



Mary Davis

Division Director, Housing & Community Development Division

TO: Councilor Jill Duson, Chair
Members of the Housing and Community Development Committee

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

DATE: May 18, 2018

SUBJECT: Proposed Amendments to Tenant Housing Rights Ordinance Section 6-225

In November, 2016, the City Council adopted a Tenant Housing Rights Ordinance (Chapter 6 Article XI Tenant Housing Rights), a copy of which is attached.

Section 6-225

Section 6-225 of the ordinance creates a Rental Housing Advisory Committee. As it is currently written, the Committee is to have seven members with representation from landlords, tenants and one at-large member who is neither a landlord nor a tenant.

At the June 14, 2017 Housing Committee (HC) meeting, the committee discussed concerns with the role of the Rental Housing Advisory Committee as outlined in the ordinance. At that time, members of the Housing Committee agreed that it was the original intent of the committee to create an advisory committee that would allow landlords and tenants to work on issues of mutual concern, identify priority areas of contention that they could work on and present recommendations to the council in an advisory capacity. The members of the Housing Committee were concerned that the ordinance language may set unintended expectations of the influence of such an advisory committee. Staff was tasked with returning to the Housing Committee with suggestions to address these concerns. This process was temporarily placed on hold while awaiting the November 2017 election results on the rent stabilization referendum.

The ordinance language states:

Section 6-225. Rental Housing Advisory Committee

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

(b) *The Committee shall be comprised of seven (7) members, including three (3) Landlord representatives, three (3) Tenant representatives and one (1) at-large resident representative who is neither a Tenant nor a Landlord of rental property, all of whom shall be appointed by the City Council. All members of the Committee shall be*



Mary Davis

Division Director, Housing & Community Development Division

residents of the City of Portland and shall serve staggered terms set by City Council order.

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

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

- 1. Compile and provide the Housing Committee with City of Portland housing market data;*
- 2. Report annually to the Housing Committee on the state of the housing market in the City of Portland; and*
- 3. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City's housing ordinances or policies.*

Staff is recommending the following changes:

- Committee will have seven (7) members, to be appointed by the City Council, including
 - two (2) Landlord representatives
 - two (2) Tenant representative
 - one (1) representative of Pine Tree Legal Assistance, to serve as a housing representative; Pine Tree Legal Assistance will submit the name of a staff person from their organization that would serve as their representative.
 - two (2) at-large resident representatives who are neither Tenants nor Landlords of rental property. At least one of the at-large members will have commercial housing financing or housing policy experience.
- Members will serve staggered three (3) year terms
- The Southern Maine Landlord Association will submit three names for consideration for the two (2) landlord representative positions.
- Pine Tree Legal Assistance will submit three names for consideration for the two (2) tenant representative positions.
- The Committee will be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee.
- The City's Planning and Urban Development Department, through the Housing and Community Development Division, will be the staff liaison to the Rental Housing Advisory Committee, attend all meetings and keep the minutes of the Committee.
- The Committee will meet at least quarterly and will have the following duties:
 1. Compile and provide the Housing Committee with City of Portland housing market data; and

Portland, Maine



Yes. Life's good here.

Mary Davis

Division Director, Housing & Community Development Division

2. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City's housing ordinances or policies.

Attachments

Tenant Housing Rights Ordinance (original and marked revision versions)

ARTICLE XI. TENANT HOUSING RIGHTS

6-219. Purpose.

The purpose of this Article is to address housing insecurity in the City of Portland; to minimize the potential adverse impacts of un-noticed or short-notice rent increases; to educate at-will Tenants of their rights; and to help bring about through fair, orderly and lawful procedures, the opportunity of each person within the City of Portland without regard to, among other things, receipt of public benefits, to rent, enjoy and retain secure housing.

(Ord. No. 76-16/17, 11-21-2016)

6-220. Applicability.

This article shall apply to any and all rental housing units in the City limits of Portland.

(Ord. No. 76-16/17, 11-21-2016)

6-221. Definitions.

Discrimination means the unjust or prejudicial treatment of different categories of people, when those categories are protected from discrimination by municipal, state and federal law, including, but not limited to, categories based on race, color, religious creed, sex, sexual preference, national origin, age, physical handicap or mental handicap, and based on receipt of public assistance, as provided in 5 M.R.S. §4581-A and as amended from time to time.

Housing unit means one (1) or more rooms forming a single unit including food preparation, living, sanitary and sleeping facilities used or intended to be used by two (2) or more persons living in common or by a person living alone.

Landlord means an owner, manager, lessee, sublessee, managing agent 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.

Tenant means an individual, individuals, an entity, entities, a lessee or sub-lessee, or other person having the right to rent any housing unit or rental property or any agent of

these individuals or entities. This definition includes a Tenant at will as described in 14 M.R.S. §6002, as amended from time to time.

(Ord. No. 76-16/17, 11-21-2016)

6-222. 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.

(Ord. No. 76-16/17, 11-21-2016)

6-223. Notification of rent increases.

Notwithstanding 14 M.R.S. Section 6015, a Landlord shall give seventy-five (75) days' written notice of any rent increase to a Tenant.

(Ord. No. 76-16/17, 11-21-2016)

6-224. Protection of Tenants.

(a) The Planning Department or its designee shall create and make available on the City's publically accessible web site a plain language document that explains Tenancy at Will and the rights and responsibilities of Tenants and Landlords of rental housing units. That document shall also include a checklist of required notices concerning environmental lead hazards, energy efficiency or radon testing, pursuant to 14 M.R.S. Sections 6030-B, 6030-C, and 6030-D, respectively, as amended from time to time.

(b) The document referenced above shall be provided by Landlords to all Tenants in the City of Portland at the commencement of the rental of a housing unit and shall be provided again upon any update to the document made by the Planning Department.

(c) An acknowledgement of receipt of the documents 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) At the time of the annual registration required by Chapter 6, Article VI of the City of Portland Code of Ordinances, all Landlords must certify to the City that they have provided the above-referenced documents to each of their respective Tenants.

(Ord. No. 76-16/17, 11-21-2016)

6-225. Rental Housing Advisory Committee

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

(b) The Committee shall be comprised of seven (7) members, including three (3) Landlord representatives, three (3) Tenant representatives and one (1) at-large resident representative who is neither a Tenant nor a Landlord of rental property, all of whom shall be appointed by the City Council. All members of the Committee shall be residents of the City of Portland and shall serve staggered terms set by City Council order.

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

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

1. Compile and provide the Housing Committee with City of Portland housing market data;
2. Report annually to the Housing Committee on the state of the housing market in the City of Portland; and
3. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City's housing ordinances or policies.

(Ord. No. 76-16/17, 11-21-2016)

6-226. Variation by agreement.

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 lease that offers greater rights than those conferred hereby.

(Ord. No. 76-16/17, 11-21-2016)

6-227. 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.

(Ord. No. 76-16/17, 11-21-2016)

6-228. Enforcement and remedies.

(a) Any violation of sections 6-223, 6-224 and 6-225 of this Article may be considered a civil infraction and may be enforced pursuant to the Portland City Code Chapter 1, §1-15.

(b) Any violation of §6-222 of this Article shall be enforced as required by the Maine Human Rights Act, 5 M.R.S. §§4551, et seq.

(Ord. No. 76-16/17, 11-21-2016)

6-229. Severability.

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

(Ord. No. 76-16/17, 11-21-2016)

6-225. Rental Housing Advisory Committee

(a) There is hereby created a Rental Housing Advisory Committee (the “Committee”).

(b) The Committee shall be comprised of seven (7) members, including ~~two three~~ (23) Landlord representatives, ~~two three~~ (23) Tenant representatives, one (1) representative of Pine Tree Legal Assistance, to serve as a housing representative and ~~and two one~~ (21) at-large resident representatives who ~~are~~ is neither ~~a~~ s Tenants nor ~~a~~ s Landlords of rental property, all of whom shall be appointed by the City Council. At least one (1) at-large member shall have commercial housing financing or housing policy experience. All members of the Committee shall be residents of the City of Portland and shall serve staggered three (3) year terms set by City Council order. The Southern Maine Landlord Association shall submit to the City Council’s Nominating Committee, three names for consideration for the two (2) landlord representative position. Pine Tree Legal Assistance shall submit to the City Council’s Nominating Committee, three names for consideration for the two (2) tenant representative position. Pine Tree Legal Assistance shall also submit the name of a staff person from their organization that would serve as their representative.

(c) The Committee shall be co-chaired by one (1) Landlord representative and one (1) Tenant representative as agreed to by the members of the Committee. The City’s Planning and Urban Development Department, through the Housing and Community Development Division shall serve as staff liaison to the Rental Housing Advisory Committee and attend all meetings and keep the minutes of the Committee.

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

1. Compile and provide the Housing Committee with City of Portland housing market data;
and
- ~~2. Report annually to the Housing Committee on the state of the housing market in the
City of Portland; and~~
2. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes to the City's housing ordinances or policies.