



## **Permanent Administrative Rule**

### **Rental Housing Application and Screening**

#### **A. Purpose and Scope**

Under PCC 30.01.086 Landlords in the City of Portland are required to adhere to additional requirements, beyond federal and state law, related to the application and screening process for rental housing. These administrative rules provide additional clarification and requirements for several subsections of PCC 30.01.086.

#### **B. Definitions**

1. **Accessible Dwelling Unit** means a Dwelling Unit that qualifies as a “Type A Unit” pursuant to the Oregon Structural Building Code and ICC A117.1.
2. **Applicant** means a person applying to reside in a Dwelling Unit. When there are multiple persons who will reside in common within a Dwelling Unit, Applicant shall refer in common to those members of the household who intend to contribute financially to payment of the Rent and to sign the lease or Rental Agreement.
3. **Dwelling Unit** has the meaning given in ORS 90.100, as amended from time to time.
4. **Landlord** has the meaning given in ORS 90.100, as amended from time to time.
5. **Open Application Period** means the start of the date and time the Landlord will begin processing-accepting applications.
6. **PHB** means the Portland Housing Bureau.
7. **Rent** has the meaning given in ORS 90.100, as amended from time to time.
8. **Rental Agreement** has the meaning given in ORS 90.100, as amended from time to time.
9. **Screening Criteria** means a written statement of any factors a Landlord considers in deciding whether to accept or reject an Applicant and any qualifications required for acceptance. “Screening or admission criteria” includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the Applicant.
10. **Tenant** has the meaning given in ORS 90.100, as amended from time to time.

#### **C. Notice of Dwelling Unit Availability**

1. The notice content requirements of PCC 30.01.086.C.1 must be included on all published advertisements used to communicate the availability of a Dwelling Unit, including but not limited to outdoor signage such as banners or sandwich boards, fliers, printed materials, audio recordings, video media, or online platforms.
  - a. As described in PCC 30.01.087.C.1.b, the Landlord’s notice of the available Dwelling Unit may incorporate this information directly or by providing an

address, website address, internet link, or other method of communicating this information to prospective Tenants.

2. If a Landlord publishes multiple Notices at different times or through different methods for the same availability and same Dwelling Unit:

a. the Open Application Period must be at least 72 hours after publishing the initial Notice of Dwelling Unit Availability;

1.3. If a Landlord simultaneously advertises the availability of more than one Dwelling Unit in the same property, the Landlord can fulfill the requirements of PCC 30.01.086.C.1 by:

- a. Publishing notices at least 72 hours prior to the Open Application Period for rental of the available Dwelling Units through a combined notice that specifies the following:
  - i. The number of Dwelling Units available;
  - ii. The range of number of bedrooms in the available Dwelling Units;
  - iii. The range of available Dwelling Unit sizes;
  - iv. The range of Rents for available Dwelling Units;
  - v. When the Landlord will begin to accept applications;
  - vi. The Landlord's Screening Criteria if the Landlord intends to charge a screening fee; and
  - vii. Which specific units, if any, are Accessible Dwelling Units.
- b. The Landlord's Notice may incorporate this information or may provide an address, website address, internet link, or other method communicating where this information is available to prospective Tenants.

2.4. Landlords are not liable for advertisements created by third party sites that are not placed by or at the request of the Landlord, the Landlord's associate, agent, representative or employee.

3.5. If a Landlord advertises a waitlist's availability, the Landlord must publish notices for the waitlist's availability at least 72 hours prior to the date and time the Landlord will begin adding names to a waitlist. This requirement can be met by:

- a. Publishing notices for a newly opened waitlist through a combined notice that specifies the following information at the time of advertising:
  - i. The number of Dwelling Units that can be filled from the waitlist;
  - ii. The range of number of bedrooms in the Dwelling Units that can be filled from the waitlist;
  - iii. The range of Rents for the Dwelling Units that can be filled from the waitlist;
  - iv. When the Landlord will begin to accept waitlist applications; and
  - v. The Landlord's Screening Criteria if the Landlord intends to charge a screening fee.

- b. The Landlord's Notice may incorporate this information or may provide an address, website address, internet link, or other method communicating where this information is available to prospective Tenants.
- c. A Landlord must create a separate waitlist for filling Accessible Dwelling Units.
- d. Open waitlists that accept names on a rolling basis are not subject to the 72-hour wait period before adding names to the waitlist.

#### **D. Open Application Period**

- 1. Unless otherwise indicated by the Landlord, the Open Application Period begins on the date and time the Landlord begins to ~~accept process~~ applications which is effectively the advertised date and time Applicants can begin submitting applications.
- 1.2. If a Landlord receives, by any means of transmission, an application prior to the advertised Open Application Period, the Landlord will not be considered to have violated the 72-hour waiting period between advertising and accepting applications that is described in PCC 30.01.086(C)(1)(a), so long as the Landlord processes all applications received in accordance with PCC 30.01.086(C)(2).

#### **E. Order of Processing Applications.**

- 1. If the Landlord receives multiple applications at the same time and cannot reasonably determine the actual order of receipt between them, the Landlord may develop and apply its own policy for determining order of receipt. The adopted policy must be:
  - a. written and provided to the Applicant for review, upon the Applicant's request; and
  - b. uniformly applied by the Landlord during the Open Application Period.
- 1.2. When multiple applications are received earlier than the Open Application Period:
  - a. Every complete application will be recorded as being received 8 hours after the start of the Open Application Period and considered in order of actual receipt in relation to other early applications.
  - b. For an Accessible Dwelling Unit, the Landlord must give priority to Applicants with a household member who is Mobility Disabled and applied before the Open Application Period, prior to considering other Applicants without a household member who is Mobility Disabled who applied either before or during the Open Application Period.

For example, a Landlord would process applicants in the following order:

- i. Applicants with a household member who is Mobility Disabled, who apply in the first 8 hours of the Open Application Period;
- ii. Applicants with a household member who is Mobility Disabled, who apply before the Open Application Period (recorded as hour 8);
- iii. Applicants with no household member who is Mobility Disabled, who apply in the first 8 hours of the Open Application Period;

- iv. Applicants with no household member who is Mobility Disabled, who apply before the Open Application Period (recorded as hour 8);
- v. Any Applicant, who applies after the first 8 hours of the Open Application Period.

3. The following conditions apply when a Dwelling Unit is no longer available because the vacancy has been filled or because the Landlord has decided not to rent the unit:

a. A Landlord may refuse to process Applications solely because a Dwelling Unit is no longer available. If a Landlord does not process an Application solely because the Dwelling Unit is no longer available, the Landlord is not required to provide written communication accepting, conditionally accepting, or denying that Applicant, nor is the Landlord required to perform an Individual Assessment or grant such an Applicant the opportunity for an appeal;

v.b. If a Landlord denies an Application solely because the Dwelling Unit is no longer available, but the Landlord has screened the Applicant or otherwise processed an Application, the Landlord must provide written communication denying that Applicant, but is not required to perform an Individual Assessment or grant such an Applicant the opportunity for an appeal.

**F. Verifiable and Repeated Rental Agreement Violations for Application Evaluation**

1. A Landlord owning Dwelling Units within the City of Portland, may refuse to process the application of an Applicant who has verifiable repeated Rental Agreement violations with this Landlord if the most recent violation occurred within 365 days before the Applicant's submission date under the following circumstances:
  - a. Rental Agreement violations are repeated and verifiable when:
    - i. At least 3 violations have occurred within a 1-year period, and the most recent violation occurred within 365 days before the Applicant's submission date;
    - ii. The Tenant received notice of each of the 3 violations in writing at the time each violation occurred; and
    - iii. None of the 3 violations ~~were dismissed, cured~~ (as provided in ORS 90.392), or resulted in a general judgment for the Applicant before the Applicant submitted the application.
  - b. If a Landlord refuses to process the application of an Applicant for this reason, the Landlord must provide the Applicant with copies of the relevant notices considered.

**G. Disability Related Modification Requests**

1. If a Landlord denies an Applicant's Modification request, the Landlord must provide the Applicant 2 successive 24-hour periods within with to request alternative Modifications:
  - a. If an Applicant's initial Modification request is denied by the Landlord, the Applicant has a 24-hour period measured from the notice of the denial to make a second Modification request.
  - b. If an Applicant's second Modification request is denied by the Landlord, the Applicant has a 24-hour period measured from the notice of the second denial to make a third Modification request.
  - c. If no reasonable Modification can be made to the Dwelling Unit to address the Applicant's Disability, the Applicant, if otherwise eligible, may accept the Dwelling Unit without Modification.

#### **H. Approval of Application Reviewed on Appeal**

1. If a Landlord approves an application reviewed on appeal, the Applicant is prequalified for rental opportunities with Dwelling Units at the same or lower rental rate at the Landlord's properties for 3 months following the date of approval.
2. Prequalified Applicants cannot be subject to additional screening or screening fees for the 3 months following the approved appeal. The Landlord may require the Applicant to self-certify that no conditions have materially changed from those described in the Landlord's approved application.
3. If a Landlord has prequalified Applicants through the appeal process, the Landlord must notify those Applicants of any available units for which they are prequalified before offering the unit to the general public.
  - a. The Landlord must issue the notification to the prequalified Applicant by email, phone, or certified mail, as provided on the application or subsequently updated by the Applicant.
  - b. The Landlord must allow any prequalified Applicants a minimum of 48 hours after delivery of the notification by email or phone, or receipt of the notice by mail, to respond and declare an intent to enter into a Rental Agreement for the Dwelling Unit. The notification must include the date and time by which the Landlord must receive the prequalified Applicant's declaration of intent to enter into a Rental Agreement for the Dwelling Unit.
  - c. If multiple prequalified Applicants declare an intent to enter into a Rental Agreement, the landlord must offer the rental agreement in order of appeal submission dates.
  - d. If no prequalified Applicant responds to the Landlord with this intent during the stated time for response, the Landlord may offer the Dwelling Unit to the general public at the expiration of this period.

- e. If any prequalified Applicant responds to the Landlord with this intent after the stated time for response but before advertising the Dwelling Unit to the general public, the Landlord may but is not required to enter into a Rental Agreement with the prequalified Applicant.
- f. Once notice of Dwelling Unit availability is published a prequalified Applicant must submit an Application and is subject to the general application process described in PCC 30.01.086(C)(2), except that the prequalified Applicant will not be subject to additional screening or screening fees as described in Subsection H(2) above.

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**G. Minimum Income Requirements**

1. To determine the minimum income requirements, see the Rental Housing Application and Screening Minimum Income Requirement Table published by the Portland Housing Bureau.

**H. Responsibility**

PHB is responsible for managing and implementing this rule.

**I. History**

Date adopted: **January 31, 2020**

Date effective: **March 1, 2020**

Date amended: **July 29, 2020**

Date amended:

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