



Text File

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Committee: Committee on Land Use and
Economic Development

Status: Passed Finally

Ordinance supplementing the Pittsburgh Code of Ordinances, Title Two--Fiscal, Article V--Special Funds, to add a new Chapter [232] 234, "Housing Opportunity Fund", to stabilize communities and protect the public welfare by creating the Pittsburgh Housing Opportunity Fund (the "Fund"), to create a budget obligation for the Fund, to establish the purposes for which monies in the Fund may be used; and to create a Housing Opportunity Fund Governing Board and Advisory Board.

Whereas the Council of the City of Pittsburgh finds as follows:

1. Much of the City's housing stock is older and in need of repair, and many existing and prospective homeowners lack the resources to make necessary repairs. Repairing the existing housing stock helps to stabilize neighborhoods by maintaining property values in the surrounding neighborhood, reducing the incidence of vacancy and blight, and decreasing the need for City-funded demolition.
2. Much of the City's housing stock is not energy efficient, and many property owners lack the resources to make energy efficiency improvements. Improving energy efficiency can help reduce utility costs and provide relief for families with severe housing cost burden. It can also help reduce the City's carbon footprint.
3. Many Pittsburgh neighborhoods have very low rates of homeownership and high rates of absentee-owned properties. Increasing resident ownership of housing gives people more of a stake in the upkeep of their communities and helps to stabilize neighborhoods.
4. The City is experiencing a shortage of decent, safe and sanitary housing that is affordable to extremely low-income families and individuals. The shortage of housing that is affordable to extremely low income families forces them to pay more for housing than they can afford, which reduces the supply of housing that would otherwise be available for families and individuals at other income levels and creates a ripple effect of unaffordability.
5. Over 23,000 Pittsburgh households are paying more than half of their household income on housing costs. This severe cost burden can make these households vulnerable to eviction, foreclosure, utility termination, and other hardships.
6. Many very-low income and extremely low-income families and individuals in Pittsburgh need better access to opportunity resources - such as public transportation, jobs, safe neighborhoods, high-quality schools, child care and grocery stores - that can help to improve their and their children's health, safety and economic self-sufficiency.
7. The City is also experiencing a shortage of decent, safe and sanitary housing that is accessible to people with mobility impairments and other disabilities.

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8. At any given time, there is an average of more than 2000 homeless households on a waiting list for housing and homeless services in Pittsburgh and Allegheny County.
9. Existing affordable housing resources provide relatively short periods of affordability. This can cause the City to invest its limited resources into preserving the existing affordable housing stock instead of expanding the supply. Financing mission-driven developers and prioritizing permanent affordability will help maximize the effectiveness of the City's housing resources.
10. The City and its authorities have experienced steady decreases in funding from federal and state resources for investment in neighborhood development and affordable housing projects.
11. Establishing a Pittsburgh Housing Opportunity Fund will provide needed resources to help stabilize and improve Pittsburgh's neighborhoods, to support the development and preservation of affordable and accessible housing in areas with good access to public transit, jobs, good schools, child care, grocery stores and other amenities that individuals and families need to improve their and their children's health, safety and economic self-sufficiency, and to address other critical housing needs.

NOW, THEREFORE, BE IT RESOLVED, THAT THE COUNCIL OF THE CITY OF PITTSBURGH HEREBY ENACTS AS FOLLOWS:

The Pittsburgh Code, Title Two--Fiscal, Article V--Special Funds, is hereby amended by adding a new Chapter [232] 234, "*Housing Opportunity Fund*".

[232] 234.01 Definitions.

- (a) "*Accessible*" means housing that meets the design standards most recently published by the American National Standards Institute (ANSI) for Accessible Units or for Units with Accessible Communication Features, as applicable.
- (b) "*Advisory Board*" means the 17-member board described in Section [232] 234.06 of this Chapter.
- (c) "*Affordable*" means housing related expenses do not exceed 30% of a household's gross income. When used in conjunction with a specific income target (e.g., *affordable to households earning at or below 50% of AMI*), the term means housing expenses do not exceed 30% of the gross income of the highest income household within the target category. If no income target is specified, "affordable" shall be construed as referring to an income target of 80% of AMI.
- (d) "*Area Median Income*" or "*AMI*" means the median household income for the Pittsburgh metropolitan area published annually by the U.S. Department of Housing and Urban Development ("HUD").
- (e) "*Deed Restricted Affordable Housing*" means real estate that is required to be used as affordable housing for a period of time pursuant to a restrictive covenant or similar enforceable, recorded instrument, with income targets that are no higher than 80% of AMI. The term shall include, but not be limited to, HUD multifamily housing and Low Income Housing Tax Credit projects authorized by applicable law.
- (f) "*Extremely Low Income*" means having a household income that is at or below 30% of AMI.
- (g) "*Family Sustaining Rental Housing*" means rental housing that is affordable to households earning at or

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below 50% of AMI. The term shall not include lease purchase or cooperatively owned housing.

(h) “*Governing Board*” means the Urban Redevelopment Authority of Pittsburgh (“URA”) Board of Directors.

(i) “*Housing Assistance to Individuals*” means housing assistance that is provided directly to low-income persons, including but not limited to owner-occupied home rehabilitation or repair services; owner-occupied home energy efficiency upgrades; foreclosure prevention and mitigation services; and rapid rehousing services.

(j) “*Low Income*” means having a household income that is at or below 80% of AMI.

(k) “*Mid and Lower Market*” shall have the meaning specified in the performance measures created by the p4 Performance Measures Project in October, 2016.

(l) “*Neighborhood-Based Non-Profit*” means (1) a Non-Profit that has a substantial base of operations within the neighborhood where the housing to be funded by the Housing Opportunity Fund is located, or (2) a Tenant Association that represents the tenants in the housing to be funded by the Housing Opportunity Fund.

(m) “*Non-Profit*” means a non-profit organization that (i) is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and (ii) has providing affordable housing or combating community deterioration among its tax exempt purposes. The term shall not include a non-profit organization that is controlled by a for-profit or public entity.

(n) “*Owner-Occupant*” means a natural person with a legal or equitable ownership interest in property which is the primary residence of the person.

(o) “*Permanently Affordable*” means housing that is subject to a deed restriction, ground lease, shared equity agreement, or similar enforceable, recorded instrument that (1) in the case of rental or cooperatively owned housing, requires all current and subsequent owners to maintain the housing as affordable for a period of at least 99 years or for the life of the building, or (2) in the case of for-sale housing, restricts the resale price to subsequent home buyers to an affordable price for a period designed to maintain the housing as affordable for at least 99 years or for the life of the building.

(p) “*Preservation of Deed Restricted Affordable Housing*” means the rehabilitation, redevelopment or replacement of Deed Restricted Affordable Housing, in order to extend the long term affordability and habitability of the units, such that there is no net loss in affordability and all affordable units are maintained or replaced in locations that are no less desirable than the original location.

(q) “*Tenant Association*” means a membership association consisting of the residents of a residential development that operates democratically, is representative of all residents in the development, and is completely independent of owners, management, and their representatives. An association that otherwise satisfies the foregoing criteria shall not be disqualified solely because it has an ownership interest in the residential development.

(r) “*Very Low Income*” means having a household income that is at or below 50% of AMI.

(s) “*Universal Design*” means housing that meets the design requirements specified in Title Two, Section 265.04.1(2)(b) of the Pittsburgh Code on all floors and in all common areas and public spaces..

[232] 234.02 Establishment of the Pittsburgh Housing Opportunity Fund

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(a) The Pittsburgh Housing Opportunity Fund (“Fund”) shall be created by the Office of the Controller, **and managed by the Office of Management and Budget** as a separate fund for the purpose of supporting the development and preservation of affordable and accessible housing in the City of Pittsburgh as more particularly specified in Sections [232] 234.03 and [232] 234.04 of this Chapter. The City may appropriate revenue and the Fund may receive monies from sources as deemed appropriate and consistent with the purposes set forth in this Chapter and applicable law.

(b) It is the intent of the City Council that the Fund have a goal of \$10 million or more per year in annual revenue after a corresponding amount of budgeted legal revenue has been identified, a new legal revenue line in the said amount has been established or a combination of both.

(c) The dedication of any revenue must be consistent with the City of Pittsburgh Act 47 plan and Act 11 (Intergovernmental Cooperation Authority) agreements, as applicable, and the City’s annual five year plan. Unless Council approves a dedicated source of annual funding, the actual amount of funds shall be contingent upon annual appropriation of Council.

(d) Monies allocated for the Fund must be used exclusively for purposes consistent with this Chapter and applicable law. Therefore, any assets remaining in the Fund at the end of any fiscal year shall be carried into the next fiscal year, including all interest and income earned, as well as any repayments or forfeitures of loans and/or grants.

(e) It is the intent of this Chapter that the Trust Fund provide net new resources for affordable housing in the City of Pittsburgh, and that the Fund not be used to substitute or supplant existing resources.

[232] 234.03 Disbursement of Fund Assets

(a) Funds appropriated from the Opportunity Fund shall be consistent with an annual allocation plan (AAP), created by the Advisory and Governing Boards, as described below. The AAP shall outline the types of programs, projects, and activities that are eligible for Opportunity Fund investment. Each year the Advisory Board shall provide an opportunity for public comment on the AAP and shall submit the AAP to Council for review and approval, prior to the passage of the budget. Such programs, projects, and activities shall:

1. Preserve existing affordable housing through investments such as home rehabilitation or repair (both owner-occupied and one- to three-unit rental); down payment/closing cost assistance; homeownership counseling, pre or post purchase; foreclosure prevention and mitigation; tangled title assistance; energy efficiency; and a tenant purchase fund that supports tenants in the process of acquiring a controlling interest in expiring affordable housing.
2. Rehabilitate, redevelop, or replace existing Deed Restricted Affordable Housing in order to extend the long term affordability and habitability of the units.
3. Increase the accessibility of new and existing affordable housing to seniors and people with disabilities.
4. Increase the production of affordable housing for sale or rental so as to ensure that communities

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experiencing rapid growth and escalating housing costs continue to have Family Sustaining Rental Housing and ensure that Very Low Income families have opportunities to live in housing in areas of high opportunity or consistent with a neighborhood revitalization plan.

5. Prevent or reduce homelessness by increasing the supply of homes with supportive services available to people at imminent risk of homelessness or experiencing homelessness. The Fund can also be used for programs including rental assistance, rapid re-housing, permanent supported housing, housing first and/or other homeless housing purposes, especially for youth, families, seniors, veterans, people who are chronically homeless and those with disabilities.

6. Provide for funding projects that promote permanently affordable housing through structures such as tenant purchase, community land trusts, shared-equity or deed restrictions placed upon the land.

7. Stabilize Mid and Lower Market Neighborhoods through activities such as making affordable loan products and grants available for the construction or rehab of owner-occupied homes or financing the purchase and rehabilitation of vacant structures by Neighborhood-Based Non-Profits for affordable homeownership.

8. Advance any additional housing needs and leverage additional funding opportunities for affordable housing and neighborhood stabilization as they arise. To that end, the Governing Board may provide such additional uses and goals consistent with the purposes of this Chapter and the findings listed by City Council based upon the recommendation of the Advisory Board after public notice and an opportunity for comment.

(b) Up to 10% of annual Fund expenditures may be used for administrative expenses, which shall include the URA's reasonable and necessary cost of administration and the preparation of the Annual Audit and Report by the Governing Board and the Advisory Board pursuant to an annual budget reviewed ~~and approved~~ by the Advisory Board.

[232] 234.04 Priorities and Restrictions

(a) The AAP shall:

1. Outline an open and competitive selection process for all projects receiving Fund investment.
2. Establish evaluation criteria for awards that are consistent with the goals and purposes of this Chapter and the findings listed by City Council. At a minimum, the evaluation criteria shall include, as relevant: depth of affordability; length of affordability commitments; geographic distribution of funds; coordination with a neighborhood revitalization plan; affirmatively furthering fair housing; accessibility features; energy efficiency; cost effectiveness; readiness to proceed, and access to frequent transit and walkable/bikeable streets.
3. Set standards by which all applicants with projects of four units or more will be required to demonstrate community engagement to understand needs, align development interests, and maximize community participation and partnerships. Any project presented for community input must be documented as substantially similar to the project included in the application. At a minimum, all applicants with projects of four units or more must provide a memorandum of understanding with a Neighborhood-Based Non-Profit organization. The Governing Board may allow for exceptions where:
 - a. The rehabilitation of rental units are in exchange for enforceable

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- b. commitments to accept rental assistance and provide housing for special needs populations;
 - c. The project is necessary to affirmatively further fair housing and there is no Neighborhood-Based Non-Profit that is willing or available to participate;
 - d. There are no Neighborhood-Based Non-Profits in the neighborhood where the project is located; or
 - e. Any additional provisions consistent with this Chapter
4. Require that all housing production or preservation projects of four units or more (for sale or rental) have a Non-Profit applicant. The Advisory Board and Governing Board will give added weight to projects where a Neighborhood-Based Non-Profit Organization is a partner with the ability to approve major project decisions and acquire the property. .

(b) The AAP shall set the following income targets for the overall investment of fund assets in projects, programs, and activities:

50% of funds must benefit families and individuals at or below 30% AMI.

25% of funds must benefit families and individuals at or below 50% AMI.

25% of funds should benefit families and individuals at or below 80% AMI. by providing or supporting homeownership opportunities. ~~and by providing down payment and closing cost assistance to first-time homebuyers consistent with the income targets used by the Pittsburgh Home Ownership Program (PHOP). Except for down payment and closing cost assistance, all fund assets must benefit families and individuals at or below 80% AMI.~~

1. 80% AMI may only be exceeded for funds used to provide or support homeownership opportunities by providing down payment and closing cost assistance to first-time homebuyers consistent with the income targets and policies used by the Pittsburgh Home Ownership Program (PHOP).

(c) The AAP shall set targets regarding permanent affordability for the overall investment of Fund assets in projects and the Governing Board shall develop an implementation plan for achieving the same, with review and input by the Advisory Board. Within five years, the target shall be for at least 50% of all housing produced or preserved through investments of Fund assets in the aggregate, in projects of four units or more, shall be Permanently Affordable. The AAP may allow for operating and capacity support for community land trusts in order to meet the 50% target.

(d) All other housing that is produced or preserved through an investment of Fund assets, excluding investments in projects, programs, or activities that provide Housing Assistance to Individuals, shall meet or exceed the following affordability/repayment requirements:

1. For rental housing, the minimum affordability periods required under the federal HOME

program at 24 CFR 92.252, or such longer affordability periods as the Governing Board may adopt.

2. For for-sale housing, the Fund assets shall be in the form of a secured loan that must be repaid upon conversion of the unit to a use other than owner-occupied housing or upon sale of the unit to a purchaser who is not Low Income. The Governing Board, at its discretion, may require earlier repayment of any or all of the Fund loan and may subordinate the Fund mortgage to other financing.

3. Lease-purchase housing shall be treated as rental housing until the units are sold to the tenants, at which time the minimum affordability periods required under the federal HOME program at 24 CFR 92.254 shall apply from the date of the most recent investment of Fund assets.

(e) All new construction and all projects of four units or more receiving an investment of Fund assets shall target to meet or exceed the following goals, to the greatest extent feasible:

1. A minimum of 10% of units shall be accessible to individuals with mobility impairments and a minimum of 4% shall be accessible to individuals with sensory impairments.
2. All units shall meet visitability standards.
3. All projects shall maximize the number of units that meet Universal Design standards.

(f) All programs, projects, and activities funded by the Fund shall adhere to the City's Equal Opportunity policies and the City's obligations to Affirmatively Further Fair Housing.

(g) When Fund assets are used to preserve Deed Restricted Affordable Housing, the Governing Board shall, to the greatest extent feasible, ensure that: there is no net loss in affordability; all affordable units are maintained or replaced in locations that are no less desirable than the original location; all existing residents are given their choice to live in the redeveloped housing or receive comparable relocation housing; and replacement housing is built first or otherwise phased so that residents will not be required to make more than one move.

(h) It is the intent of this Chapter that rental projects supported by the Fund be owned and managed by responsible landlords. To that end, Fund assets shall not be disbursed for projects, programs, or activities where the property owner or related party has outstanding tax or municipal claims or has failed to comply with City codes or policies or other applicable legal obligations. The Advisory Board may make appropriate exceptions where the funds will be used to bring rental property into compliance, subject to Governing Board approval.

(i) Rehabilitation and repair services funded by the Fund shall be performed in a responsible manner and shall have obtained all required permits have been secured prior to the start of work. At a minimum, contractors performing skilled labor must demonstrate PA Home Improvement Consumer Protection Act registration, federal Environmental Protection Agency lead safe work practices certification if they will be working on a pre-1978 home and the work will disturb a coated surface, and that skilled labor will be performed or inspected by a licensed tradesperson. The Governing Board may make exceptions for property owners and volunteer or training organizations who will be self-performing non-skilled labor.

(j) All rental housing receiving an investment of Fund assets must adhere to the tenant and applicant protections required under the federal HOME program at 24 CFR 92.253, or such stronger tenant and applicant protections as the Governing Board may require, for the duration of the affordability period required under Section [232] 234.01(a)(1) of this Chapter.

[232] 234.05 Governing Board

(a) Upon adoption of a resolution accepting the responsibilities of the governing board as set forth in this chapter, The URA Board shall serve as the Housing Opportunity Fund Governing Board (the “Governing Board”). The Governing Board shall:

1. Ensure that the AAP and all decisions to fund programs, projects, and activities comply with the requirements of this Chapter and all applicable laws and ethical requirements.
2. Issue requests for proposal for Fund assistance, based on the draft requests for proposals and recommendations provided by the Advisory Board and consistent with the AAP and all applicable laws.
3. Make final decisions regarding the disbursement of fund assets, consistent with the requirements of this Chapter and based on recommendations of the Advisory Board. The Governing Board shall not approve any project for funding that has not first been reviewed and ~~recommended for approval~~ **discussed** by the Advisory Board.
4. Enter into agreements to disburse fund assets for projects, programs, and activities consistent with applicable laws.
5. Establish additional priorities consistent with the purposes and intent of this Chapter for inclusion in the AAP based on recommendations of the Advisory Board.
6. Ensure the alignment of Fund disbursements with the City’s other affordable housing resources.
7. Seek contributions from non-City sources to supplement the assets of the Fund.
8. Commission Annual Audits and Annual Reports pursuant to Section [232] 234.09 of this Chapter.

(b) The Governing Board shall meet in regular session at least quarterly and shall conduct its first meeting no later than sixty (60) calendar days after adoption of the resolution of the URA Board as described above. Meetings of the Governing Board, which may be combined with meetings of the URA Board, shall be public and shall be advertised in a manner designed to ensure that the decisions of the Governing Board are open and transparent. The Governing Board shall also provide a mechanism through which interested persons may request and receive timely notification of regular and special meetings, which shall include at a minimum a description of the material terms of financing decisions that will be under consideration. The Governing Board shall allow for public comment on matters up for deliberation at each public meeting, and shall make publicly available a summary of actions taken at each meeting within ten (10) business days. This summary will be unofficial until approved and adopted by the Governing Board.

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[232] 234.06 Advisory Board

(a) A Housing Opportunity Fund Advisory Board (the “Advisory Board”) is hereby created to:

1. Develop a draft AAP subject to approval by the Governing Board and City Council, as provided herein.
2. Provide recommendations to the Governing Board concerning additional fund priorities.
3. Prepare draft requests for proposals for Fund assistance.
4. Provide recommendations to the Governing Board concerning the disbursement of Fund assets.
5. Make recommendations to the Mayor and City Council regarding funding levels for the Fund, potential additional funding sources, and potential additional funding priorities.

(b) The Advisory Board shall initially be comprised of seventeen (17) persons appointed by the Mayor to four-year staggered terms and approved by the City Council as follows:

1. One member from the Mayor’s Office
2. One member of City Council
3. One member from the Urban Redevelopment Authority
4. One member from the Housing Authority of the City of Pittsburgh
5. One member who is a low income tenant earning less than 50% of AMI or who represents a Tenant Association, a majority of whose members are tenants who earn less than 50% of AMI.
6. One member who is a low-income homeowner earning less than 80% of AMI or who represents low income homeowners and resides in a CDBG-eligible census tract
7. One member from the non-profit community
8. One member who is homeless, formerly homeless, has a disability, or is an advocate for persons who are homeless and/or have disabilities
9. One member from the for-profit development community
10. One member from the non-profit development community
11. Five members from Neighborhood Based Nonprofits that serve a low-income population and who reside in a CDBG-eligible Census Tract in each geographic region of the city (north, south, east, west, and central).
12. One member from a lending institution
13. One member who is a fair housing advocate.

(c) The Mayor may appoint, subject to the approval of City Council, one or more additional persons to the Advisory Board as necessary to secure non-City contributions to the Fund.

(d) The Advisory Board shall meet in regular session at least quarterly and shall conduct its first meeting no later than thirty (30) calendar days after its members are appointed. Meetings of the Advisory Board shall be

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public and shall be advertised in a manner designed to ensure full and meaningful public participation in Advisory Board decisions. The Advisory Board shall also provide a mechanism through which interested persons may request and receive timely notification of regular and special meetings, which shall include at a minimum a summary of the matters that will be under consideration. The Advisory Board shall allow for public comment on matters up for deliberation at each public meeting, and shall make publicly available a summary of actions taken at each meeting within ten (10) business days. This summary will be unofficial until approved and adopted by the Advisory Board.

(e) No later than June 30 of each year, the Advisory Board shall develop a draft AAP to determine the use of funds for the following year and to govern the selection of programs, projects, and activities, consistent with the provisions of this Chapter and applicable law. The Advisory Board shall provide an opportunity for public comment and shall submit its proposed AAP to the Governing Board for review no later than August 31. The Governing Board shall review the proposed AAP to ensure that it complies with the requirements of this Chapter and to all other applicable laws and ethical requirements, and shall promptly work with the Advisory Board to correct any deficiencies. The Governing and Advisory Boards shall submit the AAP to City Council for review no later than October 31. Any decision to reject or modify the AAP must be made by City Council no later than December 31 for adoption by the Governing Board in January of the following year.

[232] 234.07 Administration and Management of Funds

(a) The City shall enter into an Intergovernmental Cooperation Agreement with the URA to provide implementation support and administer Fund assets, in a form acceptable to the City Solicitor. The agreement shall be transmitted to the City Clerk for distribution to City Council. The Agreement shall provide substantially as follows:

1. The URA will perform administrative functions related to the operations of the Fund and will provide staff support and technical assistance to the Governing and Advisory Boards.
2. Specific duties will include:
 - a. Administration and Fund management;
 - b. Technical review and underwriting of proposals;
 - c. Construction review and monitoring;
 - d. Approval of draw requests and disbursement of funds;
 - e. Loan management and servicing;
 - f. Reporting;
 - g. Compliance monitoring and enforcement;
 - h. Staff support for the Advisory and Governing Boards to assist with preparation of the draft and final AAP; and
 - i. Additional duties as may be determined by the Advisory Board and Governing Board.

3. Opportunity Fund assets shall be accounted for separately from other funds held by the City and URA.

4. Generally accepted accounting principles (GAAP) for state and local governments, as defined by the Government Accounting Standards Board (GASB), shall be used in the management of all Fund accounts.

[232] 234.08 Annual Audit and Report

(a) Within 90 days after the end of the fiscal year, the Governing Board shall commission an Annual Audit (the "Audit") of Fund income and expenditures for the previous fiscal year. The Audit shall be completed no later than 180 days after the end of the fiscal year. Copies of the Audit shall be provided to City Council, the Mayor, the Governing and Advisory Boards, and shall be made publicly available with the Annual Report. The Audit shall include an account of all administrative expenses sufficient to demonstrate that the expenses are reasonable and necessary to the administration of the Fund.

(b) The Governing Board shall commission an Annual Report on the activities of the Opportunity Fund in the previous fiscal year. The Annual Report shall be completed no later than 180 days after the end of the fiscal year. Copies of the Annual Report shall be provided to City Council, the Mayor, the Governing and Advisory Boards, and shall be made publicly available with the Audit. The Annual Report shall:

1. Provide total numbers of housing units produced, homes preserved, and households prevented from being displaced or becoming homeless as a result of Fund support.

2. List projects, programs, and activities funded through the Fund.

3. Report on funds expended and dollars leveraged by Fund funds.

4. To the extent feasible, report in aggregate form the number of households benefiting from the Fund by income level, geographic distribution, family size, and other criteria as requested by the Advisory Board.

5. Report in aggregate form rents and sale prices of units produced, the number of accessible units built, the number of such units occupied by disabled individuals, and other criteria as requested by the Advisory Board.

6. Report on Opportunity Fund expenditures in each of the income targets specified in Section [232] 234.05(a)(4) of this Chapter.

[232] 234.09 Effective Date.

This Chapter shall become effective upon enactment.