



TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Victoria Volent, Housing Program Manager

DATED: February 23, 2018

SUBJECT: Overview of the Housing Trust Fund

Background

The City of Portland's Housing Trust Fund is established by Section 14-489 of the City's Code of Ordinances. The supports the promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City. Grants or loans are made to fund the acquisition, construction, and substantial rehabilitation of rental, cooperative, and home ownership housing that is restricted to ensure long-term affordability. The Housing Trust Fund is a much more flexible financial tool than other sources of funding available to the City. While the city has resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. Revenue for the Housing Trust Fund is generated from fees triggered by the City's Housing Preservation and Replacement Ordinance, and fee-in-lieu contributions from the Inclusionary Zoning Ordinance. Each fiscal year, the City Council adopts the Housing Trust Fund annual plan which describes proposed programs, funding levels, and benefitted households. The Housing Committee conducts a public hearing on the use of the funds and refers recommendations to the City Council for action. The 2017 Housing Trust Fund Annual Plan is attached for reference purposes.

Housing Trust Fund Priorities

Priorities for the expenditure of Housing Trust funds collected pursuant to the Housing Replacement Ordinance are given to the creation of new housing stock. Priorities for the expenditure of funds collected pursuant to the Inclusionary Zoning Ordinance are not specified in Section 14-489 (Housing Trust Fund). Some communities that prioritize funding requests adopt a ranking system based on a pre-established set of criteria. The Center for Community Change; the Housing Trust Fund Project issued a report titled *Opening Doors to Homes for All. The 2016 Housing Trust Fund Survey Report* (HTFSR) which noted surveyed cities that prioritize via ranking gave more points for the following projects (from highest priority to lowest priority):

lowest incomes; leverage funds; homeless; disabled persons; specific neighborhood preservation/rehab; elderly; distressed communities; developed by nonprofits; energy efficiency; weatherization/upgrades; renewable energy; water efficiency upgrades. Other communities do not prioritize but instead set aside a portion of the trust fund revenue for specific activities. Set aside of funds were given to projects targeting: 50% AMI; 30% AMI; 80% AMI; 60% AMI; 100% AMI, and projects for: homeless services and housing; permanent supportive housing; first time homebuyers; preservation of rental housing rental assistance; persons with disabilities; and energy efficiency upgrades. A third method is the “first come, first serve” in which projects are considered for funding in the order in which they are received.

Eligible Activities

Activities eligible for funding from the Housing Trust Fund are those that promote, retain, and create an adequate supply of housing, particularly affordable housing for all economic groups, and to limit the net loss of housing units in the city. This broad language allows a fluid interpretation of the ordinance to support a full variety of housing proposals that satisfy the appropriate conditions.

Some communities have retained this degree of flexibility in their ordinance while also providing a list of eligible activities. For example, listed eligible activities may include: new construction of affordable housing; preservation/rehabilitation of existing multi-family housing; housing for elderly; or permanent homeless housing. Other communities provide a list of preferred projects such as: Housing First; Rapid Rehousing; projects that leverage additional resources; or gap financing.

As currently written, Portland’s Housing Trust Fund Ordinance provides the flexibility necessary to adapt to opportunities where other sources do not work or are not effective.

Eligible Applicants

The Housing Trust Fund Ordinance does not describe eligible applicants but does identify ineligible applicants. The option is available to define the term “eligible applicants”. If inclined, a definition may include for-profit businesses, local government entities, housing authorities, nonprofit agencies, community action agencies, nonprofit corporations, and private individuals or corporations.

Financing

Form of Awards

Housing trust funds provide funding in a variety of forms including no-interest loans, below-market loans, forgivable loans, and grants. Some housing trust funds restrict financing to nonprofit developers. Others provide loans to private developers while making grants available to nonprofit developers. And others only offer grants to help reduce homelessness. Portland’s

Housing Trust Fund Ordinance disburses funds “as grants or loans” (without further interpretation).

Maximum Award Amount

The level of funding from housing trust funds is usually the minimum amount necessary to achieve the desired degree of affordability, on a case-by-case basis, and subject to funding availability. Portland’s Housing Trust Fund allows distributions in an amount “as the city council in its discretion has approved in the housing trust fund annual plan” (section 14-489 (f) 2). The lack of a steady stream of dedicated revenue into the City’s Housing Trust Fund begets prudent decisions to preserve limited funds that fluctuate year to year.

Funding awards may be limited by specific dollar amounts per project or per affordable unit. Portland has subsidized thirty housing development projects since 2000. The total City investment of \$13,826,598 created 951 units of affordable housing at an average city contribution per unit of \$14,539.01.

Current Balance

The balance of the Housing Trust Fund is \$913,501.54. The chart on the next page breaks down deposit and expenditure activity to date.

DEPOSITS		EXPENDITURES	
Maine Medical Center 2002-2003	\$315,580	Avesta Oak Street Lofts 2011	(\$380,585)
Sportsman’s Grill 2002	\$40,000	Housing First Pre-Development Grants	(\$75,000)
Berlin City Auto 2009	\$116,000	65 Munjoy Street 2017	(\$175,000)
Stop n Shop 2010	\$289,250	65 Hanover & 62 Alder Streets Feasibility Study	(\$9,250)
Rockbridge/Eastland Park 2012	\$42,500	Total Expenditures	(\$639,835)
Riverwalk/Eastland Park 2012	\$250,000		
118 Congress LLC 2014	\$3,500		
Interest earned	\$51,555.81		
91 & 97 Belfort St sale 2017	\$86,423.99		
116 Upper A St., Peaks Island sale 2017	\$78,526.74		
443 Congress St. fee-in-lieu (IZ) 2017	\$280,000		
Total Deposits	\$1,553,336.54	Balance	\$913,501.54

As noted in the above chart, projects funded with Housing Trust Funds include the Avesta Oak Street Loft project which produced 37 efficiency units of rental housing affordable at 60% of the area median income (AMI) and below (including four units at 40% of AMI); 65 Munjoy Street which produced eight condominium units available for sale to households earning at or below

120% of AMI; Avesta's Huston Commons which produced 30 efficiency Housing First units; and Community Housing of Maine purchased a property on St. John Street which produced four Housing First units.

Summary

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing affordable housing for all economic groups. The benefit and advantage of the Housing Trust Fund is the local control of the funding process structured to address particular opportunities and priority housing needs. The program as designed allows for spending discretion, flexibility, and adaptive uses. The program does not restrict funding awards, determine grant or award eligibility, or provide detailed preferences or priorities. The Housing Trust Fund also does not provide a stable and steady source of funding for affordable housing due to the lack of a dedicated funding source. The absence of a dependable source of funding raises genuine concerns of uncertainty when addressing an issue that affects the entire community.

Prior to establishing the 2018 Housing Trust Fund Annual Plan, staff recommends incorporating the City Council's 2018 Goals when established, along with a review of the Housing Trust Fund administration, program parameters, and revenue source in order to design a plan that will ensure the promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City. The topics introduced in this memo, priorities, eligible activities, eligible applicants, types of financing, maximum award amounts are introduced as a starting point for future Committee consideration.

Attachment:

Housing Trust Fund Ordinance

Copy of the 2017 Housing Trust Fund Annual Plan

Order 191-16/17
Passage: 9-0 on 4/5/2017

Effective 4/15/2017

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER ACCEPTING AND ADOPTING
THE 2017 HOUSING TRUST FUND ANNUAL PLAN

ORDERED, that the 2017 Housing Trust Fund Annual Plan, attached hereto, is hereby accepted and adopted.

HOUSING TRUST FUND 2017 ANNUAL PLAN

The Housing Trust fund is established by Section 14-489 of the City’s Code of Ordinances. Section 14-489 (e) states that “the city council shall adopt a housing trust fund annual plan” and that the “housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.”

The Annual Plan will establish the priorities in which the current balance of the Housing Trust Fund will be allocated. The plan is in line with City Council Goals from 2014: Promote Housing Availability – Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors and from 2016, Plan for five new “Housing First” projects.

This budget is based on the current balance in the Housing Trust Fund which is primarily a result of fees generated by the Housing Replacement Ordinance. The balance of the Housing Trust Fund is \$468,551. While staff anticipates increases in revenue in the Housing Trust Fund as a result of the Inclusionary Zoning Ordinance and other sources being considered by the City Council, those anticipated resources are not included in the 2017 Annual Plan.

Sources and Uses of Housing Trust Fund:

DEPOSITS		EXPENDITURES	
Maine Medical Center 2002-2003	\$ 315,580	Avesta Oak Street Lofts 2011	\$ (380,585)
Sportsman's Grill 2002	\$ 40,000	Housing First Pre-Development RFP	\$ (75,000)
Berlin City Auto 2009	\$ 116,000	65 Hanover St	\$ (9,250)
Stop n Shop 2010	\$ 289,250	65 Munjoy ST	\$ (175,000)
Rockbridge/Eastland Park 2012	\$ 42,500		
Riverwalk/Ocean Gateway 2012	\$ 250,000		
118 Congress LLC April 2014	\$ 3,500		
Interest earned	\$ 51,556	Balance	\$ 468,551

City Ordinance requires that the Housing Trust Fund Annual Plan include a description of the programs to be funded, a budget for each program and identify how the funds will be distributed among very-low (at or below 50% of the area median income), low (at or below 80% of the area median income) and moderate income (at or below 120% of the area median income) households.

The Housing Trust Fund is a valuable tool that can assist the City in meeting the goal of providing increased availability in all segments of the housing market. While the City has other resources such as the HUD HOME and CDBG Programs, those funds are limited in amount and scope. The proposed Housing Program budget for FY 2017-2018 includes \$327,145 in HOME funding for affordable housing development, \$150,000 for housing rehabilitation and \$362,113 in CDBG housing program income for housing rehabilitation. The HOME program restricts rental housing assistance to households at or below 60% of the area median income and home ownership assistance to households at or below 80% of the area median income. The CDBG program is restricted to households at or below 80% of the area median income. City Ordinance allows the Housing Trust Fund to assist households at or below 120% of area median income.

The purpose of the Housing Trust Fund is the “...promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.” and “To serve as a vehicle for addressing very low, low and median income housing needs...”. Currently, the Housing Trust Fund revenue is generated by the Housing Preservation and Replacement Ordinance. However, the recently approved Inclusionary Zoning Ordinance, along with other funding resources under Council consideration, will provide additional revenue for the Housing Trust Fund.

Affordability restrictions are required. In the case of rental or cooperative units, the units must remain affordable for the life of the housing unit which is presumed to be a minimum of thirty (30) years. Homeownership units must include resale restrictions that maintain an “equitable balance” between the interests of the owner and the City. These restrictions must be documented and recorded in the Cumberland County Registry of Deeds.

Housing Trust Fund resources should be focused on opportunities where other funding sources do not work or are not effective. Housing Trust Fund investment should be focused on projects designed to create workforce housing targeted to households earning 80% to 120% of the area median income and rental housing projects targeted to very-low income households (at or below 50% of the area median income). As always, the City should act prudently when deciding to invest these funds. Developments or projects requesting financing assistance from the Housing Trust Fund will be brought to the City Council for funding approval.

The Housing Trust Fund resources are also intended to promote the retention of affordable housing. Staff recommends that Housing Trust Fund resources be made available, if necessary, to exercise the City’s right of first refusal it may have in connection with potential foreclosure issues with affordable homeownership units. This is unlikely to occur in the near future but may come up as more workforce homeownership units are created through Portland’s new inclusionary zoning ordinance. Similarly, Housing Trust Funds resources should also be considered for aiding households that own affordable units to pay special assessments from their condominium or homeowners association in order to help maintain the unit’s affordability and reduce any risk of foreclosure. It is important to allow for the consideration of using funds in these manners as foreclosure of a unit can jeopardize any affordability restrictions associated with the property.

Staff is requesting City Council approval of the proposed 2017-2018 Housing Trust Fund Annual Plan for the balance of \$468,551 currently existing in the Housing Trust Fund. Any revenue generated above and beyond the existing balance will not be allocated without an amendment to the Annual Plan.

any bonus received pursuant to this subsection, may not exceed the maximum height recommended for the location of the project pursuant to a height study that has been adopted as part of the city's comprehensive plan.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10)

DIVISION 31. HOUSING TRUST FUND

Sec. 14-489. Housing trust fund.

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.
2. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in section 14-483 of this chapter.

(b) *Definitions.*

Very low income household. A household having an income not exceeding fifty (50%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Low income household. A household having an income not exceeding eighty (80%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Moderate income household. A household having an income not exceeding one hundred twenty (120%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

(c) *Establishment of the housing trust fund.* The city council shall establish a special revenue account under the name

"City of Portland Housing Trust Fund." Deposits into the fund shall include:

1. Contributions from the city's housing replacement ordinance under 14-483(i);
2. Funds appropriated to be deposited into the fund by vote of the city council;
3. Voluntary contributions of money or other liquid assets to the fund;
4. Any federal, state or private grant or loan funds provided to the fund;
5. Interest from fund deposits and investments; and
6. Repayments of loans made from the fund.

(d) *Management of the trust fund.* The city manager, or his or her designee, shall serve as the manager of the housing trust fund. The responsibilities of the manager, subject to the orders of the city council, shall include:

1. Maintaining the financial and other records of the housing trust fund;
2. Disbursing and collecting housing trust fund monies in accordance with the housing trust fund annual plan; and
3. Monitoring the use of monies distributed to successful applicants for housing trust fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

(e) *Housing trust fund annual plan.* Each fiscal year, the city council shall adopt a housing trust fund annual plan. The city manager shall submit to the city council a recommended housing trust fund annual plan, utilizing the revenues of the housing trust fund as well as any other funds the manager may propose as appropriate. The housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.

The housing trust fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the housing trust fund;
2. A description of how funds from the housing trust fund will be distributed among very-low-income, low-income and moderate income households; and
3. The amount of funds budgeted for programs funded in part or in full from the housing trust fund.

Priority for the expenditure of funds collected pursuant to the housing replacement ordinance (see Sec. 14-483) shall be given to the creation of new housing stock, through either new construction or conversion of non-residential buildings to residential use.

(f) *Distribution and use of the housing trust fund's assets.*

1. All distribution of principal, interest or other assets of the housing trust fund shall be made in furtherance of the public purposes set out in section 14-483.
2. During each year, the housing trust fund shall disburse as grants or loans so much of the housing trust fund's assets as the city council in its discretion has approved in the housing trust fund annual plan.
3. Funds shall not be used for city administrative expenses.
4. Funds shall not be used for property operating expenses or supporting services.
5. No grants or loans shall be awarded by the housing trust fund to corporations, partnerships or individuals who are delinquent, at the time of application in the payment of property taxes or other fees to the city of Portland, who have been convicted of arson, who have been convicted of discrimination in the sale or lease

of housing under the fair housing laws of the State of Maine, or who have pending violations of current city electrical, plumbing building or housing codes or zoning ordinances.

(g) *Term of affordability.*

1. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of thirty (30) years.
2. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of ownership housing, the city of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the city of Portland.
3. The affordability restriction requirements described in this section shall run with the land and the city of Portland shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the Cumberland County Registry of Deeds.

(Ord. No. 281-09/10, 7-19-10)

Sec. 14-490. Reserved.

ARTICLE IV. SUBDIVISIONS*

*Cross reference(s)--Ordinances dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-4(h).

State law reference(s)--Land subdivisions, 30-A M.R.S.A. § 4403.