

**South Portland City Council
Position Paper of the City Manager**

Subject:

ORDINANCE #9-13/14 - Amending Chapter 10, Article VIII, "Property Tax Assistance Ordinance". Passed first reading on 3/3/14. ROLL CALL VOTE. Passage requires majority vote.

Position:

In January, staff presented an update to the City Council on the process the State Legislature is taking to reinstate a provision giving local governments the ability to provide local tax relief programs to taxpayers. As the City Council is aware, this action is needed as a result of the Legislature inadvertently deleting the provision with State Statute last spring during its reconfiguration of the Circuit Breaker Program into the newly created Property Tax Fairness Credit. There are two significant differences between the two programs. The first is the maximum refund amount. The Circuit Breaker Program allocated a maximum of \$1600.00 and had a maximum household gross income of \$86,600. The Property Tax Fairness Credit will be a maximum of \$300.00 for single and \$400.00 for couples. To qualify you need to have an adjusted gross income of \$40,000 or less. The second difference is that the Property Tax Fairness Credit is only available to residents 70 years or older. The former Circuit Breaker Program did not have an age restriction only the requirement that you paid real estate tax or rent.

For the Council's information, I have included the box below depicting the last three years of funding for the local circuit breaker program. Two out of the three years provides applicant's approved and average payment figures.

Senior Circuit Breaker History							
Prepared		12/30/2013					
<u>Year</u>	<u>Budgeted</u>	<u>Carryover</u>	<u>Available</u>	<u>Spent</u>	<u>Balance</u>	# of <u>Approved Applicants</u>	<u>Average Payment</u>
FY12	\$ 30,000.00	\$ -	\$ 30,000.00	\$ 12,112.53	\$ 17,887.47	62	\$ 195.36
FY13	\$ 15,000.00	\$ 17,887.47	\$ 32,887.47	\$ 30,151.52	\$ 2,735.95	151	\$ 199.68
FY14	\$ 30,000.00	\$ 2,735.95	\$ 32,735.95		\$ 32,735.95		

The current local program (on the books) was largely based on the former State of Maine Circuit Breaker Program that had its own application for tax and rent refund. The City's allocation to each taxpayer was based on 25% of their refund from the State of Maine's Program. The recipient of City Program funds would need to show proof of receipt from the State Program (i.e. check or stub copy).

The program has now changed to require one to fill out a Schedule PTFC Form 1040ME, which will be incorporated within the larger Form 1040ME. It is no longer a stand-alone program, which is presenting some hurdles for staff, but nothing that cannot be overcome.

Over the last month, Greg and I have amended the ordinance governing the locally funding program based on the submitted legislation. Much of the ordinance still exists. The changes were made to mirror the new State program.

The criteria stays the same with the exception of documentation residents need to submit as part of their refund request.

1. 70 years of age
2. Applicant has received a tax credit from the State program.
3. Applicant has been a resident of the City for the last 12 years.
4. Refund is based on the State credit on 1040ME form PTFC.
5. Maximum refund amount is \$400.

Both Finance Director Greg L'Heureux and I have been in consultation with Geoff Herman, of Maine Municipal Association and Corporation Counsel Sally Daggett.

The emergency legislation was enacted without the Governor's signature on March 9th and thus is now in effect. I have included a copy of the legislation.

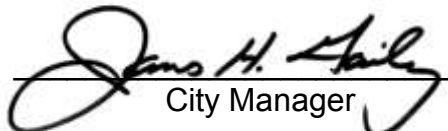
The attached amended Chapter 10 is a first year ordinance which should be reserved to be amended once we experience how the State of Maine's new program works and how it impacts the local program.

This amendment passed first reading on 3/3/14 and is in order for second reading and action.

Greg L'Heureux will be at Monday's meeting to answer any questions.

Requested Action:

Council passage of ORDINANCE #9-13/14.


City Manager



CITY OF SOUTH PORTLAND

GERARD A. JALBERT
Mayor

JAMES H. GAILEY
City Manager

SUSAN M. MOONEY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

IN CITY COUNCIL

ORDINANCE #9-13/14

THE COUNCIL of the City of South Portland hereby ordains that Chapter 10, "Health, Welfare and Sanitation Generally," of the "Code of Ordinances of the City of South Portland, Maine," be and hereby is amended as follows (deletions are ~~struck through~~; additions are underlined):

Chapter 10

HEALTH, WELFARE AND SANITATION GENERALLY

• • •

ARTICLE VIII. PROPERTY TAX ASSISTANCE ORDINANCE

Sec. 10-1201. Purpose

The purpose of this Ordinance is to establish a program pursuant to Chapter 907-A of Title 36 of the Maine Revised Statutes to provide property tax assistance to persons 70 years of age and over who reside in the City of South Portland. Under this program, the City of South Portland will provide ~~supplemental~~ refund payments to those individuals who qualify as South Portland resident beneficiaries of the State of Maine Residents ~~Property Tax Program (State Circuit Breaker Program)~~ Property Tax Fairness Credit pursuant to ~~Chapter 907 of~~ Title 36 of the Maine Revised Statutes, as may be amended from time to time, and meet the criteria established by this Ordinance.

Sec. 10-1202. Definitions

Finance Director: The Finance Director or his/her designee.

District One
MICHAEL R. POCK

District Two
PATRICIA A. SMITH

District Three
MELISSA E. LINSOTT

District Four
LINDA C. COHEN

District Five
GERARD A. JALBERT

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person's dependents as a home.

Property Tax Assistance Program: The program established by the City of South Portland under this Ordinance. Also referred to as the "Program."

Qualifying applicant: A qualifying applicant is a person who is determined by the Finance Director, after review of a complete application under Section 10-1204 of this Ordinance, to be eligible for a refund payment under the terms of this Ordinance.

Sec. 10-1203. Criteria for Participation

In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

- a. The applicant is 70 years of age or older at the time of application.
- b. The applicant has owned or rented a homestead in the City of South Portland at the time of the application and for the entire two years prior to the date of application.
- c. The applicant ~~has qualified~~has to received a ~~tax credit refund~~ under the provisions of ~~the Chapter 907 of Title 36 of the Maine Revised Statutes~~ State of Maine Residents Property Tax Fairness Credit Program.
- d. The applicant has been a resident of the City of South Portland for at least ten out of the last 12 years immediately preceding the date of application for participation in the Program.
- e. If the applicant owns the homestead, the applicant shall have applied for a homestead property tax exemption pursuant to the Maine Resident Homestead Property Tax Exemption program.

Sec. 10-1204. Application and Payment Procedures

Persons seeking to participate in the Property Tax Assistance Program shall submit no more than one written application to the Finance Director between ~~September 1st and April 15th of the following each~~ September January 1st and April 15th of ~~the following each~~ year. ~~Applications filed between September 1st and December 1st will be processed as Phase 1 applications, and applications filed between December 2nd and April 15th of the following year will be processed as Phase 2 applications.~~ Applications are required every year to participate in the Program. The Finance Director shall provide an annual application form for the Program, which shall include, at a minimum, the applicant's name, homestead address and contact information. ~~Applicants shall Attached~~ submit with the to all applications a signed copy

~~of their Form 1040ME, including Schedule PTFC (Property Tax Fairness Credit), as shall be proof and dollar amount of State Property Tax Fairness Credit eligibility. (copy of check) of his/her State Refund under Chapter 907 of Title 36 of the Maine Revised Statutes (State Circuit Breaker Program). Based on the timing of applications and refunds under the State Circuit Breaker Program, The Program is based on the State Property Fairness Credit and an application under this Program relates to taxes assessed~~ paid or rent paid in the preceding calendar year. ~~approximately two years prior. For example, an application relating to property tax assessed and/or rent paid in calendar year 2012 must be filed between September 1, 2013 and April 15, 2014.~~ The Finance Director shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The Finance Director shall notify an applicant if an application is determined to be incomplete. The Finance Director's decision on eligibility to participate in the Program shall be final.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than \$1000])

Sec. 10-1205. Determination of Eligibility and Amount of Eligibility

If the Finance Director determines that the applicant is eligible to participate in the Program, he/she shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

- a. ~~One quarter (1/4) of the amount of t~~The amount of creditrefund qualified for awarded by the State under Chapter 907, Title 36 of the Maine Revised Statutes (State Circuit Breaker Program); or the Property Tax Fairness Credit program.
- b. A pro rata share of available monies in the Program Fund based on the amount of one's State Property Tax Fairness CreditRefund under Chapter 706 of Title 36 of the Maine Revised Statutes (State Circuit Breaker Program); or
- c. \$400.00.

The Finance Director shall report to the City Council in ~~April~~May of each year the projected payments and number of eligible applicants requesting assistance from the Program Fund.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than \$1000])

Sec. 10-1206. Program Fund - Limitations upon Payments

Payments under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund for the fiscal year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants per application phase under this Ordinance, payments shall be limited to the amounts

available in the Fund on a pro rata basis to each eligible participant ~~per application phase of the Program~~ based on the amount of one's State Refund credit under the Property Tax Fairness Credit Program Chapter 907 of Title 36 of the Maine Revised Statutes (State Circuit Breaker Program). In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than \$1000])

Sec. 10-1207. Creation of the Program Fund

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

As funds are available, the City Council shall annually appropriate funding from the General Fund or other sources to support this Program. Any surplus monies available after all payments have been made shall remain in the dedicated reserve account hereby established for this Program and shall not lapse into the City's undesignated fund balance.

Sec. 10-1208. Timing of Payments

A person who qualifies for a refund under the Program shall have his/her property tax account credited (if the account related to the homestead is still in the name of the eligible applicant) or, if the property tax account related to the homestead is not in the name of the eligible applicant, be mailed a check for the amount of the refund no later than ~~February 1 for Phase 1 applicants and no later than~~ May 1 ~~for Phase 2 applicants~~.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than \$1000])

Sec. 10-1209. Limitations upon Payments

Only one qualifying applicant per homestead shall be entitled to payment under the Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Finance Director shall be disbursed to another member of the household as determined by the Finance Director. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

Sec. 10-1210. Relationship to Poverty Abatement and General Assistance Applications

The amount of any refund received by a qualifying applicant under this Program may be considered by the City in determining eligibility for a poverty abatement or general assistance.

(Ord. No. 13-10/11, 6/6/11 [Fiscal Note: Less than \$1000])

Sec. 10-1211. Applicability

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the amendments to this Ordinance, as evidenced by Ordinance #~~9-12/13~~14, when enacted, shall govern applications relating to property tax ~~assessed-paid~~ and/or rent paid in calendar year 201~~13~~ and thereafter, such that applications relating to property tax ~~assessed~~paid and/or rent paid in calendar year 201~~13~~ must be filed no later than April 15, 201~~3~~4 and those applications will be processed ~~in two phases~~ and any payments will be made ~~in two phases~~.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than \$1000])

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

—
H.P. 1179 - L.D. 1607

An Act To Reinstate Statutory Authority for Local Property Tax Assistance Programs

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Public Law 2013, chapter 368 discontinued the Circuitbreaker Program and the legislative authorization of municipal property tax assistance programs, effective August 1, 2013; and

Whereas, although municipal property tax assistance programs may be linked to the Circuitbreaker Program, it was not the intent of the Legislature to discontinue the authorization of municipalities to offer property tax assistance programs; and

Whereas, this legislation needs to take effect as soon as possible to restore the ability of municipalities to offer property tax assistance programs; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §6231, as enacted by PL 2005, c. 395, §4, is repealed.

Sec. 2. 36 MRSA §6232, sub-§2, as enacted by PL 2005, c. 395, §4, is repealed.

Sec. 3. 36 MRSA §6233, as corrected by RR 2013, c. 1, §56, is repealed.

Sec. 4. Retroactivity. That section of this Act that repeals the Maine Revised Statutes, Title 36, section 6233 applies retroactively to June 26, 2013.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.