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# 190905

Ordinance

## Amend Evaluation of Applicants for Dwelling Units and Security Deposits; Pre-paid Rent Code and adopt the Portland Housing Bureau's Rental Housing Security Deposits Permanent Administrative Rule (amend Code Sections 30.01.086 and 30.01.087)

Passed

The City of Portland ordains:

Section 1: The Council finds:

1. On June 19, 2019, the City Council adopted Ordinance No. 189580 and Ordinance No. 189581 to further fair housing law and address the effects of discrimination on housing access throughout the City.
2. Ordinance No. 189580 contained new code section 30.01.086 which established standards a landlord must apply in evaluating applicants for a dwelling unit.
3. Ordinance No. 189581 contained new code section 30.01.087 which established standards applicable to a tenant's security deposit and pre-paid rent.
4. On September 25, 2019, City Council adopted Ordinance No. 189714, amending Ordinance No. 189580 and adopted Ordinance No. 189715, amending Ordinance No. 189581. The amendments clarified City Council's delegation of rulemaking authority to the Portland Housing Bureau ("PHB"), thereby directing PHB to promulgate rules to carry out the provisions of PCC 30.01.086 and PCC 30.01.087.
5. On January 31, 2020, PHB adopted the Rental Housing Security Deposits Permanent Administrative Rule ("PHB's Administrative Rules"), as amended on July 29, 2020, and January 8, 2021.
6. Subsequently, a group of aggrieved landlords filed a lawsuit against the City in *Newcomb, et. al, v. City of Portland*, claiming that certain requirements of PCC 30.01.086 and PCC 30.01.087 violate state and federal law.
7. The City, acting through Commissioner Dan Ryan, reached a tentative settlement with the plaintiffs, attached hereto as Exhibit 1 ("Settlement Agreement"). The Settlement Agreement proposes to amend PCC 30.01.086, PCC 30.01.087, and PHB's Administrative Rules in a form substantially similar to Exhibits A, B, and C of the Settlement Agreement.

Introduced by

[Commissioner Dan Ryan](#)

Bureau

[Housing Bureau](#)

Contact

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Requested Agenda Type

Regular

Changes City Code

Portland Policy Document

8. Council believes that the proposed code and rule amendments reflect a prudent compromise that ensures tenants will continue to benefit from the protections offered by PCC 30.01.086, PCC 30.01.087, and PHB's Administrative Rules, and that the changes will provide further clarity to both tenants and landlords regarding screening criteria and security deposits.

NOW, THEREFORE, the Council directs:

- A. Portland City Code section 30.01.086 is amended as shown in Exhibit 2.
- B. Portland City Code section 30.01.087 is amended as shown in Exhibit 3.
- C. Council adopts in full and amends PHB's Administrative Rules as shown in Exhibit 4. PHB shall maintain the full authority granted by Ordinance No. 189580, as amended by Ordinance No. 189714, and Ordinance No. 189581, as amended by Ordinance No. 189715 to adopt, amend, and repeal its administrative rules to carry out and administer the provisions of PCC 30.01.086 and PCC 30.01.087.

## Documents and Exhibits

 [Exhibit 1](#) (2.19 Mb)

 [Exhibit 2](#) (35.92 Kb)

 [Exhibit 3](#) (23.86 Kb)

 [Exhibit 4](#) (32.51 Kb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council

June 29, 2022

Auditor of the City of Portland

Mary Hull Caballero

## Impact Statement

### Purpose of Proposed Legislation and Background Information

This ordinance authorizes revisions to PCC 30.01.086, PCC 30.01.087, and amends and adopts the revised Portland Housing Bureau's Rental Housing Security Deposits Permanent Administrative Rule, as part of a settlement in the case of *Newcomb, et al v City of Portland*, case no. 3:20-cv-00294-SI. Plaintiffs filed a lawsuit on February 20, 2020, alleging that various requirements of PCC 30.01.086 and PCC 30.01.087 violate state and federal law. The lawsuit also includes a request for Plaintiffs' attorneys fees to be paid, should they prevail on their claims for constitutional violations.

After conducting extensive discovery, the parties engaged in settlement discussions to see if amendments to these code provisions could resolve the claims. The parties have agreed to the following changes to city code, subject to City Council approval:

#### **Title 30.01.086 Changes**

1. Amend Section D(8)(b) to clarify that a Landlord that approves an application reviewed on appeal shall prequalify the Applicant for rental opportunities at the Landlord's properties *in the City of Portland*.

#### **Title 30.01.087 Changes**

1. Amend Sections C(1) and C(3) to remove the requirement that a Landlord must attach a depreciated value to those fixtures, appliances, equipment or personal property that are identified in the Rental Agreement in order to apply Security Deposit funds for the repair and replacement of such fixtures, appliances, equipment or personal property.
2. Amend Section C(4) regarding costs associated with repair or replacement of flooring material and carpet cleaning.
3. Amend Section D(1) regarding Condition Reports, to remove the third-party validation process and to provide a more detailed process for completing a Condition Report and Condition Report Addendum.
4. Amend Section G regarding damages for consistency with the damages provision in PCC 30.01.086.

#### **Rental Housing Security Deposits Permanent Administrative Rule Changes**

1. Amend the Rule for consistency with the above changes to PCC 30.01.087.

#### **Financial and Budgetary Impacts**

This Ordinance will have no impact on City revenue or City budget. The settlement does not involve the payment of any funds. It resolves pending litigation and eliminates the risk of an adverse attorney fee award.

#### **Community Impacts and Community Involvement**

This Ordinance contains amendments to local landlord-tenant law that will impact all local renters and landlords. This Ordinance settles a pending lawsuit, thus no public involvement was sought regarding this Ordinance.

#### **100% Renewable Goal**

Not applicable.

## Budget Office Financial Impact Analysis

No fiscal impact to the City.

### Agenda Items

#### 549 Time Certain in [June 22, 2022 Council Agenda](#)

Passed to second reading

Passed to second reading June 29, 2022 at 9:30 a.m.

#### 594 Regular Agenda in [June 29-30, 2022 Council Agenda](#)

Passed

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Absent

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea