent Board, or the Superior Court in an appeal from any final decision under this Chapter in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(b) The Housing Safety Office shall create a registration form, and accept the registration of Tenants Unions representing Tenants with rights and interests under this Chapter. Such registration shall include the name, telephone number, and e-mail address of a principal contact for the Tenants Union. The Housing Safety Office shall maintain and publish a list of Tenants Unions registered under this section, including contact information, for use by Tenants wishing to join or contact a Tenants Union. Nothing in this Section shall be construed to require a Tenants Union to register with the City. The City shall be prohibited from requesting, collecting, maintaining or publishing the names of individual Tenant members of any Tenants Union.

. . .

Sec. 6-250. Creation; composition.

There shall be a Rent Board of seven (7) members. Members of the Rent Board shall be residents of the city and shall not be officers or employees of the city or any of its agencies or departments.

Two (2) members shall be appointed to fill at-large seats, and may reside in any part of the city. The remaining five (5) members shall be comprised of one member from each of the five (5) city council ~~wards~~ districts with the highest concentration of Rental units. Should the ~~number or~~ location of said city council ~~wards~~districts be changed, the districts ~~and number~~ of Rent Board members shall change to mirror such changes.

. . .

Sec. 6-251. Appointment; terms.

The members of the Rent Board shall be appointed by the Mayor, subject to the approval of the City Council for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three (3) members shall expire in any calendar year.

. . .

Sec. 6-263. Jurisdiction and authority.

In addition to the jurisdiction conferred on it by other ordinances of the City and in accordance therewith, the Rent Board shall have the following jurisdiction and authority:

(a) To hear, review, and approve or deny Landlord applications for rent increases greater than the Allowable Increase Percentage, as provided for in Section 6-234 above~~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 major renovation or reconfiguration of existing Covered Units, as provided for in Section 6-233~~4~~ above;

(c) To hear, review, and grant or deny complaints or appeals from Tenants, individually or collectively, regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance, or allegations violations of Maine statute regarding the habitability of residential units; such appeals shall be heard and decided de novo;

. . .

(e) To ~~hear, review, and~~ mediate ~~decide the appropriate outcome of~~ a~~ll~~ny dispute~~s~~ arising between Landlords and Tenants ~~on matters falling within the scope of Article XII of this Chapter~~, ~~if~~where both parties request~~consent to~~ such mediation ~~and resolution~~ by submitting the landlord/tenant ~~dispute~~ mediation form, as maintained and edited by the Housing Safety Office, signed by both Landlord and Tenant ~~no later than fourteen (14) days before the date on which such a hearing shall be scheduled~~; all parties to such mediation must agree and shall be required to mediate in good faith; such authority to mediate disputes shall not be construed to limit the Rent Board's authority to hear, review or decide any tenant complaint or appeal without the consent of the Landlord; the Board may appoint one or more of its members, in lieu of the full Board, to mediate disputes on a rotating basis, and such mediation may be conducted outside of a public hearing, and a quorum of the Rent Board shall not be required for such mediation;

(f) To ~~impose such fines as are necessary and allowed~~ determine, in a manner consistent with the provisions of this Code, what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance that are determined by the Board;

...

(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~~ district. Such reporting may or may not be done in conjunction with similar reporting required of the City's Rental Housing Advisory Committee, as established by this Chapter; ~~and~~

(i) To adopt or amend, subject to approval by the City Council, such rules and regulations as are necessary to implement, or to allow for the efficient and consistent application of, the provisions of the Rent Stabilization Ordinance, including but not limited to rules and regulations governing the proceedings of the Rent Board's hearing of Landlord applications or of Tenant complaints or appeals and rules and regulations providing standard procedures and methodology for calculating the amount of rent necessary to allow the Maintenance of Net Operating Income and yield a Fair Return on Investment under various circumstances; the Board may adopt, subject to approval by the City Council, rules and regulations, including methodology, allowing the Housing Safety Office or a hearing officer to review Landlord applications and to complete standard calculations in order to provide for or facilitate an expeditious process and efficient consideration by the Rent Board; Rules and Regulations adopted pursuant to this authority, and any amendments thereto, shall become effective only when approved by the City Council, and shall be kept on file in the Housing Safety Office;

(~~i~~j) To initiate changes and amendments to ~~this Article, as well as to~~ the city's Rent Stabilization Ordinance.

2. That Chapter 14, Section 14-18.4.5 of the Portland City Code is hereby amended to read as follows:

Sec. 14-18.4.5 Conversion permit

Before conveying or offering to convey a converted unit, the developer shall obtain a conversion permit from the Building Authority. The permit shall issue only upon receipt of a completed application therefore in a form to be devised for that purpose, a fee ~~as established by the City Council~~ of $25,000 per converted unit, to be adjusted annually in the same way as the fee under Chapter 14, Subsection 18.1.8 of this Code, at least $1,000 of which shall be appropriated to the Housing Safety Office for the administration and enforcement of the Rent Stabilization Ordinance, Chapter 6, Articles XII and XIII of this Code, and the remainder of which shall be paid into the Jill C. Duson Housing Trust Fund, and a finding, upon inspection, that each unit, together with any common areas and facilities appurtenant thereto, is in full compliance with all applicable provisions of Chapter 6, Articles II, III, and V and Chapter 10, Article II of the City of Portland Code of Ordinances, and the Life Safety Code as adopted by the state. The developer shall post a copy of the permit in a conspicuous place in each unit and shall make copies available to prospective purchasers.

3. That, except as specified herein below, all such amendments shall take effect thirty (30) calendar days after the official canvass of the return of the election at which this ordinance is approved, provided that:

(a) Notwithstanding any notice given prior to such effective date, all rent increases taking effect on or after January 1, 2023 must comply with the amendments to sections 6-223 and 6-234(d), such that any tenant charged such rent increase must receive at least 90 days notice, and such notice must include all newly required information, before any such increase may be implemented;

(b) Notwithstanding any Tax Rate Rent Adjustment announced by the Housing Safety Office prior to such effective date or any notice given prior to such effective date, all rent increases taking effect on or after January 1, 2023 must comply with the amendments to Sections 6-232 and 6-234 repealing the Tax Rate Rent Adjustment, such that no Tax Rate Rent Adjustment may be included in any rent increase taking effect on or after such date;

(c) Amendments to Sections 6-232 and 6-234(a) changing the calculation of the Allowable Increase Percentage shall take effect for the Allowable Increase Percentage established and published by the Housing Safety Office on or before September 1, 2023, applicable to all rent increases taking effect on or after January 1, 2024; and

(d) Amendments to Sections 6-232 and 6-234(b) changing the requirements for Additional Rent Board Approved Increases shall be applicable for all landlord applications submitted to the Rent Board on or after March 1, 2023. For all landlord applications submitted prior to March 1, 2023, the Rent Board may continue to apply the previous version of this ordinance and to approve increases allowable pursuant to such previous version.

Chapter 6 BUILDINGS AND BUILDING REGULATIONS*

***Cross reference(s)--**Alarm systems, Ch. 2.5; fire prevention and protection, Ch. 10; land use, Ch. 14; rodent and vermin control, Ch. 22; sewers, Ch. 24; streets, sidewalks and other public places, Ch. 25; moving of structures, § 25-191 et seq.; swimming pools, Ch. 26.

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ARTICLE VI. RESIDENTIAL RENTAL UNIT REGISTRATION REQUIREMENTS

Sec. 6-150. Purpose.

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of residential long term rental properties, sometimes managed through unresponsive property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. Non-owner occupied short term rental units may remove housing units from the long term rental market and may contribute to the increase in the cost of rental housing in the City.

This article is intended to require the disclosure of the ownership of such property, and to regulate the renting of property within the City, and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises, to ensure that housing units remain available for rent to those who reside or seek to reside within the City, to ensure that residential areas are not unduly impacted by the operation of short term rentals, and to ensure that booking services, owners, and tenants comply with chapters 6 and 10 of the City Code.
(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. 298-14/15, 7-6-2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-150.1. Definitions.

The definitions in 6-106 apply to this Article. The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Accessory Dwelling Unit shall have the same meaning as it has in Chapter 14 of the City Code.
~~Island Short Term Rental shall mean a short term rental located on one of the following islands in the City of Portland: Peaks Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island, and/or Cliff Island.~~

Booking Service shall mean a business entity or individual persons who, directly or indirectly:
1. Provides one or more online, computer or application-based platforms that individually or collectively can be used to (i) list or advertise offers for short-term rentals, and (ii) either accept such offers, or reserve or pay for such rentals; and
2. Charges, collects or receives a fee for the use of such a platform or for provision of any service in connection with a short-term rental.

A booking service shall not be construed to include a platform that solely lists or advertises offers for short-term rentals.

Long Term Rental shall mean the letting of a rental unit in whole or in part for thirty (30) days or more.

Mainland Short Term Rental shall mean a short term rental located within the limits of the City of Portland, but not on Peaks

Island, Long Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island and/or Cliff Island.

Multi-Unit shall mean a single, detached building in common ownership interest containing more than one (1) residential or commercial unit, as determined by the Director of the Permitting and Inspections Department.

Non-Owner Occupied shall mean a rental unit that is not occupied by the registrant of the unit as their primary residence.

Outer Island shall mean Great Diamond Island, Cushing Island, Little Diamond Island, House Island, or Cliff Island.

Owner-Occupied shall mean a rental unit owned and occupied by the registrant as ~~his or her~~their primary residence. A short term rental unit in an owner-occupied multi-unit building, where the unit is not the primary residence of the owner, shall be counted as a non-owner occupied unit. Accessory dwelling units~~ as defined in Chapter 14 of this Code,~~ are not considered owner-occupied units for purposes of short term rental registration and regulation.

Owner shall mean each individual person or entity including, without limitation, all partners, officers, or trustees of any real estate trust; all members or managers of a limited liability company; and all officers and directors of a corporation; that is the record owner of a building or property.

Primary Residence shall mean the dwelling in which a person resides as his or her legal residence for more than one half of a year and registers as his or her address for tax and government identification purposes.

Registrant shall mean the owner of a rental unit, or a tenant, with permission from the owner, seeking to register a rental unit.

Rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. Any portion of a Single-Family Home, Condominium, or Apartment that is rented or available to be rented to an individual or individuals who are not the owner or owners shall be considered a *rental unit*. *Dwelling units* and *rooming units* as defined in §6-106 are, without limitation, *rental units*. A Single-Family Home, Condominium, or Apartment that is occupied by the owner or owners, and of which no portion is rented or available for rent, is not a *rental unit*.

Seasonal rental unit means a rental unit in a property identified as a seasonal property by the City's Assessor.

Short Term Rental is the letting of a rental unit, in whole or in part, for less than thirty (30) days.

Single Family Home shall mean a detached residential dwelling or a single condominium unit containing one dwelling unit.

Tenant-Occupied shall mean a rental unit in which the registrant is not the record owner of the rental unit, but lawfully occupies the rental unit as his or her primary residence.
(Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-151. Registration required.

(a) *Registration of Ownership.*

1. Rental units must be registered in accordance with this article by January 1st of each year; Rental units entering the rental housing market must be registered within fourteen days. Registration must be renewed annually, on or before January 1st, including updating all changes in previously submitted registration information.

2. If a rental unit is rented as both a short term and long term rental, it must be separately registered for each type of rental.

3. Each owner, manager, and person/entity otherwise responsible for the rental unit, such as a property manager, shall be obligated under this article. Any new owner, manager, or responsible person/entity must apply to register within thirty (30) days of purchase of the rental unit or transfer of management or responsibility. New owners or tenants applying to register an existing short term rental unit are considered new applicants and shall be subject to all limitations and regulations in effect at the time of the application.

4. A rental unit shall not be considered registered until all information and fees are provided to the satisfaction of the City's Permitting and Inspections Department or

its designee.

5. As a condition of registration, all owners must allow onsite inspections of their property including, without limitation, all rental units.

(b) *Information/Documentation Required.* Registration must be completed on forms supplied by the City's Permitting and Inspections Department or their designee and must provide, at a minimum, the following information:

1. The street address of the building;

2. The unit number of the rental unit;

3. The tax assessor's chart, block and lot of the property on which the building is located;

4. The owner of the property, including the owners' name, address, telephone number, and email address. If the owner is anything other than a natural person, the following information must also be included:

    a. The name of each individual person that has an ownership interest in any entity that is the record owner. This includes, without limitation, all partners, officers, or trustees of any real estate trusts; any members or managers of a limited liability company; and all officers and directors of a corporation; and

    b. The residential street address, e-mail address and home phone number of at least one (1) such individual person;

5. The manager of the property or the person or persons responsible for its regular maintenance or repair, as well as a name, address, telephone number, and email address for that person or entity; and

6. The person designated as the agent of the owner or owners for the service of notices and civil process by the city, as well as their name, address, telephone number, and e-mail address. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or owners.

(c) *Additional Information Required for Short Term Rentals.* A short term rental shall not be considered registered unless and until the registrant has submitted a complete application together with all information required by this article, paid the fee required by Sec. 6-152, and a registration number has been issued.

In addition to the information required in Section 6-151(b), a Short Term Rental registrant must provide at a minimum the following information and any other information requested by the City's Permitting and Inspections Department or their designee:

1. A short term rental application;

2. Whether the rental unit is owner-occupied, tenant-occupied, or non-owner occupied;

   a. For Short Term Rental units that are owner-occupied, the owner must provide a notarized primary residence affidavit, on forms provided by the City. The owner must also produce for review ~~one of~~ the following ~~demonstrating residency at the owner-occupied unit~~:

      i. Valid driver's license, ~~or~~ other state-issued identification, or passport; and

      ~~II. Valid motor vehicle registration;~~

      ii~~i~~. Proof of homestead exemption verified through the City Assessor's records~~; or~~.

      ~~iv. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.~~

   b. For Short Term Rental units that are tenant-occupied, the tenant must provide a notarized primary residence affidavit, and a notarized statement of permission by his/her landlord, both on forms supplied by the City. The tenant must also produce for review one of the following demonstrating residency at the tenant-occupied unit:

      i. Valid driver's license, ~~or~~ other state-issued identification, or passport;

ii. Valid motor vehicle registration; or

iii. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.

3. For Peaks Island short term rentals, whether the unit is seasonal or year-round.

~~3.~~4. The address and tax assessor's chart, block, and lot number of all other short term rentals in the City in which the registrant has an ownership interest;

~~4.~~5. For short term rental units that are within a condominium or other homeowner's association, an attestation by an authorized representative of the association that use of the unit as a short term rental is allowed under the ~~relevant~~ association's governing documents and a copy of those documents; and

5. If the application is for renewal, the number of nights the unit was rented on a short-term basis and the number of nights the unit was rented on a long-term basis in the previous reporting year. For purposes of reporting this information, November 1 through October 31 is the reporting period for a renewal of January 1.

(d) *Display of Short Term Rental Registration Number Required.* Once registration is approved by the City, each short term rental shall be given a registration number, which shall be published to the City's website along with the address of the rental unit, and mus~~e~~t~~h~~ be displayed in the rental unit and in any and all advertisements for the rental unit. All booking services shall include a short term rental's registration number in all advertisements or listings for a short term rental before accepting any charges or collecting or receiving any fees in connection with a short-term rental.

(e) Upon request by the City, at any time, all owners, registrants, ~~and/or~~ agents, and booking services of short term rental units must provide the City with their registration information, rental history, and upcoming reservation information. Failure of short term rental unit owners, registrants~~tenants~~, booking services and/or their representatives to adequately respond to inquiries by the City within a forty-eight (48) hour period shall be considered a violation under this ordinance.

(f) *Additional Information Required for Covered Units*. A Covered Unit, as defined by Section 6-232 of this Chapter, shall not be considered registered unless and until the registrant has submitted the following additional information:

1. The current rent charged at the time of registration;

2. The increase in rent (if any) when compared to the previous registration;

3. Whether the increase (if any) is attributable to: (1) the Allowable Increase Percentage and Tax Rate Rent Adjustment, as defined in Section 6-232; or (2) also includes Banked Rent, as defined in Section 6-232;

4. The amount of Banked Rent, if any, accumulated since the previous registration;

5. The amount of security deposits or other payments demanded in addition to rent for each Covered Unit; and

6. The number of bedrooms, number of bathrooms, and the presence or absence of a kitchen from each Covered Unit.

The provisions of this subsection (f)do not apply to short term rental units.

(g) *Registration data made available*. The City's Permitting and Inspections Department or its designee is required to make anonymized data from the registration of Covered Units available to the Rent Board at the Board's request. Such data shall not include the names, or street and unit numbers of any reported units.
(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. No. 246-97, 4-9-97; Ord. 298-14/15, 7-6-2015; Ord. 69-15/16, 10/5/2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018; By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-152. Registration Fees.

(a) *Annual Registration Fee*. Upon initial registration and by January 1st of each year, registrants shall pay the City a registration fee for each rental unit, in the amounts set forth below. A rental unit shall not be considered registered unless and until this fee is paid in full.

(b) *Long Term Rental Registration Fee.* The registrant of a long term rental shall pay fifty dollars ($50.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars ($30) from each registration fee shall be appropriated to Housing Safety Office to cover the administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

(c) *Short Term Rental Registration Fee Structure*. The registrant of a short term rental shall pay the fee specified in the chart below. All fees will be cumulative and will increase based on the number of total units registered by the owner. The fee total will accumulate first by counting any owner occupied, tenant occupied, and/or island rentals first, and then fees will be attributed at the higher rate for any non-owner occupied mainland units.

Owners and tenants may register more than one owner occupied or tenant occupied unit (bedrooms, separate spaces, etc.) within their primary residence.

Owner Occupied Short Term Units, ~~, ,~~ Seasonal Short Term Units, Tenant Occupied Short Term Units~~,~~ Peaks Island Short Term Units, ~~and~~ Outer Island Short Term Units ~~Short Term Rentals~~	1st Unit - $100 2nd Unit - $250 3rd Unit - $500 4th Unit - $1,000 5th Unit - $2,000
Non-Owner Occupied Short Term ~~Mainland~~ Units~~,~~	1st Unit - $200 2nd Unit - $500 3rd Unit - $1,000 4th Unit - $2,000 5th Unit - $4,000

(d) *Registration and Renewal Fee Discounts.* The following discounts shall apply to the registration and renewal fees:

1. $10 discount for each rental unit within a fully-sprinkled building as verified by a testing report,

maintenance report or a maintenance contract, which shall be provided at the time of registration and upon each registration renewal;

2. $7.50 discount for each rental unit within a building with a centrally-monitored fire alarm as verified by Fire Department logs or an alarm contract, which shall be provided at the time of registration and upon each registration renewal;

3. $5.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Housing Quality Standard (HQS) inspection within the preceding year as verified by the HQS inspection report, which shall be provided at the time of registration and upon each registration renewal;

4. $10.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Uniform Physical Condition Standard (UPCS) inspection within the preceding year as verified by the UPCS inspection report, which shall be provided at the time of registration and upon each registration renewal;

5. $2.50 for a rental unit that is subject to a signed lease which prohibits smoking by tenants as verified by a copy of the current lease, which shall be provided at the time of registration and upon each registration renewal. The existence of and enforcement of this provision may be verified through an inspections of each rental unit.

The total amount of discounts from the annual registration or renewal fee as described above shall not exceed $20.00 per unit.

(e) Registrations that are not received by January 15, or within 14 days after entering the rental housing market, whichever is later, shall be subject to a late fee of $50 per unit, and registrations that are not received by February 15, or within 45 days after entering the rental housing market, whichever is later, shall be subject to a late fee of $200 per unit. Registrations shall not be renewed unless and until the registrant pays any applicable late fee. Incomplete or inaccurate registrations may be rejected and subject to all applicable late fees upon resubmission. The Permitting and Inspections Director may waive a late fee upon a showing of both hardship and good cause as to why the renewal was not timely.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. 298-14/15, 7-6-2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018; Ord. No. 244-18/19, 5-30-2019; By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-153. Limitations on Short Term Rental Units.

(a) *Occupancy Limit*. Overnight short term rental guest occupancy in each rental unit will be limited to two (2) guests per bedroom plus no more than two (2) additional guests.

(b) *Limitation on Total Number of non-owner occupied mainland Short Term Rentals*. ~~—~~For calendar year 2025, n~~N~~o more than 400 non-owner occupied mainland short term rental units shall be registered~~ in any one calendar year~~. Beginning in 2026 and for each year thereafter, non-owner occupied mainland short term rental units shall be limited to no more than 2% of the total number of registered long-term rental units in the prior year. This limit shall be set annually on September 1 beginning in 2025. Notwithstanding the 2% limit set forth above, all non-owner occupied mainland short term rental units that are validly registered as of December 31, 2025 will be permitted to continue to register those units in 2026 and subsequent years, subject to the terms of this Article, even if the number of such units exceeds the 2% limit. Mainland accessory dwelling units that are registered as non-owner occupied short term rentals and that were constructed and received a certificate of occupancy within 5 years before the registration date are excluded from the 2% limit set forth in this paragraph.

~~(c)~~

(c) Accessory dwelling units and mainland short term rental units in~~ an~~ owner-occupied multi-units~~,~~ where the units ~~is~~ are not the primary residence of the owner, shall be counted as ~~a~~ non-owner occupied units.

(d) *Limitation on Total Number of Peaks Island Short Term Rentals*. Beginning in 2026 no more than forty (40) non-owner occupied Peaks Island short term rentals will be allowed in any calendar year. There is no limit on the total number of Peaks Island short term seasonal rental units. There is no limit on the total number of owner-occupied Peaks Island short term rental units. Only one short term rental unit is permitted in any single family home or multi-unit property, except that no short term rentals will be allowed in buildings with three or more dwelling units.

(e) *Limitation on Tenant-Occupied Short Term Rentals.* For the calendar year beginning January 1, 2026, no new tenant-occupied short term rental units will be allowed. Only tenants who have a validly registered tenant-occupied short term rental unit as of December 31, 2025 will be allowed to continue to register those units in 2026 and subsequent years, subject to the provisions of this Article.

(e~~e~~) *Limitations on number of Short Term Rentals an Individual or Entity May Register.* An individual or entity may only register up to five 5) short term rental units in the City~~, including owner occupied, non-owner occupied, and~~ Peaks ~~i~~Island~~, and Outer Island short term rental units,~~ in any one (1) calendar year. For purposes of this section, short term rental units registered by an entity in which the registrant has an ownership interest shall be counted towards this limit.

(f) ~~(d)~~ No individual or entity may register a short term rental in any single family home unless it is owner-occupied; tenant-occupied with permission of the owner; or located on~~ a~~ Peaks~~n~~ Island~~,~~ or on an Outer Island. ~~.~~

~~(d)~~(g) ~~(e)~~ The number of short term rental units that may be operated in a multi-unit building on the mainland are as follows:

Total # of Units in a Building	# of Short Term Rental Units Allowed in a Building		
	~~Owner Occupied~~	~~Non-Owner Occupied~~	Total
2	~~1~~	~~1~~	1
3	~~2~~	~~2~~	1
4	~~3~~	~~2~~	2

5	~~4~~	~~2~~	2
6-9	~~5~~	~~4~~	3
10+	~~5~~	~~5~~	5

~~1. Tenant-occupied units, where the tenant is the registrant, shall be counted towards these limits.~~

~~2. Owner-occupied units shall be counted towards these limits.~~

(f) Notwithstanding the requirements of subsections (c) and (e), owners may register up to five (5) owner-occupied units (bedrooms, separate spaces, etc.) within their primary residence.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. 298-14/15, 7-6-2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-154. Allocation of Short Term Rentals.

(a) Non-owner occupied mainland short term rental units, which are limited by section 6-153(b), shall be allocated on a first come, first registered basis.

~~(a)~~ (b) Once the total number of units identified in section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand.

~~(b)~~ (c) Notwithstanding the limitations in section 6-153, current registrations of short term rentals may be renewed each year upon application and payment of the registration fee, so long as the renewal is complete by January 1 of that year.

~~1.~~ Failure to renew by January 1 shall result in the forfeiture of the right to renew the registration, and any subsequent application shall be treated as a new application for registration.

~~2. The renewal date for 2019 only shall be February 1, 2019.~~

(c) No registration under this Article shall be transferrable or assignable.
(Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-155. Violations.

Specific violations of this article, subject to the provisions of section 6-1, include, but are not limited to:

(a) Any person, business entity, or other organization failing to timely register a rental unit, including providing all required information and paying the required registration fee;

(b) Any person, business entity, or other organization failing to timely file any required update to the registration;

(c) Any person, business entity, booking service or other organization failing to acquire and~~/or~~ display the required short term rental registration number;

(d) Any person, business entity, booking service, or other organization providing false information with respect to registration. Notwithstanding the provisions of § 6-1, the penalty for such violation shall be $1,000.00;

(e) Any person, business entity, or other organization renting any rental unit that is not registered under this article, or to permitting the occupancy of such premises without registration;

(f) Failure of short term rental unit owners, tenants, registrants, or booking services ~~, and/or their representatives~~ to adequately respond to inquiries by the City pursuant to 6-152(e) within a forty-eight (48) hour period;
(Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-156. Enforcement.

(a) The building authority as defined in section 6-1 or his or her designee is authorized to institute or cause to be instituted by and through the office of the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

(b) No certificate of occupancy shall be issued for property that is subject to the registration requirements of this article, but is not registered in accordance with this article.

(c) Any short term rental at a property that is designated by the City as a disorderly house and fails to remedy the disorderly house as required by section 6-202, shall, at the discretion of the City Manager or his or her designee, have its registration revoked and be ineligible for registration for a period of twelve (12) months. Any registration after revocation shall be considered a new registration and not a renewal. Upon the second designation of the short term rental property as a disorderly house, the City shall, at the discretion of the City Manager or his or her designee, prohibit the registered owner from operating the property as a short term rental or post the property against occupancy pursuant to section 6-201.

(d) Fines may be attributed to Property Management firms found operating short term rental units in violation of this article. These fines may be in addition to fines levied against owners of property.

(e) Violations of the provisions of this article shall be grounds to deny an application or renewal application for a short term rental registration.
(Ord. 179-16/17, 3-27-2017; Ord. No. 29-17/18, 9-18-2017; Order 99-18/19, 11-19-2018)

Sec. 6-157. Revenue Allocation.

Notwithstanding section 6-1(b), all revenue generated from short term rental registration fees and penalties shall be used to first fund short term rental related administrative costs. Any remaining revenue shall be deposited in the Housing Trust Fund, as defined in Section 14-489.
(Ord. 179-16/17, 3-27-2017)

Sec. 6-158. Reserved.
Sec. 6-159. Reserved.
Sec. 6-160. Reserved.
Sec. 6-161. Reserved.
Sec. 6-162. Reserved.
Sec. 6-163. Reserved.
Sec. 6-164. Reserved.

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Sec. 6-236. Termination of Tenancies.

(a) In order to be terminated by a Landlord, all tenancies must be terminated by providing a minimum of 90 days' written notice to Tenant except as provided below:

1. "For Cause" tenancies terminable on 7 days' notice pursuant to 14 M.R.S. § 6002(1) may be terminated in accordance with Section 6002(1);

2. Short-term rentals with a term of fewer than 30 days' are exempt from the 90-day notice period outlined herein;

3. Where a Landlord provides the amount of one month's rent as reimbursement to Tenant for the inconvenience of termination, tenancies may be terminated by notice to the Tenant of sixty (60) to eighty-nine (89) days;

4. Where a Landlord provides the amount of two months' rent as reimbursement to Tenant for the inconvenience of termination, tenancies may be terminated by notice to the Tenant of thirty (30) to fifty-nine (59) days.

(b) Reimbursement amounts outlined under subsections (a) above are lump-sum amounts payable in a single installment for the collective benefit of all tenants of a unit. Tenants are responsible for allocating the reimbursement amount among themselves.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

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

To: **Pious Ali, Chair and members of the HEDC**
From: Kate Sykes, Councilor
Date: June 28, 2024
Re: Second Draft Short Term Rental Ordinance Amendments

Councilors,

Thank you for your comments and questions at last week's meeting. A second discussion, with public comment and vote on proposed changes to our Short Term Rental ordinance is scheduled for July 2, 2024.

I submit this revised second draft for deliberation by the Housing and Economic Development Committee, recommendation to the Council, and placement on the ballot for the November 2024 election.

A summary of the revised proposed changes, background and supporting data follows.

STR Ordinance Amendment Goals and Summary of Changes

Background:

Portland faces a severe housing affordability crisis. We have approximately 19,000 registered long-term rental units in the City and the rental vacancy rate is around 2.5% according to the most recent US Census Bureau's American Community Survey. It's estimated that 70% of Portland residents are rent burdened. It is further estimated that we are 9,000 units of housing short of what we need to adequately house our workforce.

Our parks, schools, libraries, tax base, and local workforce all depend on the availability of affordable long-term housing. Short term rentals take hundreds of units of housing away from Portland's already low housing stock and can undermine the residential character of neighborhoods and buildings. Under our current ordinance, the Islands bear a disproportionate number of Short Term Rental Licenses relative to the mainland communities. Many of the homes on the islands are seasonal, leaving few housing options for year-round residents and workers. The Peaks Island school, businesses and labor markets are particularly vulnerable to disruption when long-term housing stock is lost to vacation rentals.

Policy Goals:

- Restore and/or preserve Portland's existing long-term housing stock
- Give law-abiding citizens the option use their primary residence as a short term rental
- Limit the number of non-owner occupied short-term rentals, in proportion to the amount of rental housing stock/vacancy rate
- Ensure that speculators do not buy up single family homes, including condominiums, to turn them into pseudo hotels
- Prevent rental arbitrage from eroding long term rental housing stock
- Protect the year-round community, labor force, and economy on Peaks Island by preserving their existing year-round housing stock
- Prevent the disruption of the residential character of neighborhoods and buildings
- Leverage legal precedent that has been set by other communities in requiring booking services to verify registration with the City before charging for services
- Decrease the threat or harm to public health, safety, or general welfare that results from unlawful vacation rentals
- Provide greater public transparency into Short Term rental registrations
- Create a clear public complaint process that aids enforcement

Summary of Substantive Amendments:

Sec. 6-150.1. Definitions.

Adds definitions for Accessory Dwelling Units, Booking Service, Non-Owner Occupied, Outer Island, and Seasonal rental unit

Revises definition of Owner Occupied unit to meet new registration standards and clarifies that an owner must live in the unit (not just the building) to qualify for owner occupancy.

Sec. 6-151. Registration required.

Requires proof of Homestead Exemption (as documented through the City Tax Assessor's office) and a photo ID to qualify for an owner-occupied license.

Removes discretionary use of other qualifying documents for owner occupancy

Requires Peaks Island short term rental registrants to provide information about whether the unit is season or year round

Require hosts of units in a condominium or other homeowners association to provide an attestation by an authorized representative of the association that short term rentals are allowed

Requires the City to list all registered short term rentals and their addresses on the City Website

Requires Booking Services to list the registration number of a short term rental in all advertisements/listings before collecting fees or charging for services

Requires Booking Services to provide information to the City upon request and in a timely manner. Removes tenants from this requirement.

Removes short term rentals from the registration requirements of rent controlled long-term rentals (an unintended consequence of the rent control ordinance).

Sec. 6-152. Registration Fees.

Adds seasonal Peaks Island Units, and Outer Island Units into the fee schedule for Owner-Occupied units.

Removes Mainland qualifier from the fee schedule for Non Owner-Occupied units

Sec. 6-153. Limitations on Short Term Rental Units.

Keeps current cap on mainland Non-Owner Occupied registrations the same for 2025.

Beginning in 2026, limits the number of Non-Owner Occupied mainland short term rentals to no more than 2% of the total number of registered long-term rental units on the mainland in the prior year. To be determined annually on September 1.

Exempts current license holders from this cap going forward provided they comply with the terms of the article.

Exempts Accessory Dwelling Units constructed within 5 years of the date registered as a non-owner occupied short term rental from this cap

Adds that Accessory Dwelling Units where the unit is not the primary residence of the owner are not considered owner-occupied

Limits non-owner occupied Peaks Island short term rentals to no more than 40 registered units in any one calendar year, provided those properties are year-round residences.

Established that there shall be no limits on owner-occupied Peaks Island short term rentals, or Peaks Island seasonal properties.

Limits Peaks Island short term rentals to 1 per single family home.

Establishes a ban on Peaks Island short term rentals in multi-unit properties of 4 or more units

Exempts Peaks Island short term rentals from the Mainland band on short term rentals in single family homes and condominiums.

Limits the total number of Mainland short term rental units that may be operated in a multi-unit building to no more than half the total units in the building, up to 5 units maximum.

FAQ and Data

What is a short term rental?

Portland's current ordinance defines a short term rental as a housing unit rented for less than thirty days. Anything rented for 30 days or more is a long term rental and subject to rent control.

How do we currently enforce our short term rental ordinance?

The City contracts with a company called Host Compliance to monitor our Short Term Rentals online. They search the web for unregistered units in the City. The Permitting and Inspections office starts the enforcement process in April of each year. Over the years they have received comments that there are hundreds of non-compliant units in Portland. They investigate all complaints received, or that Host Compliance uncovers.

How many violations of the short term rental ordinance have we found?

2021 - 47 violations
2022 - 80 violations
2023 - 185 violations
2024 - 74 violations

Do short term rentals take housing off the market?

Portland currently bans mainland non-owner occupied short term rentals in *single family homes* and *condominiums* in order to prevent speculators from buying up properties and turning them into pseudo hotels.

Non-owner occupied short term rental licenses for apartments are capped at 400. This represents more than 2% of the total number of long term rentals in the City.

How many long term rentals do we have in Portland?

The City currently has 19,328 long term rentals registered

2% of 19328 = 387
1.5% 19328 = 290
1% of 19328 = 193

What is Portland's vacancy rate?

According to Maine State Housing,, which publishes housing statistics for Portland on its website, we currently have a 2.2% vacancy rate. A healthy vacancy rate is considered to be about 5%.

How many short term rentals registrations do we have right now?

Total = 857
Non Owner Occupied = 400
Owner Occupied = 301
Tenant Occupied = 34
Total Island Rentals (including Peaks) = 122
Peaks Island = 98

How hard is it to get a license for a non owner occupied short term rental?

The permitting and inspections office maintains a waitlist. Every year, 20-30 licenses turn over. As of March 20, 2024, *31 units had been taken off the waitlist* and issued a Non Owner Occupied License. There are currently 6*9 units on the waitlist.* Some of the reasons licenses open up are: change of ownership; conversion to a long term rental; no longer a short term rental; failure to register by the deadline.

What does the short term rental market look like on Peaks Island?

At least 58% are year-round properties. 49% have out-of-state owners. 65% have been purchased in the last 10 years. 31% have been purchased in the last 5 years.

Comparatively, there are only 22 registered long term rentals on Peaks, many of which are rented monthly in the winter and rented weekly in the summer and shoulder season.

How many hosts have more than 1 short term rental license?

666 hosts have only 1 unit registered.
127 hosts have 2 units registered
38 hosts have 3 units registered
20 hosts have 4 units registered
6 hosts have 5 units registered

How many properties have more than 1 short term rental in them?

5 short term rentals - 0 properties
4 short term rentals - 7 properties
3 short term rentals - 17 properties
2 short term rentals - 118 properties

City of Portland | Executive Department
Dena Libner, *Assistant City Manager*

Staff Memo To:
Housing & Economic Development Committee
Councilor Pious Ali, Chair

DATE
July 2, 2024

AGENDA ITEM
Agenda Item #3 - Proposed Amendments to the Short Term Rental Ordinance

PURPOSE
This memo is intended to share staff feedback related to the administration of the proposed changes to the short term rental (STR) ordinance.

COMMITTEE WORK PLAN ALIGNMENT
The Committee's 2024 work plan includes an evaluation of the current short term rental ordinance.

BACKGROUND/ANALYSIS
After reviewing the proposals, staff request that the Committee consider several changes that may improve administrative efficiency:

- **Sec. 6-153(b):** Require the 2% limit on STR licenses be established every five (5) years, rather than annually.

- **Sec. 6-152(e):** Currently, a $50 late fee is assessed for applications submitted after January 15. A $200 late fee is assessed for applications submitted after February 15. We recommend simplifying the late fee structure by eliminating one of the late fees (and associated deadline).

We believe these changes could prevent new administrative complexity without sacrificing policy goals (as described in Councilor Sykes' June 7, 2024 memo). Reducing administrative complexity will help facilitate initial and ongoing implementation, as well as improve stakeholder's understanding of and adherence to new regulations.

Thank you for your consideration.

FISCAL IMPACT
After a review of the proposed changes, staff determined that they would not result in a meaningful increase to the cost of the program's implementation.

CONCLUSIONS(S)
N/A

PRIOR COMMITTEE REVIEW

- June 25, 2024: Committee's conceptual discussion of the proposed policy changes.

PREPARED BY

Dena Libner
Assistant City Manager
Executive Department

ATTACHMENTS
N/A