

Chapter 6 BUILDINGS AND BUILDING REGULATIONS*

*Cross reference(s)--Alarm systems, Ch. 2.5; fire prevention and protection, Ch. 10; land use, Ch. 14; rodent and vermin control, Ch. 22; sewers, Ch. 24; streets, sidewalks and other public places, Ch. 25; moving of structures, § 25-191 et seq.; swimming pools, Ch. 26.

Art. I. In General, §§ 6-1--6-15

Art. II. Building Code, §§ 6-92--6-103

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[Art. III and IV were repealed by Order 18-17/18, 8-21-2107]

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ARTICLE I. IN GENERAL

Sec. 6-1. Penalties.

(a) *Penalties.* Monetary penalties shall be assessed on a per-day basis for each day on which a violation exists:

1. The minimum penalty for a specific significant code violation is two hundred dollars (\$200.00) per day, and the maximum penalty is two thousand five hundred dollars (\$2,500.00) per day. The minimum penalty for failure to correct such significant code violation after written notice by the city to do so is five hundred (\$500.00) per day, and the

maximum penalty is five thousand dollars (\$5,000.00) per day. The minimum penalty for failure to correct such significant code violation after a second written notice by the city is one thousand five hundred dollars (\$1,500.00) per day, and the maximum penalty is ten thousand dollars (\$10,000.00) per day.

2. The penalty for violating the occupant load limit, as determined under MUBEC or Chapter 10 of this Code, is \$250.00 for the first violation; \$500 for the second violation; \$1,000 for the third and subsequent violations. Violations shall be calculated on a rolling twelve-month basis.
3. The minimum penalty for a specific violation other than a violation described in paragraph 2 is one hundred dollars (\$100.00) per day, and the maximum penalty is two thousand five hundred dollars (\$2,500.00) per day.
4. In addition to penalties, the violator may be ordered to correct or abate the violations. When violations occur in a shoreland area, as defined in section 14-447, or when the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:
 - a. A threat or hazard to public health or safety;
 - b. Substantial environmental damage; or
 - c. A substantial injustice.
5. If the city is the prevailing party in any legal action to enforce this chapter, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.
6. In setting a penalty, the following shall be considered:
 - a. Prior violations by the same party;

- b. The degree of environmental damage that cannot be abated or corrected;
 - c. The extent to which the violation continued following a city order to stop; and
 - d. The extent to which the city contributed to the violation by providing the violator with incorrect information or by failing to take timely action.
7. The maximum penalty may exceed the limits described in paragraphs 1, 2 and 3, but may not exceed twenty-five thousand dollars (\$25,000.00) per day, when it is shown that there has been a previous violation or judgment against the same party within the past two (2) years for a violation of the same law or ordinance.
8. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum penalties may be increased. The maximum penalty under this paragraph may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.
9. In addition to the other penalties in this section, the building authority or his or her designee designated by the city manager may suspend a contractor's, owner's, or developer's right to obtain building permits or work on any project in the city if the building authority or a housing safety official designated by the city manager determines that a contractor's, owner's, or developer's violation or violations of any provision in articles II, III, or IV of this chapter create such a threat to life or safety that a structure must be posted against occupancy or that the violation or violations render a structure uninhabitable. The suspension authorized by this subparagraph shall be lifted when the building authority or his or her designee determines that

the violation or violations have been fixed.

(b) Penalties assessed pursuant to this section shall be paid to the city.

(Ord. No. 120-97, § 1, 10-20-97; Ord. No. 240-98, § 1, 4-6-98; Ord. No. 60-06/07, 10-16-06; Ord. 298-14/15, 7-6-2015; Ord. No. 165-15/16, 3-7-2016; Ord. 18-17/18, 8-21-2017)

Sec. 6-1.1 Definitions

Except as otherwise provided, the following definitions shall apply to this Chapter:

Building shall mean anything constructed with a roof and walls built for permanent use.

Building authority shall mean the Permitting and Inspections Department Director.

Building official shall mean the Permitting and Inspections Department Director.

Demolition debris includes, but is not limited to, materials that are created by site preparation, clearing land, or erection or destruction of a building or structure. It also includes, but is not limited to, brush, tree limbs, stumpage, building materials, and the waste products of building activity, such as: clay, brick, masonry, concrete, plaster, glass, wood and wood products, asphalt, rubber, metal; and plumbing, electrical and heating fixtures, appurtenances thereto and parts thereof.

Significant code violation shall mean any of the following:

- a. Inadequate or blocked ingress or egress;
- b. Overcrowded conditions as described in section 6-110;
- c. Unsanitary conditions as described in section 6-109, including but not limited to vermin infestation;
- d. Inadequate or defective smoke or fire detection systems;
- e. Inadequate or defective plumbing or electrical systems;
- f. Substantially damaged or defective structural elements; and

- g. Intentional denial of heat or electricity to the legal occupant of a dwelling unit by the owner of the dwelling unit. For purposes of this provision, the terms "occupant", "dwelling unit" and "owner" have the same meanings as provided in section 6-106.

Structure shall mean anything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground.

(Ord. 18-17/18, 8-21-2017)

Sec. 6-2. Fees for reinspections.

Following the issuance of a notice of violation and an order to correct violations, the enforcement authority or a housing safety official designated by the city manager will reinspect once for no fee in order to determine whether the violations have been fixed in compliance with this chapter. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a fee as set forth in the fee schedule adopted pursuant to 6-92 for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.

(Ord. No. 120-97, § 2, 10-20-97; Ord. 238-13/14, 5/19/2014; Ord. 298-14/15, 7/6/2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-3. Reserved.

Sec. 6-4. Reserved.

Sec. 6-5. Reserved.

Sec. 6-6. Reserved.

Sec. 6-7. Reserved.

Sec. 6-8. Reserved.

Sec. 6-9. Reserved.

Sec. 6-10. Reserved.

Sec. 6-11. Reserved.

Sec. 6-12. Reserved.

Sec. 6-13. Reserved.

Sec. 6-14. Reserved.

Sec. 6-15. Reserved.

Sections 6-16 to 6-91. Reserved.

***Editor's Note**—Pursuant to Order 18-17/18, Sections 6-16 thru 6-91 were repealed in their entirety and replaced with Article II, Divisions 1 and 2 in Sections 6-92 through 6-103, below.

ARTICLE II. BUILDING CODE

DIVISION 1. - In General

Sec. 6-92. Permits and permit fees.

(a) No person may commence work on any of the following without first obtaining a permit from the building authority:

1. Constructing, enlarging, altering, repairing, moving, converting, demolishing, or changing the use of any building or structure;
2. Installing, removing, or altering plumbing or plumbing fixtures, or subsurface waste water disposal systems or components;
3. Installing, removing, or altering electrical or signaling conductors, equipment and raceways, or optical fiber cables and raceways, however, permits shall not be required for:
 - a. Replacing lamps or other portable devices to existing receptacles;
 - b. Telephone or telegraph transmission; and
 - c. Municipal signal and fire alarm or radio companies, public utility work and maintenance, and work by municipal employees on municipal property.

(b) Fees for permits and inspections under this article shall be as set forth in the permit fee schedule, adopted by the City Council.

(c) For permit fees based on cost of work, if the proposed project cost submitted by the applicant is less than that as would be indicated by national standards, the City of Portland reserves the right to determine the proposed project cost based on those standards and assess the permit fee accordingly.

(d) The fee for any permit obtained after work has been commenced shall be double the fee otherwise provided for in the fee schedule adopted pursuant to this section.

(e) The Permitting and Inspections Department Director shall adopt a policy authorizing refunds of any fee under this section, where appropriate.

(Ord. 18-17/18, 8-21-2017)

Sec. 6-93. Certificate of Occupancy.

(a) No building, structure, or property shall be used or occupied without a certificate of occupancy.

(b) No final certificate of occupancy shall be issued where any condition of the building, structure, or property is not in compliance with any other section of this Code, except where phased occupancy is specifically provided for in approved permits or plans.

(c) No final certificate of occupancy shall be issued without the approval of the fire chief or his or her designee.

(Ord. 18-17/18, 8-21-2017)

Sec. 6-94. Violations.

(a) Any person who owns, occupies, or controls a building, structure, or premises shall be guilty of an offense and subject to the penalties and remedies provided in section 6-1 of this Chapter and 30-A M.R.S. § 4452 if that person does any of the following:

1. Violates a provision of this article, or any codes adopted pursuant to this article;
2. Allows a violation to occur or remain at any building, structure, or premises that he or she owns, occupies, or controls;
3. Fails to comply with any lawful order issued pursuant to this article; or
4. Builds inconsistently with any approved permit or plan.

(b) The imposition of a penalty for a violation does not excuse that violation or allow it to continue.

(Ord. 18-17/18, 8-21-2017)

Sec. 6-95. Enforcement.

In addition to the remedies otherwise provided, the following specific remedies shall also be available.

(a) The building authority may issue a stop work order, prohibiting that any additional work be completed until any violations are remedied. A fee to remove any stop work order shall be set forth in the fee schedule adopted pursuant to section 6-16.

(b) The building authority may cut electrical wires, remove fuses, or otherwise make a circuit or system inoperative whenever it is found that:

1. Any electrical work has been done without first obtaining a permit; or
2. Any electrical work has been done not in compliance with this Article.

(c) Where any establishment exceeds the posted occupant limit, the building authority, the fire chief, and/or their designees, may order any performance, presentation, spectacle, or entertainment to be stopped until the condition is corrected.

(d) The building authority is authorized to institute, or cause to be instituted by the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

(Ord. 18-17/18, 8-21-2017)

Sec. 6-96. Appeals.

(a) An aggrieved party may appeal from a final decision made pursuant to this Article to the board of appeals within ten (10) days from the action of the building authority.

(b) The board of appeals may permit exceptions to or variances from the specific provisions of this Article where it is established that strict application of the provisions of this code will result in undue hardship, and where the purpose of this Article in promoting the public health, safety and welfare, is not adversely affected.

(c) The order of the building authority shall not be stayed during any such appeal.

(Ord. 18-17/18, 8-21-2017)

Sec. 6-97. Liability.

(a) Nothing in this article shall be construed to relieve any responsible party from liability, or lessen such liability, for damages to persons or property caused by a defect in work performed pursuant to this article.

(b) No officer or employee charged with the enforcement of this article and acting for the city in the discharge of his or her duties shall render himself or herself personally liable for any damage that may occur to any person or property as a result of his or her acts in the discharge of his or her duties.

(c) The City shall not be rendered liable for any damage to persons or property arising out of any permit, inspection, or other action taken pursuant to this Article.
(Ord. 18-17/18, 8-21-2017)

DIVISION 2. - BUILDING STANDARDS

Sec. 6-98. Adoption of standardized codes.

(a) The City hereby adopts the following codes by reference, pursuant to 30-A M.R.S. § 3003:

1. The Maine Uniform Building and Energy Code ("MUBEC"), as required by 10 M.R.S. § 9724;
2. The appendix to the Maine Uniform Building and Energy Code ("MUBEC") containing optional energy conservation and efficiency requirements, as provided by 10 M.R.S. §9722, sub-§6, ¶10; and
3. The National Electric Code (2020) ("NEC").

(b) MUBEC and the appendix to MUBEC containing optional energy conservation and efficiency requirements shall be enforced by the building authority, which shall be accomplished through inspections performed by the City building official and code enforcement officers, pursuant to 25 M.R.S. § 2373.

(c) To the extent that any standard or provision of MUBEC conflicts with any standard or provisions from the appendix to MUBEC containing optional energy conservation and efficiency requirements, the standard or provision contained in the appendix shall control and be enforced by the building authority, as provided above.

(d) The NEC shall be enforced by the building authority.
(Ord. 18-17/18, 8-21-2017; By Referendum, 11-3-2020; Ord. 73-21/22, 10-18-2021)

Sec. 6-99. Electrical permits.

In addition to the other permitting provisions of this article, the following shall also apply to electrical permits.

(a) No electrical permit shall be issued unless the applicant holds a valid master electrician's license, or a limited or special license for the particular work to be installed, issued by the State of Maine.

(b) Notwithstanding subsection (a) above, a person who does not hold a master electrician's license or limited or special license may obtain an electrical permit and do limited electrical work, so long as:

1. The permit is for, and the work will be completed on, a single-family residence that the applicant owns and resides in;
2. The applicant does not connect wires into any service panel; and
3. The applicant does not install, relocate, disconnect, or disturb in any way the main service entrance to the residence.

(c) Electrical permits are not transferable, and the permitted work must be completed by, or under the supervision of, the permittee.

(d) An electrical permit shall expire if work authorized by such permit is not substantially commenced within ninety (90) days from date of issue of the permit; or if the work authorized by such permit is suspended or abandoned for a period of one hundred twenty (120) days.

(e) Any person, after having been issued a permit, shall correct any defective work within forty-eight (48) hours after notification by the building authority. If such corrective work is not accomplished within such time period, no other permits shall be issued to the applicant until same has been accomplished.
(Ord. 18-17/18, 8-21-2017)

Sec. 6-100. Electrical requirements.

In addition to the standards in the NEC, the following provisions shall also apply to electrical installations:

(a) Services installed on brick, masonry metal, or block buildings shall be in rigid conduit. No "service entrance cable" shall be allowed in these applications.

(b) All direct burial service conductors installed from the utility company transformer pads and/or poles to supply residential occupancies shall be installed in schedule forty (40) PVC conduit, minimum size two and one-half (2 1/2) inches).
(Ord. 18-17/18, 8-21-2017)

Sec. 6-101. Electrical inspections.

(a) The building authority shall have the right during reasonable hours to enter any premises, building, or other place, in the discharge of his or her official duties, for the purpose of making any inspection, reinspection, or test of electrical wiring, devices, appliances, and equipment.

(b) No person may cover or conceal, or cause to be covered or concealed, any wiring or other electrical work for which a permit has been issued or is required, before the wiring or work has been inspected or approved by the building authority.

(c) When a closing-in inspection is called for, all wall cases, boxes, etc. will be made ready for devices or fixtures by insuring that all necessary pig-tailing and bonding will be done, and that all neutral and bonding wires in panels will be made up before calling for inspection.

(d) The building authority shall have the authority to reject any work that is not completed in accordance with any permit or applicable code, or in a workmanlike and safe manner.
(Ord. 18-17/18, 8-21-2017)

Sec. 6-102. Burner installation.

In addition to the permitting requirements pursuant to this Article, any person who installs or services oil burner equipment must have a license from the Maine Fuel Board. Any alterations, installations, addition of controls, or other work on oil burners must be done by a person having such a license.
(Ord. 18-17/18, 8-21-2017)

Sec. 6-103. Demolition requirements

(a) No demolition permit shall be issued unless and until:

1. The applicant provides a certification by a licensed specialist that:

- a. There is no friable asbestos material present;
- b. Such friable asbestos has been removed and disposed of in accordance with state and federal law; or
- c. Such friable asbestos will be removed in the course of the demolition in accordance with state and federal law, and also provides an acceptable plan for removal;

2. If the building or structure is located on an island, the applicant has provided an acceptable plan to remove the demolition debris from the island and dispose of it in accordance with state and federal law prior to the expiration of the permit.

(b) A permit to demolish or remove a structure shall expire thirty (30) days after the date of its issuance, provided that, for good cause, the building official may extend the permit for periods of not more than fifteen (15) days.

(c) The person to whom a permit is issued shall dampen or cause to be dampened all debris resulting from the demolition operation to the extent necessary to prevent dust therefrom circulating in the surrounding area.

(d) The disposal of all demolition debris shall be in accordance with all state and federal law.

(e) No demolition debris shall either be disposed of or stored on any of the islands.

(Ord. 18-17/18, 8-21-2017

Sec. 6-104. Reserved.

Sec. 6-105. Reserved.

ARTICLE V. HOUSING CODE

Sec. 6-106. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Basement shall mean the portion of a building next below the ground floor having not more than half of its clear height below the adjoining grade.

Dwelling shall mean any house, building or part thereof which is occupied or intended to be occupied, in whole or in part, for living and sleeping by one (1) or more occupants. A dwelling may include one (1) or more dwelling units or rooming units or a combination of both.

Dwelling premises shall mean the land and auxiliary buildings thereon used or intended to be used in conjunction with a dwelling.

Dwelling unit shall mean 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.

Enforcement authority means and includes the building authority or his or her designee, and the health authority.

Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the building authority.

Friable asbestos material shall mean any material that contains more than one (1) percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder, when dry, by hand pressure.

Floor area shall mean the floor area inside of and between exterior walls or partitions or any combination thereof, as measured within a habitable room.

Habitable room shall mean a room used, or intended to be used, for living, sleeping, cooking, or eating purposes and excludes bathrooms, toilet rooms, laundries, pantries, halls, closets, heater rooms, utility rooms, and attics. Basement or cellar areas are not habitable rooms except as permitted in this article.

Infestation shall mean the presence within a dwelling or on premises of a dwelling of rodents, vermin, or other pests, as determined through actual observation of them or by evidence of their presence.

Lead-based paint hazard means the presence of lead in any form which exceeds the permissible concentration and which exists in an unacceptable condition.

Lead-based substance means any substance which contains lead at a level that constitutes or potentially constitutes an environmental lead hazard.

Lodging facility shall mean the use of one or more rooms, without individual bathroom or kitchen facilities, used to provide sleeping accommodations for no more than two persons, and which are available for use by the public for a fee and which are occupied, regardless of the duration of the occupancy, in the absence of a written lease. Lodging facility does not including the following:

- (a) Sleeping accommodations, whether provided by a business or non-profit organization, where the owner or manager of such an operation routinely provides:
 - 1. Daily maid service;
 - 2. Replacement of linens and towels as demanded by guests of the establishment; and
 - 3. A centralized telephone system.
- (b) Any establishment licensed by the Maine Department of Human Services to provide health care under the direction of duly licensed health care professionals.
- (c) Dormitories, including dwelling units converted to licensed use, operated by educational institutions authorized to confer degrees.
- (d) Sleeping accommodations provided to graduate medical students under the auspices of the accreditation council on graduate medical education or a similar entity.

Multiple dwelling shall mean any dwelling containing more than two (2) dwelling units, rooming units, or combination of both.

Occupant shall mean any person, including an owner or

operator, residing in or having actual possession of a dwelling unit or rooming unit.

Operator shall mean any person who has charge, care, management, or control of any dwelling or part thereof in which dwelling units or rooming units are let or offered for occupancy.

Owner shall mean any person or persons who alone, jointly, severally, or jointly and severally with others:

- (a) Shall have legal or record title to any dwelling, dwelling unit, or dwelling premises;
- (b) Shall have charge, care, or control of any dwelling, dwelling unit, or dwelling premises as an agent of the owner, executor, administrator, trustee, or guardian of the estate of the owner;
- (c) Shall have an equitable interest in a dwelling, dwelling unit, or dwelling premises under a contract or a bond for a deed with the person having legal or record title.

Rooming house shall mean any dwelling, or part thereof, containing three (3) or more rooming units in which space is rented or offered for rent by the owner or operator to be occupied or intended to be occupied by three (3) or more persons who are not related by blood or marriage to the owner or operator.

Rooming unit shall mean one (1) or more rooms forming a single unit used, or intended to be used, for living and sleeping purposes, but not designed for food preparation, by two (2) or more persons living in common or by a person living alone.

Supplied shall mean installed, furnished, or provided by the owner at his or her expense.

(Code 1968, § 307.2; Ord. No. 310-68, § 1, 8-5-68; Ord. No. 490-74, § 1, 8-5-74; Ord. No. 114-77, § 2, 2-23-77; Ord. No. 475-86, § 1, 4-7-86; Ord. No. 159-95, 1-4-95; Ord. No. 45-04/05, 9-8-04; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 6-107. Minimum standards for dwellings established.

There are hereby established minimum standards for buildings used for dwelling purposes in the city. All such buildings not now conforming to these standards will be required to meet such minimum standards, and buildings newly constructed or converted for

dwelling purposes shall meet such minimum standards. The standards set forth herein are intended to be minimum only and shall not be construed otherwise, nor shall they apply wherever a greater standard is required by any other ordinance or law.
(Code 1968, § 307.1; Ord. No. 475-86, § 1, 4-7-86)

Sec. 6-108. Minimum standards for structural elements.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, rooming unit, or a combination of the same, which does not comply with the following minimum standards:

- (a) *Foundations, basements, cellars, exterior walls, roofs.* Every foundation, basement, cellar, exterior wall, and roof shall be substantially weathertight, watertight, and vermin proof; shall be structurally sound and in good repair; and shall be safe for the intended use as well as capable of supporting whatever load normal use may cause to be placed thereon. Every exterior wall or portion thereof shall be painted or stained. Insulation shall be installed and maintained so as not to present a health or safety hazard to occupants. Water from roofs shall be so drained and conveyed therefrom as not to cause repeatedly wet floors, walls, or ceilings, or hazard to adjacent buildings or the occupants thereof.
- (b) *Interior floors, walls, ceilings and doors.* Every floor, wall, ceiling, and door shall be in a structurally sound condition and in good repair and shall be substantially vermin proof.
- (c) *Exterior windows, doors and skylights.* Every window or door, including basement or cellar door and hatchway, and skylight shall be substantially weathertight, watertight, and vermin proof and shall be kept in sound working condition and good repair.

Every exterior window shall include storm sash with screens or an alternative equally effective for heat retention and ventilation purposes, all in operable condition.

- (d) *Stairways, stairwells, stairs and porches.* Every inside and outside stairway, stairwell, stairs, and porch and any appurtenances thereto shall be structurally sound, in good repair, and safe to use.

- (e) *Chimneys, flues and vent.* Every chimney and every flue, vent, and smokepipe and any attachments thereto shall be structurally sound, in good repair, and safe to use.
- (f) *Required equipment and utilities.* Every supplied facility, piece of equipment, or utility which is required under this article shall be so constructed and installed that it will function safely and effectively and shall be maintained in good working condition.

(Code 1968, § 307.3; Ord. No. 475-86, § 3, 4-7-86)

Sec. 6-109. Sanitation and maintenance of equipment; division of responsibility therefor.

Every dwelling, dwelling unit, roominghouse, rooming unit, dwelling premises, or combination of the same, shall be kept and maintained in a sanitary and clean condition, and facilities shall be provided, in accordance with the following division of responsibility:

- (a) *Maintenance of assigned areas.* Every occupant of a dwelling, dwelling unit, or rooming unit shall maintain in a clean and sanitary manner that part of the dwelling, dwelling unit, or rooming unit, and dwelling premises which he or she occupies and controls.
- (b) *Maintenance of shared areas.* Every owner or operator of a multiple dwelling or rooming house shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and dwelling premises.
- (c) *Maintenance of supplied facilities.* Every occupant of a dwelling unit shall keep all supplied facilities, including refrigeration, plumbing and cooking equipment, in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in their proper use and operation.
- (d) *Disposal of rubbish, ashes, garbage and waste.* Separate watertight, tightly covered plastic or metal containers shall be provided, one (1) or more for garbage and other food wastes, one (1) or more for rubbish, paper, and other non-food wastes, and one (1) or more metal containers for ashes, and all such containers shall be kept covered at all times so as to prevent the ingress and egress of flies, rats or other animals. Plastic or

paper bags or boxes are not considered "containers" for purposes of this section. Ashes shall be cold when placed in containers for collection. Such containers shall be cleaned periodically so that they will not become foul or offensive and shall be placed in convenient locations for removal of the contents by persons authorized to collect the same. Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall place or cause to be placed all garbage, rubbish and other waste material in such containers and shall not permit any accumulation or deposit of such substances in or about the premises except in said containers. The responsibility for the provision of such containers shall be as follows:

1. It shall be the duty of every occupant of every dwelling occupied by not more than two (2) families to provide and keep within the dwelling or upon the premises where the dwelling is situated sufficient containers to meet the above requirements.
 2. It shall be the duty of the owner or operator of every multiple dwelling to provide and keep within the dwelling or upon the premises where the dwelling is situated sufficient containers to meet the above requirements.
 3. It shall be the duty of every owner or operator of a rooming house to provide and keep within the dwelling or upon the premises where the dwelling is situated sufficient containers to meet the above requirements.
- (e) *Rodent and vermin control.* Every dwelling, dwelling unit, rooming house, rooming unit, and dwelling premises shall be kept and maintained free from insects, rodents, or other pests in accordance with the following division of responsibility:
1. Every occupant of a dwelling unit shall be responsible for the extermination of such insects, rodents, or other pests where the infestation is confined to such dwelling unit, except as provided in subsection 6-109(e)2.
 2. When infestation of a dwelling unit shall exist because of the failure of the owner or operator of a dwelling or dwelling premises to keep the same in

a substantially rodent or vermin-proof condition, extermination shall be the responsibility of the owner or operator.

3. Every owner or operator of a dwelling shall be responsible for the extermination of such insects, rodents, or other pests whenever infestation exists in any two (2) or more dwelling and/or rooming units, or in shared areas or upon the dwelling premises.
4. Every owner or operator of a rooming house shall be responsible for the extermination of any insects, rodents, or other pests in the dwelling or upon the dwelling premises.

- (f) *Maintenance of service to utilities.* No owner, operator or occupant shall cause any service, facility, equipment or utility supplied in accordance with the requirements of this article to be removed, shut off, or discontinued for any occupied dwelling, dwelling unit, rooming house, or rooming unit except for such temporary interruption as may be necessary when actual repairs or alterations are being expeditiously made. For purposes of this Code, whenever it is established that the interruption was for more than twelve (12) hours within a twenty-four-hour period, the owner or operator shall have the burden of producing evidence proving the interruption was necessary and unavoidable given all the surrounding circumstances.
- (g) *Vacating of premises.* It shall be the duty of every occupant of a dwelling, dwelling unit or rooming unit, upon vacating such premises, to leave the premises in a clean and sanitary condition with no accumulation of rubbish or other debris. No owner or operator shall allow another to occupy any dwelling, dwelling unit, or rooming unit which has not been placed in a clean and sanitary condition with no accumulation of rubbish or other debris.

(Code 1968, § 307.4; Ord. No. 475-86, § 4, 4-7-86)

Sec. 6-109.5. Standards for unoccupied residential structures.

The owner of any unoccupied structure containing dwelling units or rooming units or any combination thereof shall comply with the following minimum standards:

- (a) *Foundations, basements, cellars, exterior walls, roofs.* Every foundation, basement, cellar, exterior wall and roof shall be substantially weathertight, watertight and vermin-proof; shall be structurally sound and in good repair; and shall be safe for the intended use as well as capable of supporting whatever load normal use may cause to be placed thereon. Every exterior wall or portion thereof shall be painted or stained. Water from roofs shall be so drained and conveyed therefrom as not to cause repeatedly wet floors, walls or ceilings, or hazard to adjacent buildings or the occupants thereof.
- (b) *Interior floors, walls, ceilings and doors.* Every floor, wall, ceiling and door shall be in a structurally sound condition and shall be substantially vermin-proof.
- (c) *Exterior windows, doors and skylights.* Every window or door, including basement or cellar door and hatchway, and skylight shall be substantially weathertight, watertight and vermin-proof, and shall be kept secured to prevent ingress of people and animals.
- (d) *Stairways, stairwells, stairs and porches.* Every outside stairway, stairwell, stairs and porch and any appurtenances thereto shall be structurally sound, in good repair and safe to use.
- (e) *Chimneys, flues and vent.* Every chimney shall be structurally sound and in good repair.
- (f) *Rodent and vermin control.* All unoccupied structures and exterior property shall be kept free from rodent and vermin infestation. Where rodents and vermin are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. Every owner or operator of an unoccupied residential structure shall be responsible for the extermination of such rodent and vermin or pest whenever infestation exists.

(Ord. No. 172B-94, 2-7-94)

Sec. 6-110. Minimum standards for space and occupancy thereof.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, dwelling unit, or rooming unit which is or would be overcrowded as determined by the following minimum standards for space and occupancy:

- (a) *Space per person.* Every dwelling unit shall contain at least one hundred (100) square feet of habitable floor area for the first occupant and at least seventy (70) square feet of additional habitable floor area for each additional occupant. For the purpose of this subsection, a child under the age of one (1) shall not be counted.
- (b) *Efficiency apartments.* A dwelling unit occupied by two (2) or more occupants which contains a room not intended primarily for cooking or sleeping, but which is properly designed and equipped or especially furnished with either a kitchenette or wall-type kitchen unit and bed-furniture properly designed for daytime storage or other daytime use, to be maintained as a combination of regular living and efficiency cooking, may contain seventy (70) square feet less habitable floor area than would otherwise be required. For the purpose of this subsection, a child under the age of one (1) shall not be counted.
- (c) *Sleeping space.* Every room occupied for sleeping purposes in a dwelling unit and in a rooming unit shall contain at least fifty (50) square feet of habitable floor area for each occupant, except that children under one (1) shall not be counted and children more than one (1) but less than ten (10) shall be deemed one-half person.
- (d) *Size of habitable rooms.* No habitable room, other than a kitchen or dining alcove, shall contain less than sixty-five (65) square feet of floor area, nor shall the least horizontal dimension of such room be less than seven (7) feet.
- (e) *Computation of floor area.* In computing floor area for the purposes of this section, the space used for closets or other enclosed spaces and, in the case of rooms with sloping ceilings, portions of such rooms with less than four (4) feet in height shall be excluded in computing the area.
- (f) *Basement dwelling units.* Every room in any cellar or basement used for the purposes of a habitable room shall meet the following conditions:
 - 1. The ceiling shall have a clear inner height of at least seven (7) feet and shall be at least three (3) feet above the grade of the ground at the points where the required windows open.

2. The floor and walls shall be water- and damp-proof and the room shall be well drained and dry.
3. There shall be one (1) or more windows, the combined total sash area of which shall be not less than eight (8) square feet, or one-twelfth of total floor area, whichever is greater, which windows shall open readily for purposes of ventilation directly to the outside air.

- (g) *Notice of maximum occupancy required.* When a person lets to another for occupancy any dwelling, dwelling unit, or rooming unit, he or she shall notify the occupant in writing of the maximum number of persons permitted to occupy the premises by the provisions of this article.

(Code 1968, § 307.5)

Sec. 6-111. Minimum plumbing standards.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with the following minimum standards:

- (a) *Basic facilities.* Every dwelling unit shall contain within its walls, in sound operating condition, a kitchen sink, a private flush toilet, lavatory basin, and bathtub or shower. Rooming houses and dwelling houses containing rooming units shall contain at least one (1) flush toilet, one (1) lavatory basin, and one (1) bathtub or shower for each five (5) persons or fraction thereof living within rooming units in the dwelling.
- (b) *Location of facilities.* The flush toilet, lavatory basin, and bathtub or shower shall be conveniently located within a room or compartment which affords privacy and is separate from habitable rooms, is accessible from a common hall without passing through another dwelling unit or rooming unit or without going outside of the rooming house or dwelling house, is not more than one (1) story removed from the rooming unit of any occupant intended to share such facilities, with the lavatory basin further required to be in the same room or compartment as practicable. No such facilities located in a basement or cellar shall count in computing the number of facilities required hereunder, except upon the prior approval of the

building authority.

- (c) *Water supply.* Every dwelling, dwelling unit and rooming house shall be provided with a potable water supply. Every kitchen sink, lavatory basin, and bathtub or shower required by this article shall be properly connected with hot and cold water lines with adequate supply and pressure. The hot water lines shall be connected with water-heating facilities which supply water at a temperature of at least one hundred ten (110) degrees Fahrenheit at every required fixture at all times.
- (d) *Maintenance of plumbing fixtures.* All fixtures required by this article and all fixtures installed in addition thereto shall be properly installed and maintained in sound mechanical condition, free from defects, leaks, or obstructions, and in accordance with the state plumbing code.
- (e) *Additional requirements for structures located on islands in Casco Bay.* All new or replacement plumbing fixtures to be installed in any structures located on an island in Casco Bay shall be of water conservation design, as outlined in the state plumbing code. Toilets shall have a low water volume standard of 1.6 gallons per flush or less. Other plumbing fixtures shall have a flow restriction with a maximum flow rated three (3) gallons per minute.

(Code 1968, § 307.6; Ord. No. 310-68, §§ 2, 3, 8-5-68; Ord. No. 475-86, § 5, 4-7-86; Ord. No. 165-89, 12-11-89)

Sec. 6-112. Minimum ventilation standards.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, dwelling unit, rooming house or rooming unit unless every habitable room therein has a window or windows with a total sash area equal to at least one-twelfth of its floor area opening on a street, alley, yard or court open to the sky and constructed so that at least one-half of the sash area can be opened, except that an approved method of mechanical ventilation may be substituted for such window or windows.

(Code 1968, § 307.7)

Sec. 6-113. Minimum lighting standards.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or

rooming unit which does not comply with the following minimum standards:

- (a) *Habitable rooms.* Every habitable room, other than rooms used primarily for sleeping, shall contain at least two (2) separate duplex convenience outlets or at least one (1) duplex convenience outlet and one (1) ceiling-type or wall-type electric light fixture.
- (b) *Rooms used primarily for sleeping, bathrooms, utility rooms, cellars and basements.* Every room used primarily for sleeping, water-closet compartment, bathroom, laundry room, furnace room, cellar and basement shall contain at least one (1) ceiling-type or wall-type electric light fixture.
- (c) *Passageways and common stairway.* Every passageway and stairway shall have at least one (1) ceiling-type or wall-type electric light fixture adequate to provide safe passage.
- (d) *Extension cords.* No temporary wiring shall be used except extension cords which run directly from portable electrical fixtures to convenience outlets, ceiling or wall-type fixtures and which do not lie under rugs or other floor coverings, nor extend through doorways, transoms or similar openings through structural elements.
- (e) *Maintenance of lighting fixtures.* All fixtures required by this article and all fixtures installed in addition thereto shall be maintained in good and safe working conditions and shall be installed in accordance with the electrical code of the city.

(Code 1968, § 307.8; Ord. No. 475.86, § 6, 4-7-86)

Sec. 6-114. Minimum heating standards.

No person shall occupy as owner-occupant or shall allow another to occupy, except when used solely for seasonal occupancy between March first and October thirty-first, any dwelling, dwelling unit, rooming house or rooming unit which does not comply with the following minimum standards:

- (a) *When central heating plant not available.* When heat is not furnished by a central heating plant, each dwelling unit or rooming unit shall be provided with one (1) or more masonry flues and smoke or vent pipe connections, or

equal arrangement, in accordance with the provisions of the city Code to permit the use of heating equipment capable of providing heat as required by this section.

(b) *Heating facilities required.* Every habitable room, excepting rooms used primarily for sleeping purposes, shall be served by heating facilities which provide a minimum temperature of at least sixty-eight (68) degrees Fahrenheit, at a distance of three (3) feet above floor level, as required by prevailing weather conditions from September fifteenth through May fifteenth of each year.

(c) *Maintenance of equipment.* All stoves, furnaces, room heaters, or domestic water heaters operated by solid, liquid, or gaseous fuel shall be properly vented and maintained in safe operating condition by the owner, operator, occupant or both.

(Code 1968, § 307.9; Ord. No. 475-86, § 7, 4-7-86; Ord. No. 156-88, 9-19-88)

Sec. 6-115. Lead-based paint hazard.

(a) This provision is intended to supplement the Lead Poisoning Control Act (22 M.R.S.A. Sections 1314 et seq.) and the regulations adopted pursuant thereto including, but not limited to, the Rules for Environmental Lead Inspections and the Rules for Abatement of Environmental Lead Hazards.

(b) When either the city's health authority, as defined in section 2-17(h), or the city's director of permitting and inspections, as defined in section 2-17(h)(10) of this Code as amended, determines that an environmental lead hazard exists in any dwelling or premises (as those terms are defined in Section 216.03-7 and Section 216.03-31 of the Rules for Abatement of Environmental Lead Hazards), he or she shall issue an order in writing to the owner (as defined in Section 216.03-28 of the Rules for Abatement of Environmental Lead Hazards), describing the environmental lead hazards and establishing a time within which such hazards shall be abated.

(Code 1968, § 307.9A; Ord. No. 490-74, § 2, 8-5-74; Ord. No. 475-86, § 8, 4-7-86; Ord. No. 159-95, 1-4-95; Ord. No. 165-15/16, 3-7-2016)

Sec. 6-116. Minimum standards for safety.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with Chapter 10 of this code, including but not limited to the following minimum standards for

safety from fire.

- (a) No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing, storing or producing flammable liquids, toxic gas vapors or fibrous materials, such as asbestos, which may endanger the lives or safety of the occupants.
- (b) Every dwelling unit and every rooming unit shall have safe, unobstructed means of egress leading to safe and open spaces at ground level in accordance with applicable statutes, regulations and ordinances.
- (c) Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.
- (d) Storage rooms and storage lockers shall not be used for storage of refuse, rubbish or waste.
- (e) Every dwelling, dwelling unit, rooming house and rooming unit shall comply with the applicable provisions of the most current edition of the National Fire Protection Association Life Safety Code, and with all other applicable state statutes and regulations.
- (f) When the health or building authority or his or her designee determines that a dwelling contains friable asbestos material in an amount and/or location which presents an unacceptable health hazard to the occupants and/or the general public, the owner of the dwelling, upon notification from the health or building authority or a housing safety official designated by the city manager, shall remove that material or encapsulate it. Removal or encapsulation shall be conducted in accordance with all applicable federal, state and local laws and regulations.

(Code 1968, § 307.10; Ord. No. 475-86, § 9, 4-7-86; Ord. No. 188-00, §5, 4-24-00; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

***Editor's Note**—Pursuant to Council Order 165-10/11 passed on 4-4-11, Sections 6-116.1 thru 6-116.3 were repealed in their entirety.

Sec. 6-117. Inspections.

The health or building authority or his or her designee, upon showing, proper identification, shall have the right to enter at any and all reasonable times into or upon any dwelling or dwelling premises within the city for the purpose of inspecting the dwelling or dwelling premises in order to determine compliance with the provisions of this article and for the purpose of examining and inspecting any work performed under the provisions of this article, and it shall be a violation of this article for any person to interfere with or prevent such inspection.

(Code 1968, § 307.11; Ord. No. 475-86, § 10, 4-7-86; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-118. Notices.

When any violation is found to exist within the meaning of this article, the health or building authority or his or her designee shall give the owner, operator or occupant, or both a written order or notice which shall set forth the violation and shall contain a reasonable time limit for the correction thereof.

(Code 1968, § 307.12; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-119. Reinspections.

After the expiration of the time for correction of a violation, the health or building authority or his or her designee shall make a reinspection of the premises, and if the violation has not been corrected and no appeal is pending as hereinafter provided, such authority may make such further order as he deems advisable or he may proceed to take legal action against the person liable for such violation.

(Code 1968, § 307.13; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-120. Properties unfit for human habitation; and posted against occupancy.

Any dwelling, dwelling unit, rooming house, rooming unit, or any structure or portion thereof being used for human habitation which is in violation of the provisions of this article to the extent that it is unfit for human habitation according to the standards contained herein or other applicable standards may be condemned for habitation and posted against occupancy by the building authority or his or her designee. Property unfit for human habitation shall include but not be limited to:

- (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested in

such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;

- (b) Properties which lack plumbing, ventilating, lighting or heating facilities or equipment adequate to protect the health, safety and general welfare of the occupants or the public;
- (c) Properties which, because of their general condition, state of the premises, number of occupants, or location, are so unsanitary, unsafe, overcrowded or otherwise dangerous or detrimental that they create a serious menace to the occupants or the public;
- (d) Properties which contain lead-based paint substances, as defined herein;
- (e) Properties in or on which the owner, operator or occupant has failed to comply with notices or orders issued under the provisions of this article; or
- (f) Properties which are disorderly houses.

NOTE: The words "enforcement authority" would be substituted for "building authority" throughout the housing code.

(Code 1968, § 307.14; Ord. No. 475-86, § 11, 4-7-86; Ord. No. 159-95, 1-4-95; Ord. No. 36-98, § 2, 4-22-98; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-121. Notice of condemnation and posting; order to vacate.

The building authority or his or her designee shall give notice in writing to the property owner or operator of such condemnation and posting, and in the event such property is occupied, he or she shall give like notice to the occupant, which shall also include a reasonable time limit within which such property shall be vacated.

(Code 1968, § 307.15; Ord. No. 475-86, § 12, 4-7-86; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-122. Property not to be occupied again for habitation.

No property which has been condemned and posted against occupancy shall again be used for the purpose of habitation until the building authority or his or her designee shall in writing approve of its use and shall likewise authorize the removal of the posted notice.

(Code 1968, § 307.16; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-123. Notices not to be removed; property not to be used or let; exception.

It shall be a violation of this article for any person to deface or remove any such posted notice without the prior approval of the building authority or his or her designee, and it shall also be a violation of this article for any person to occupy or let to another for occupancy any property which has been condemned and posted as provided above without receiving the prior approval of the building authority or his or her designee.

(Code 1968, § 307.17; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-124. Property to be secured if not improved.

If the owner or operator of any property which has been condemned as unfit for habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this article, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard shall exist.

If the owner or operator fails to do so within a reasonable amount of time, the City may take all reasonable steps to make the property safe and secure and recoup the costs from the owner or operator. If the City takes steps to make the property safe and secure, the City shall also collect an administrative fee, as set forth in the schedule adopted pursuant to section 6-16.

(Code 1968, § 307.18; Ord. 18-17/18, 8-21-2017)

Sec. 6-125. Restriction on conveyance of property; exception.

It shall be a violation of this article for any person to sell, transfer, or otherwise dispose of any property against which an order has been issued by the building authority or his or her designee under the provisions of this article unless he or she shall first furnish to the grantee a true copy of any such order and shall at the same time notify the building authority or his or her designee in writing of the intent to so transfer either by delivering the notice to the building authority or his or her designee and receiving a receipt therefor or by registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed. In the event of a violation of this section, such person shall be subject to a penalty as provided in section 1-15, in addition to any penalty which may be imposed for failure to comply with any order of the building authority or

ahis or her designee.

(Code 1968, § 307.19; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-126. Responsibility hereunder may not be transferred.

No contract or agreement between owner and/or operator and occupant relating to compliance with the terms of this article shall be effective in relieving any person of responsibility for compliance with the provisions of this article as set forth herein.
(Code 1968, § 307.20)

Sec. 6-127. Appeals.

An appeal from any final decision of the building authority or his or her designee, if available by statute or otherwise by law, under the provisions of this article may be taken by an aggrieved party to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.
(Code 1968, § 307.21; Ord. No. 475-86, § 13, 4-7-86; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-128. Personal nonliability.

No officer or employee charged with the enforcement of this article and acting for the city in the discharge of his or her duties shall render himself or herself personally liable for any damage that may occur to any person or property as a result of his or her acts in the discharge of his or her duties. Any suit brought against any officer or employee because of any act performed by him or her under the provisions of this article shall be defended by the corporation counsel until the final determination of the proceedings therein.
(Code 1968, § 307.22)

Sec. 6-129. Exception for island properties.

The building authority or his or her designee may permit the use of buildings located on the islands for dwelling purposes which do not meet the minimum standards set forth in this article when he or she finds that it is not feasible or practicable to provide such minimum standards and the health, safety or general welfare of the occupants or the public will not be adversely affected.
(Code 1968, § 307.23; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

Sec. 6-130. Violations.

(a) Any owner, occupant, or operator of a building, structure, or premises shall be guilty of an offense and subject to the penalties and remedies provided in section 6-1 of this Chapter and 30-A M.R.S. § 4452 if that person does any of the following:

1. Violates a provision of this Article, or any codes adopted pursuant to this Article;
2. Allows a violation to occur or remain at any building, structure, or premises that he or she owns, occupies, or controls; or
3. Fails to comply with any lawful order issued pursuant to this Article.

(b) The imposition of a penalty for a violation does not excuse that violation or allow it to continue.
(Code 1968, § 307.24; Ord. No. 133-75, 2-19-75; Ord. No.165-10/11 4-4-11; Ord. 298-14/15, 7-6-2015; Ord. 18-17/18, 8-21-2017)

***Editor's Note:** Pursuant to Order 165-10/11, passed on 4-4-11 Section 6-131 was repealed in its entirety. It was later amended with new language by Order 18-17/18 on 8/21/2017.

Sec. 6-131. Enforcement.

In addition to the remedies otherwise provided, the following specific remedies shall also be available:

(a) Where any building, structure, or property is required to be secured by this article, the enforcement authority may secure the building and charge the owner, occupant, and/or operator a penalty of \$500, plus reimbursement of the actual costs of securing where:

1. The owner, occupant, and/or operator has been given notice of the requirement to secure and has failed to do so within a reasonable time; or
2. The building, structure, or property poses an imminent threat to the public if not secured before notice and an opportunity to correct can be given.

(b) The enforcement authority is authorized to institute, or cause to be instituted by the corporation counsel, in the name of

the city any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

(Ord. 18-17/18, 8-21-2017)

Sec. 6-132. Lodging facility.

(a) *Statement of policy.* The intent of this section is to provide tenant-at-will status to residents of lodging facilities, as defined in section 6-106, after they have resided in a unit for thirty (30) days or more. Such lodging facilities offers sleeping accommodations but few other amenities, and residents of such housing in the past have been subjected to summary eviction procedures by landlords who purposefully characterize their rentals as "lodging houses" and thereby purport to act under state law in ejecting occupants without any recourse, regardless of the length of residency.

(b) *License registration required for lodging facilities.* No person, firm, corporation or other entity shall offer or provide lodging facilities, as that term is defined in section 6-106, without having registered pursuant to Article VI.

(c) *Application to buildings or structures with three or more units.* The requirements of this section shall apply to buildings or structures containing three (3) or more lodging facility units.

(d) *Constructive "tenant at will" status after 30 day occupancy.* Any person who has occupied a lodging facility unit situated at the same building or structure for thirty (30) consecutive days and has paid rent for that thirty (30) day period will be deemed to have achieved the status of a tenant at will as of the 30th day and may not thereafter be evicted except in accordance with the requirements of Maine's Forcible Entry and Detainer Law (14 M.R.S.A. § 6001, et seq.)

(e) *Termination of owner's interest.*

- (1) Upon termination of an owner's interest in any building or structure operating as a lodging facility, whether by sale, assignment, death, appointment of a receiver or otherwise, the owner shall advise the successor in title, the City of Portland and all occupants of a lodging facility who have qualified under subsection (d) above of the status of such occupants, which shall

be binding upon the successor in title as though it were the owner when the status was achieved.

- (2) Notice to the City of Portland shall be addressed to:

Housing Safety Office
Permitting and Inspections Department
Portland City Hall
389 Congress Street
Portland, ME 04101

(f) *Owner's responsibility.* The owner shall remain liable to the occupants qualified under subsection (e) above until the notice required by that section has been provided.

(Ord. No. 45-04/05, 9-8-04; Ord. No. 165-15/16, 3-7-2016; Ord. 18-17/18, 8-21-2017)

Sec. 6-133. Habitation of Recreational Shelters.

(a) For purposes of this section, "recreational shelter" means any building, structure, vehicle, trailer, or other enclosure used or intended for human habitation that does not meet the standards set forth in Articles II through IV of this Chapter, or the State of Maine Manufactured Housing Act. This includes, but is not limited to, recreational vehicles, motor homes, campers, camp or truck trailers, tents, shelters, and structures on trailers capable of being towed by a motor vehicle.

(b) A recreational shelter may not be occupied as living quarters, unless it meets all of the following requirements:

- (1) The recreational shelter is a vehicle or trailer eligible for registration under Title 29-A, Chapter 5 of the Maine Revised Statutes;
- (2) The recreational shelter is fully inspected, registered and ready for highway use, except that a moveable recreational shelter that does not move under its own power may be temporarily disconnected from the vehicle used to haul it, only for the time period contained in subsection (b)(8) below;
- (3) The recreational shelter meets all of the applicable fire and life safety requirements;
- (4) The recreational shelter is weathertight, watertight, vermin proof, structurally sound and in good repair;

- (5) The use of the recreational shelter, and its connection to utilities, if any, complies with all other applicable sanitary, electrical, fire, and life safety requirements of this Code;
- (6) The recreational shelter is located entirely on residential property and is used solely by residents of that residential property or guests of those residents;
- (7) The recreational shelter, or space for the recreational shelter, is not rented or let;
- (8) The recreational shelter is not occupied as living quarters anywhere within the City of Portland for more than 30 days in any one-year period; and
- (9) No more than one occupied recreational shelter may be located on a single parcel or lot at a time.

Ord. No. 19-17/18, 8-21-2017)

Sec. 6-134. Reserved.
Sec. 6-135. Reserved.
Sec. 6-136. Reserved.
Sec. 6-137. Reserved.
Sec. 6-138. Reserved.
Sec. 6-139. Reserved.
Sec. 6-140. Reserved.
Sec. 6-141. Reserved.
Sec. 6-142. Reserved.
Sec. 6-143. Reserved.
Sec. 6-144. Reserved.
Sec. 6-145. Reserved.
Sec. 6-146. Reserved.
Sec. 6-147. Reserved.
Sec. 6-148. Reserved.
Sec. 6-149. Reserved.

ARTICLE VI. RESIDENTIAL RENTAL UNIT REGISTRATION REQUIREMENTS

Sec. 6-150. Purpose.

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of residential long term rental properties, sometimes managed through unresponsive

property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. Non-owner occupied short term rental units may remove housing units from the long term rental market and may contribute to the increase in the cost of rental housing in the City.

This article is intended to require the disclosure of the ownership of such property, and to regulate the renting of property within the City, and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises, to ensure that housing units remain available for rent to those who reside or seek to reside within the City, to ensure that residential areas are not unduly impacted by the operation of short term rentals, and to ensure that owners and tenants comply with chapters 6 and 10 of the City Code.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. 298-14/15, 7-6-2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-150.1. Definitions.

The definitions in 6-106 apply to this Article. The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Island Short Term Rental shall mean a short term rental located on one of the following islands in the City of Portland: Peaks Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island, and/or Cliff Island.

Long Term Rental shall mean the letting of a rental unit in whole or in part for thirty (30) days or more.

Mainland Short Term Rental shall mean a short term rental located within the limits of the City of Portland, but not on Peaks Island, Long Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island and/or Cliff Island.

Multi-Unit shall mean a single, detached building in common ownership interest containing more than one (1) residential or commercial unit, as determined by the Director of the Permitting and Inspections Department.

Owner-Occupied shall mean a rental unit owned and occupied by the registrant as his or her primary residence. Accessory dwelling units as defined in Chapter 14 of this Code, are not considered owner-occupied units for purposes of short term rental registration and regulation.

Owner shall mean each individual person or entity including, without limitation, all partners, officers, or trustees of any real estate trust; all members or managers of a limited liability company; and all officers and directors of a corporation; that is the record owner of a building or property.

Primary Residence shall mean the dwelling in which a person resides as his or her legal residence for more than one half of a year and registers as his or her address for tax and government identification purposes.

Registrant shall mean the owner of a rental unit, or a tenant, with permission from the owner, seeking to register a rental unit.

Rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. Any portion of a Single-Family Home, Condominium, or Apartment that is rented or available to be rented to an individual or individuals who are not the owner or owners shall be considered a *rental unit*. *Dwelling units* and *rooming units* as defined in §6-106 are, without limitation, *rental units*. A Single-Family Home, Condominium, or Apartment that is occupied by the owner or owners, and of which no portion is rented or available for rent, is not a *rental unit*.

Short Term Rental is the letting of a rental unit, in whole or in part, for less than thirty (30) days.

Single Family Home shall mean a detached residential dwelling or a single condominium unit containing one dwelling unit.

Tenant-Occupied shall mean a rental unit in which the registrant is not the record owner of the rental unit, but lawfully occupies the rental unit as his or her primary residence.
(Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-151. Registration required.

(a) Registration of Ownership.

1. Rental units must be registered in accordance with this article by January 1st of each year; Rental units entering the rental housing market must be registered within fourteen days. Registration must be renewed annually, on or before January 1st, including updating

all changes in previously submitted registration information.

2. If a rental unit is rented as both a short term and long term rental, it must be separately registered for each type of rental.
3. Each owner, manager, and person/entity otherwise responsible for the rental unit, such as a property manager, shall be obligated under this article. Any new owner, manager, or responsible person/entity must apply to register within thirty (30) days of purchase of the rental unit or transfer of management or responsibility. New owners or tenants applying to register an existing short term rental unit are considered new applicants and shall be subject to all limitations and regulations in effect at the time of the application.
4. A rental unit shall not be considered registered until all information and fees are provided to the satisfaction of the City's Permitting and Inspections Department or its designee.
5. As a condition of registration, all owners must allow onsite inspections of their property including, without limitation, all rental units.

(b) *Information/Documentation Required.* Registration must be completed on forms supplied by the City's Permitting and Inspections Department or their designee and must provide, at a minimum, the following information:

1. The street address of the building;
2. The unit number of the rental unit;
3. The tax assessor's chart, block and lot of the property on which the building is located;
4. The owner of the property, including the owners' name, address, telephone number, and email address. If the owner is anything other than a natural person, the following information must also be included:
 - a. The name of each individual person that has an ownership interest in any entity that is the record owner. This includes, without limitation, all

partners, officers, or trustees of any real estate trusts; any members or managers of a limited liability company; and all officers and directors of a corporation; and

- b. The residential street address, e-mail address and home phone number of at least one (1) such individual person;
- 5. The manager of the property or the person or persons responsible for its regular maintenance or repair, as well as a name, address, telephone number, and email address for that person or entity; and
- 6. The person designated as the agent of the owner or owners for the service of notices and civil process by the city, as well as their name, address, telephone number, and e-mail address. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or owners.

(c) *Additional Information Required for Short Term Rentals.* A short term rental shall not be considered registered unless and until the registrant has submitted a complete application together with all information required by this article, paid the fee required by Sec. 6-152, and a registration number has been issued.

In addition to the information required in Section 6-151(b), a Short Term Rental registrant must provide at a minimum the following information and any other information requested by the City's Permitting and Inspections Department or their designee:

- 1. A short term rental application;
- 2. Whether the rental unit is owner-occupied, tenant-occupied, or non-owner occupied;
 - a. For Short Term Rental units that are owner-occupied, the owner must provide a notarized primary residence affidavit, on forms provided by the City. The owner must also produce for review one of the following demonstrating residency at the owner-occupied unit:
 - i. Valid driver's license or other state-issued identification;

- II. Valid motor vehicle registration;
 - iii. Proof of homestead exemption; or
 - iv. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.
- b. For Short Term Rental units that are tenant-occupied, the tenant must provide a notarized primary residence affidavit, and a notarized statement of permission by his/her landlord, both on forms supplied by the City. The tenant must also produce for review one of the following demonstrating residency at the tenant-occupied unit:
- i. Valid driver's license or other state-issued identification;
 - ii. Valid motor vehicle registration; or
 - iii. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.
3. The address and tax assessor's chart, block, and lot number of all other short term rentals in the City in which the registrant has an ownership interest;
4. For short term rental units that are within a condominium or homeowner's association, an attestation that use of the unit as a short term rental is allowed under the relevant documents; and
5. If the application is for renewal, the number of nights the unit was rented on a short-term basis and the number of nights the unit was rented on a long-term basis in the previous reporting year. For purposes of reporting this information, November 1 through October 31 is the reporting period for a renewal of January 1.

(d) Display of Short Term Rental Registration Number Required.

Once registration is approved by the City, each short term rental shall be given a registration number, which must be displayed in the rental unit and in any and all advertisements for the rental unit.

(e) Upon request by the City, at any time, all registrants and/or agents of short term rental units must provide the City with their registration information, rental history, and upcoming reservation information. Failure of short term rental unit owners, tenants, and/or their representatives to adequately respond to inquiries by the City within a forty-eight (48) hour period shall be considered a violation under this ordinance.

(f) *Additional Information Required for Covered Units.* A Covered Unit, as defined by Section 6-232 of this Chapter, shall not be considered registered unless and until the registrant has submitted the following additional information:

1. The current rent charged at the time of registration;
2. The increase in rent (if any) when compared to the previous registration;
3. Whether the increase (if any) is attributable to: (1) the Allowable Increase Percentage and Tax Rate Rent Adjustment, as defined in Section 6-232; or (2) also includes Banked Rent, as defined in Section 6-232;
4. The amount of Banked Rent, if any, accumulated since the previous registration;
5. The amount of security deposits or other payments demanded in addition to rent for each Covered Unit; and
6. The number of bedrooms, number of bathrooms, and the presence or absence of a kitchen from each Covered Unit.

(g) *Registration data made available.* The City's Permitting and Inspections Department or its designee is required to make anonymized data from the registration of Covered Units available to the Rent Board at the Board's request. Such data shall not include the names, or street and unit numbers of any reported units.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. No. 246-97, 4-9-97; Ord. 298-14/15, 7-6-2015; Ord. 69-15/16, 10/5/2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018; By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-152. Registration Fees.

(a) *Annual Registration Fee.* Upon initial registration and

by January 1st of each year, registrants shall pay the City a registration fee for each rental unit, in the amounts set forth below. A rental unit shall not be considered registered unless and until this fee is paid in full.

(b) *Long Term Rental Registration Fee.* The registrant of a long term rental shall pay fifty dollars (\$50.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars (\$30) from each registration fee shall be appropriated to Housing Safety Office to cover the administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

(c) *Short Term Rental Registration Fee Structure.* The registrant of a short term rental shall pay the fee specified in the chart below. All fees will be cumulative and will increase based on the number of total units registered by the owner. The fee total will accumulate first by counting any owner occupied, tenant occupied, and/or island rentals first, and then fees will be attributed at the higher rate for any non-owner occupied mainland units.

Owners and tenants may register more than one owner occupied or tenant occupied unit (bedrooms, separate spaces, etc.) within their primary residence.

Owner Occupied Units, Tenant Occupied Units, Island Short Term Rentals	1 st Unit - \$100 2 nd Unit - \$250 3 rd Unit - \$500 4 th Unit - \$1,000 5 th Unit - \$2,000
Non-Owner Occupied Mainland Units	1 st Unit - \$200 2 nd Unit - \$500 3 rd Unit - \$1,000 4 th Unit - \$2,000 5 th Unit - \$4,000

(d) *Registration and Renewal Fee Discounts.* The following discounts shall apply to the registration and renewal fees:

1. \$10 discount for each rental unit within a fully-sprinkled building as verified by a testing report,

maintenance report or a maintenance contract, which shall be provided at the time of registration and upon each registration renewal;

2. \$7.50 discount for each rental unit within a building with a centrally-monitored fire alarm as verified by Fire Department logs or an alarm contract, which shall be provided at the time of registration and upon each registration renewal;
3. \$5.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Housing Quality Standard (HQS) inspection within the preceding year as verified by the HQS inspection report, which shall be provided at the time of registration and upon each registration renewal;
4. \$10.00 for a rental unit that has been subject to and has passed a Housing and Urban Development Uniform Physical Condition Standard (UPCS) inspection within the preceding year as verified by the UPCS inspection report, which shall be provided at the time of registration and upon each registration renewal;
5. \$2.50 for a rental unit that is subject to a signed lease which prohibits smoking by tenants as verified by a copy of the current lease, which shall be provided at the time of registration and upon each registration renewal. The existence of and enforcement of this provision may be verified through an inspections of each rental unit.

The total amount of discounts from the annual registration or renewal fee as described above shall not exceed \$20.00 per unit.

(e) Registrations that are not received by January 15, or within 14 days after entering the rental housing market, whichever is later, shall be subject to a late fee of \$50 per unit, and registrations that are not received by February 15, or within 45 days after entering the rental housing market, whichever is later, shall be subject to a late fee of \$200 per unit. Registrations shall not be renewed unless and until the registrant pays any applicable late fee. Incomplete or inaccurate registrations may be rejected and subject to all applicable late fees upon resubmission. The Permitting and Inspections Director may waive a late fee upon a showing of both hardship and good

cause as to why the renewal was not timely.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. 298-14/15, 7-6-2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018; Ord. No. 244-18/19, 5-30-2019; By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-153. Limitations on Short Term Rental Units.

(a) *Occupancy Limit.* Overnight short term rental guest occupancy in each rental unit will be limited to two (2) guests per bedroom plus no more than two (2) additional guests.

(b) *Limitation on Total Number of Short Term Rentals.* No more than 400 non-owner occupied mainland short term rental units shall be registered in any one calendar year.

A mainland short term rental unit in an owner-occupied multi-unit, where the unit is not the primary residence of the owner, shall be counted as a non-owner occupied unit.

(c) *Limitations on number of Short Term Rentals an Individual or Entity May Register.* An individual or entity may only register up to five (5) short term rental unit in the City, including owner occupied, non-owner occupied, and island short term rental units, in any one (1) calendar year. For purposes of this section, short term rental units registered by an entity in which the registrant has an ownership interest shall be counted towards this limit.

(d) No individual or entity may register a short term rental in any single family home unless it is owner-occupied; tenant-occupied with permission of the owner; or located on an Island.

(e) The number of short term rental units that may be operated in a multi-unit building are as follows:

Total # of Units in a Building	# of Short Term Rental Units Allowed in a Building	
	Owner Occupied	Non-Owner Occupied
2	1	1
3	2	2
4	3	2
5	4	2
6-9	5	4
10+	5	5

1. Tenant-occupied units, where the tenant is the registrant, shall be counted towards these limits.

2. Owner-occupied units shall be counted towards these limits.

(f) Notwithstanding the requirements of subsections (c) and (e), owners may register up to five (5) owner-occupied units (bedrooms, separate spaces, etc.) within their primary residence. (Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. 298-14/15, 7-6-2015; Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-154. Allocation of Short Term Rentals.

(a) Non-owner occupied mainland short term rental units, which are limited by section 6-153(b), shall be allocated on a first come, first registered basis. Once the total number of units identified in section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand.

(b) Notwithstanding the limitations in section 6-153, current registrations of short term rentals may be renewed each year upon application and payment of the registration fee, so long as the renewal is complete by January 1 of that year.

1. Failure to renew by January 1 shall result in the forfeiture of the right to renew the registration, and any subsequent application shall be treated as a new application for registration.

2. The renewal date for 2019 only shall be February 1, 2019.

(c) No registration under this Article shall be transferrable or assignable.

(Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-155. Violations.

Specific violations of this article, subject to the provisions of section 6-1, include, but are not limited to:

(a) Any person, business entity, or other organization failing to timely register a rental unit, including providing all required information and paying the required registration fee;

(b) Any person, business entity, or other organization failing to timely file any required update to the registration;

(c) Any person, business entity, or other organization failing to acquire and/or display the required short term rental registration number;

(d) Any person, business entity, or other organization providing false information with respect to registration. Notwithstanding the provisions of § 6-1, the penalty for such violation shall be \$1,000.00;

(e) Any person, business entity, or other organization renting any rental unit that is not registered under this article, or to permitting the occupancy of such premises without registration;

(f) Failure of short term rental unit owners, tenants, and/or their representatives to adequately respond to inquiries by the City pursuant to 6-152(e) within a forty-eight (48) hour period; (Ord. 179-16/17, 3-27-2017; Order 99-18/19, 11-19-2018)

Sec. 6-156. Enforcement.

(a) The building authority as defined in section 6-1 or his or her designee is authorized to institute or cause to be instituted by and through the office of the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

(b) No certificate of occupancy shall be issued for property that is subject to the registration requirements of this article, but is not registered in accordance with this article.

(c) Any short term rental at a property that is designated by the City as a disorderly house and fails to remedy the disorderly house as required by section 6-202, shall, at the discretion of the City Manager or his or her designee, have its registration revoked and be ineligible for registration for a period of twelve (12) months. Any registration after revocation shall be considered a new registration and not a renewal. Upon the second designation of the short term rental property as a disorderly house, the City shall, at the discretion of the City Manager or his or her designee, prohibit the registered owner from operating the property as a short term rental or post the property against occupancy pursuant to section 6-201.

(d) Fines may be attributed to Property Management firms found operating short term rental units in violation of this article. These fines may be in addition to fines levied against owners of property.

(e) Violations of the provisions of this article shall be

grounds to deny an application or renewal application for a short term rental registration.

(Ord. 179-16/17, 3-27-2017; Ord. No. 29-17/18, 9-18-2017; Order 99-18/19, 11-19-2018)

Sec. 6-157. Revenue Allocation.

Notwithstanding section 6-1(b), all revenue generated from short term rental registration fees and penalties shall be used to first fund short term rental related administrative costs. Any remaining revenue shall be deposited in the Housing Trust Fund, as defined in Section 14-489.

(Ord. 179-16/17, 3-27-2017)

Sec. 6-158. Reserved.

Sec. 6-159. Reserved.

Sec. 6-160. Reserved.

Sec. 6-161. Reserved.

Sec. 6-162. Reserved.

Sec. 6-163. Reserved.

Sec. 6-164. Reserved.

ARTICLE VII. GREEN BUILDING CODE

***Editor's Note:** Article VII (Green Building Code) was adopted in its entirety by Council Order 187-08/09 and passed on 4-6-09)

Sec. 6-165. Purpose.

The purpose of this article is to establish the energy performance and roofing requirements for constructing and renovating city buildings and certain publicly-funded building projects with the goal of planning, designing, constructing, and managing to maximize energy performance, minimize adverse environmental impacts, provide healthy work places, conserve natural resources, and promote sustainable development in Portland.

(Ord. No. 187-08/09, 4-6-09; Ord. No. 103-11/12, 2-6-12; By Referendum, 11-3-2020)

Sec. 6-166. Definitions.

The following words and phrases shall be defined as set forth below for use in this article.

American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standards: ASHRAE is a building technology society which publishes a recognized series of

standards and guidelines relating to HVAC systems and performance. The Maine Uniform Building and Energy Code currently references ASHRAE Standard 90.1 which is an energy standard for buildings except low-rise residential buildings.

Conditioned Space: Any area within a building that is artificially heated or cooled by fixed equipment.

Funded in whole or in part: (a) Receipt of tax increment financing in an amount greater than fifty thousand dollars (\$50,000); or (b) receipt of grants by the City, HOME loans, Community Development Block Grant loans or Neighborhood Stabilization Program loans, the sum of which is greater than fifty thousand dollars (\$50,000); or receipt of other funds, gifts, resources, property, or other thing or things of value from or by the city of Portland, to promote, allow for, contribute to, or otherwise facilitate the new construction or renovation project, the aggregate dollar value of which, net remuneration to the city of Portland, is greater than fifty thousand dollars (\$50,000).

Hardship: Some verifiable level of difficulty or adversity arising from factors identified in Sec. 6-170, by which the applicant cannot reasonably comply with the requirements of this ordinance.

Infeasible: The existence of verifiable obstacles arising from the factors identified in Sec. 6-170, which render the applicant incapable of complying with the requirements of this ordinance.

Leadership in Energy and Environmental Design (LEED) Standards: A third-party rating system developed by the United States Green Building Council (USGBC) where credits are earned for satisfying specified green building criteria.

Living roof: The media for growing plants, as well as the set of related components installed exterior to a facility's roofing membrane for the purpose of increasing renewable energy resources, aiding stormwater management, and promoting biodiversity. Living roofs may include roof gardens, green roofs, landscaped roofs, and other rooftop areas designed to achieve such purposes.

Qualified professional: A person (a) engaged or employed in fields of architecture, building design, construction, energy

efficiency, engineering, or related specialty or consultancy; and
(b) holding relevant professional licensure or "green building"
professional certification, including but not limited to
Professional Engineer licensure, LEED Accredited Professional
(AP), Well AP, Certified Passive House Consultant (CPHC) or
Certified Passive House Designer (CPHD), Green Globes
Professional, or similar credential.

Renovation:

- (a) At the time of the application, the total construction cost is greater than or equal to the market value of the property as determined by the city's tax assessor; or
- (b) A conversion from non-conditioned to conditioned space; or
- (c) An addition of building gross square footage greater than or equal to the gross square footage of the existing building; or
- (d) Any change to the use category of a structure or property, as defined in chapter 14 of this code.

Solar zone: An allocated space on a new construction or renovation project that is unshaded and free of obstructions, serving as a suitable place where solar panels can be installed at a future date. The solar zone can be located at any of the following locations:

- (a) Roof of the building; or
- (b) Overhang of the building; or
- (c) Roof of another structure located within 250 feet of the primary building; or
- (d) Overhang of another structure within 250 feet of the primary building; or
- (e) Covered parking installed with the building project; or
- (f) Other structures including, but not limited to, trellises, arbors, patio covers, carports, gazebos, and similar accessory structures.

Sec. 6-167. Standards for new buildings and renovation projects.

All new construction and renovation projects to be owned or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 2,000 square feet in floor area or greater shall be certified at or above the most recently published and applicable LEED Silver Standard using appropriate LEED Rating System, and shall be certified by a licensed engineer or qualified professional as compliant with the Better Roof Requirements contained in Section 6-175 below.

All new construction and renovation projects to be owned or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 5,000 square feet in floor area or greater shall demonstrate, under any third-party certification and quality assurance system (e.g. LEED, Passive House, Living Building, or Green Globes) or energy model signed by a licensed engineer or qualified professional, a certain percentage improvement in the proposed energy performance of the building compared to the minimum baseline performance rating per ASHRAE Standard 90.1, being particularly the most recently published version thereof and the whole thereof, or equivalent standard if the ASHRAE Standard 90.1 is not applicable to the project. Such percentage improvement shall be or exceed thirty percent (30%) for new construction, twenty-five percent (25%) for existing buildings, and twenty percent (20%) for historic buildings. All such new construction and renovation projects to be owned or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 5,000 square feet in floor area or greater shall be certified by a licensed engineer or qualified professional as compliant with the Better Roof Requirements contained in Section 6-175 below.

Copies of the most recently published LEED Rating Systems and ASHRAE Standard 90.1 shall be maintained by and kept on file with the City Clerk.

(Ord. No. 187-08/09, 4-6-09; Ord. No. 103-11/12, 2-6-12; Ord. No. 82-13/14, 11-4-13; By Referendum, 11-3-2020)

Sec. 6-168. Submissions.

Upon submission of an application for a building permit for new construction or renovation projects that are required to meet the standards set forth in section 6-167, the applicant shall also

submit the following, as applicable:

(a) One of the following:

1. A LEED checklist, and a LEED application number (or other proof of LEED applications status); or
2. A third-party certification system document of verification from a qualified professional ; or
3. A preliminary energy model, along with a statement of certification from a licensed engineer or qualified professional that the project meets the standard(s); and

(b) A written explanation of how the building will obtain the applicable standards using design plans to demonstrate compliance where applicable (example: LEED submittal templates or Passive House Pre-Certification report); and

(c) Plans and documentation prepared by a qualified professional demonstrating compliance with the Better Roof Requirements contained in Section 6-175 below, including:

1. Documentation of the as-designed structural loads and plans for interconnecting a photovoltaic (PV) system to the electrical system of the building; or
2. Documentation of the as-designed structural loads and layout plans for the Living Roof system of the building.

(Ord. No. 187-08/09, 4-6-09; Ord. No. 103-11/12, 2-6-12; Ord. No. 82-13/14, 11-4-13; By Referendum, 11-3-2020)

Sec. 6-169. Certificate of Occupancy.

A copy of the final submission of LEED documentation to the USGBC or final LEED certification decision, or a statement of final certification from a licensed engineer or qualified professional indicating that the project meets the standards along with any amendment to the preliminary energy model shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy for new construction or renovation projects that are required to meet the standards set forth in section 6-167. A temporary certificate of occupancy may be issued by the city if necessary prior to the submission of final

LEED documentation to the USGBC. Equivalent documentation from a licensed engineer or qualified professional is required if compliance is met with other third-party certification and quality assurance systems. (Ord. No. 187-08/09, 4-6-09; Ord. No. 103-11/12, 2-6-12; Ord. No. 82-13/14, 11-4-13; By Referendum, 11-3-2020)

Sec. 6-170. Partial exemption and exceptions.

(a) If it is a hardship or infeasible for an applicant to meet the standards set forth in section 6-167, the applicant may request a partial exemption from regulation. The burden is on the applicant to show hardship or infeasibility. Factors to consider in determining whether hardship or infeasibility exists shall be limited to:

1. A conflict of green building requirements with other government requirements and building standards; or
2. Required alterations to an historic building that would compromise its historic character as determined by the Historic Preservation Board; or
3. Specific circumstances that would defeat the purpose of the standards.

(b) Any request for a partial exemption must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. In order for a partial exemption to be granted, the applicant must demonstrate all possible effort to maximize building performance according to the standards set forth in section 6-167 and shall indicate the maximum level of standards which are reasonably achievable for the building as follows:

1. In the case of a LEED standard requirement, the applicant will list the number of credits reasonably achievable and verified by each applicable licensed professional or qualified professional.
2. In the case of ASHRAE 90.1 or equivalent standard requirement, the applicant will document the percentage above the standard that is reasonably achievable with a statement of certification from a licensed engineer.
3. In the case of other third-party "green building" certification and quality assurance systems (example: Passive House), the applicant will submit project performance documentation meeting or exceeding the

standards of the certification system prepared by a qualified professional.

If the partial exemption is granted, the applicant shall be required to comply with this ordinance in all other respects. A copy of the final submission of LEED documentation to the USGBC or a statement of final certification from each applicable licensed professionals or licensed engineer indicating that the project meets the level of standard presented at the time of application along with any amendment shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

(c) Any request for an exception to the LEED Certification requirement must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. If an applicant submits standardized third-party certification or documentation signed by a qualified professional, an exception to the LEED Certification requirement may be granted provided that such third-party certification or documentation demonstrates that it meets or exceeds at least one of the following:

1. LEED Platinum Certification by the USGBC; or
2. Passive House Certification or EnerPHIT Certification by International Passive House Institute (PHI) or PHIUS+ Certification by the Passive House Institute US (PHIUS); or
3. Living Building Challenge or Living Community Challenge, Petal Recognition or Net Zero Energy Certification from International Living Future Institute (IFLI); or
5. Well v2 or current most stringent standard by International WELL Being Institute; or
6. Green Globes Certification by Green Building Initiative; or
7. Other equivalent "green building" standards that include published verification and quality assurance

procedures when approved on a case-by-case basis by
planning director and sustainability director.

Any applicant granted an exception to the LEED Certification requirement as provided above shall be required to comply with the ordinance in all other respects. A copy of any and all papers or documents submitted to the third-party certifying body (example: DOE, PHIUS, IFLI, or PHI) or qualified professional, including any amendment made thereto, and a statement of final certification signed by each applicable qualified professional, licensed engineer, or third-party certifying body shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

(d) Any request for an exception to the Better Roof Requirement under Section 6-175 below must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. An exception to the Better Roof Requirement may be granted provided that an applicant submits certification or documentation signed by a qualified professional demonstrating all possible effort to comply with the Better Roof Requirements contained in Section 6-175, and the applicability of at least one of the following specific reasons for an exception:

1. A new construction or renovation project other than single-family residential buildings may be granted an exception to the Better Roof Requirement if a solar PV system with a power rating of no less than 1 watt per square foot of roof area is permanently installed at the time of construction.
2. A single-family residential building may be granted an exception to the Better Roof Requirement if a solar PV system rated at 1000 watts or greater is permanently installed at the time of construction.
3. A new construction or renovation project may be granted an exception to the Better Roof Requirement if the roof is designed as a helicopter landing zone.
4. A renovation project may be granted an exception to the Better Roof Requirement unless the total roof area is

increased by at least 2,000 square feet over the total roof area of the existing building.

5. A new construction or renovation project may be granted an exception to the Better Roof Requirement reducing the required total area of solar zone by up to 50 percent if the roof is shaded by objects that are not part of the building and are permanent. These objects shall only be adjacent buildings or trees evaluated as healthy by an arborist and documentation must be submitted by a qualified professional.
6. If the building has a gross floor area of 2,000 square feet or more, and has 10 or fewer occupied floors, a new construction or renovation project may be granted an exception to the Better Roof Requirement to substitute some or all of the required total area of solar zone with area of living roof, such that each square foot of living roof shall count as 0.5 square foot towards the required total area of solar zone, provided that applicants submit such a living roof design for review and approval upon submission of an application for a building permit.

Any applicant granted an exception to the Better Roof Requirement as provided above shall be required to comply with the ordinance in all other respects. A copy of any and all papers or documents submitted to each applicable qualified professional, including any amendment made thereto, and a statement of final certification signed by each applicable qualified professional shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

(e) The director of planning and urban development shall annually, on or before July 1, submit a report to the City Council, containing at a minimum a list of each applicant and project granted a partial exemption or exception under this section during the previous twelve months, and for each partial exemption or exception granted the reason(s) why it was so was granted.

(Ord. No. 187-08/09, 4-6-09; Ord. No. 103-11/12, 2-6-12; Ord. No. 82-13/14, 11-4-13; By Referendum, 11-3-2020)

Sec. 6-171. Appeals.

Any applicant aggrieved by the decision of the director of planning and urban development may appeal that decision to the zoning board of appeals (Article VI. Board of Appeals, Sec. 14-541 - 14-553).

(Ord. No. 187-08/09, 4-6-09; Ord. No. 103-11/12, 2-6-12; Ord. No. 82-13/14, 11-4-13)

Sec. 6-172. Applicability.

This ordinance shall apply to new construction and renovation projects to be owned, occupied, or funded in whole or in part by the city of Portland for which site plan applications, building permit applications (not associated with an approved site plan), or funding assistance requests are submitted on or after the effective date of this ordinance. Any new construction or renovation that received an exemption under a previous version of this ordinance shall be considered to have a partial waiver under this ordinance, provided that the Director of Planning & Urban Development determines that the scope of the new construction or renovation has not changed the originally approved construction to an extent that would require review under this version of the ordinance. Any new construction or renovation project to which this ordinance is not applicable but which voluntarily meets any of the standards set forth in Section 6-167 or equivalent shall receive expedited review and permitting status.

(Ord. No. 187-08/09, 4-6-09; Ord. No. 82-13/14, 11-4-13)

Sec. 6-173. Conditional Expansion of Applicability

Under the following limited circumstances, Sec. 6-167 and Sec. 6-168 shall apply to all new construction and renovation projects in the City of Portland, regardless of ownership, occupation, or sources of funding:

(a) The Maine Uniform Building and Energy Code, 10 M.R.S. § 9721 et seq., is repealed or amended such that a municipality may, through its municipal home rule authority, enact or enforce codes or standards separate from or exceeding those adopted by the Technical Building Codes and Standards Board pursuant to the Maine Uniform Building and Energy Code; or

(b) The rules, codes, and standards adopted by the Technical Building Codes and Standards Board pursuant to the Maine Uniform Building and Energy Code, 10 M.R.S. § 9721 et seq., as the Maine Uniform Building and Energy Code, 16-642 C.M.R. ch. 1-6, are repealed or amended such that a municipality may, through

its municipal home rule authority, enact or enforce codes or standards separate from or exceeding such rules, codes, or standards; or

(c) This ordinance, or substantially similar rules, codes, or standards are approved by the Technical Building Codes and Standards Board as amendments to the Maine Uniform Building and Energy Code, 16-642 C.M.R. ch. 1-6, or as amendments to the appendix to the Maine Uniform Building and Energy Code containing optional energy conservation and efficiency requirements, after submission of such proposed amendments under Sec. 174 below; or

(d) The application of this ordinance to all new construction and renovation projects in the city of Portland, through the city's home rule authority is otherwise not prohibited or subject to preemption under state law.

(By Referendum, 11-3-2020)

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Sec. 6-174. Submission of Amendments to the MUBEC.

The Sustainability Office, Permitting and Inspections Department, or other appropriate Office or Department of the city of Portland, on behalf of the city of Portland and to address the health, safety, and welfare needs of the inhabitants of the city of Portland, until such amendments are approved and adopted must annually by May 30 submit proposed amendments to the Maine Uniform Building and Energy Code, or to the appendix to the Maine Uniform Building and Energy Code containing optional energy conservation and efficiency requirements, as provided for under 16-642 C.M.R. ch. 1, § 13, and the amendment process created pursuant to that section, that would apply, or allow to be applied, the standards and requirements of this ordinance, or substantially similar rules, codes, or standards, to all new construction and renovation projects in the city of Portland.

(By Referendum, 11-3-2020)

Sec. 6-175. Better Roof Requirements.

Except as provided under Sec. 6-170 above, to be certified by a qualified professional as compliant with the Better Roof Requirements of this section, a new construction or renovation project must demonstrate all of the following:

(a) The project contains a total area of solar zone that is no less than 15 percent of the total roof area after subtracting any area of the roof that is covered by a skylight; and

(b) The total area of solar zone shall be free from any shading or obstruction such as vents, chimneys, architectural features, or roof-mounted equipment, not including any obstructions located north of all points of the solar zone; and

(c) If the solar zone is located on a roof that has ratio of rise to run of greater than 2:12, then the roof must be oriented between 110 degrees and 270 degrees of true north (not magnetic north), in order to ensure a reasonable solar exposure if a solar energy system is installed in the future; and

(d) The main electrical service shall be provided such that capacity is adequate for future solar electric and such reserved space shall be permanently marked in main electrical service panel "For Future Solar Electric".

The total area of the solar zone may be composed of multiple subareas. No dimension of a subarea can be less than 5 feet. If the total roof area is equal to or less than 10,000 square feet, each subarea must be at least 80 square feet. If the total roof area is greater than 10,000 square feet, each subarea must be at least 160 square feet. The solar zone design must comply with other applicable codes and regulations.

(By Referendum, 11-3-2020)

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Sec. 6-176. Reporting on Fossil Fuel Infrastructure.

The policy of the city of Portland shall be to endeavor by all reasonable and permissible means to reduce reliance upon fossil fuels, and to reduce and discourage the use of natural gas, heating oil, or other fossil fuel based infrastructure both in new construction and renovation projects, and in existing buildings, including but not limited to such projects and buildings to be owned, occupied, or funded in whole or in part by the city of Portland. In furtherance of this policy, the city manager, or their designee, shall annually, on or before July 1st, publish and present to the city council a report concerning benefits of such policy, and such annual report will, at a minimum, include:

(a) The total number of new buildings built in Portland without fossil fuel-based infrastructure;

(b) A survey of the green building technologies that have been implemented as alternatives to oil or natural gas power, such as solar roofs, green roofs, or sustainable building design

and construction consistent with certifications and guidelines such as LEED, PassiveHouse, Living Building or others;

(c) Assessment of the benefits to the City of Portland of the adoption of this policy, including the impact on carbon emissions and increased energy efficiency of public buildings;

(d) A survey of legislation enacted at the municipal and state level to develop a coordinated regional plan to stop the use of fossil fuels to power buildings;

(e) Proposals for any changes to the city code that might further achieve reduction in use of fossil fuels or fossil fuel-based infrastructure in the city of Portland.

(By Referendum, 11-3-2020)

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Sec. 6-177. Severability.

If any provision of this Article shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(By Referendum, 11-3-2020)

Sec. 6-178. Reserved.

Sec. 6-179. Reserved.

Sec. 6-180. Reserved.

Sec. 6-181. Reserved.

Sec. 6-182. Reserved.

Sec. 6-183. Reserved.

Sec. 6-184. Reserved.

Sec. 6-185. Reserved.

Sec. 6-186. Reserved.

Sec. 6-187. Reserved.

Sec. 6-188. Reserved.

Sec. 6-189. Reserved.

ARTICLE VIII. PROPERTY ASSESSED CLEAN ENERGY

DIVISION 1. Property Assessed Clean Energy

Sec. 6-190. Purpose.

The purpose of this article is to establish a property assessed clean energy ("PACE") program to enable owners of qualifying property to access financing for energy saving improvements to their property through loan agreements with the

Sec. 6-191. Definitions.

The following words shall be defined as set forth below for use in this article.

Energy saving improvement: an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

- (a) Will result in increased energy efficiency and substantially reduced energy use and:
 - 1. Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy, Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - 2. Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
- (b) Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

PACE agreement: an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

PACE assessment: an assessment made against qualifying property to repay a PACE loan.

PACE loan: a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

PACE mortgage: a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

Qualifying property: real property located in the City.

Renewable energy installation: a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Trust: the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.
(Ord. No. 57-10/11, 10-18-10)

Sec. 6-192. PACE program established.

The City hereby establishes a PACE program allowing owners of qualifying property located in the city who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent.
(Ord. No. 57-10/11, 10-18-10)

Sec. 6-193. PACE program financing.

- (a) The PACE program shall be financed by funds awarded to the Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose.
- (b) The City may from time to time amend this Article to use any other funding sources made available to it or appropriated by it for the express purpose of the PACE program, and the City shall be responsible for administration of loans made from those other funding sources.

(Ord. No. 57-10/11, 10-18-10)

Sec. 6-194. PACE program administration.

The Trust shall administer the PACE program for the City in accordance with a PACE administration contract between the City and the Trust, which will establish the administrative duties of the Trust including, without limitation:

- (a) The Trust will enter into PACE agreements with owners of qualifying property in the city;
- (b) The Trust, or its agent, will create and record a Notice of the PACE agreement in the Cumberland County Registry of Deeds to create a PACE mortgage;
- (c) The Trust, or its agent, will disburse the PACE loan to the property owner;
- (d) The Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- (e) The Trust, or its agent, will be responsible for collection of the PACE assessments;
- (f) The Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- (g) The Trust, or its agent, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

(Ord. No. 57-10/11, 10-18-10)

DIVISION 2. Commercial Property Assessed
Clean Energy (C-PACE)

Sec. 6-195. Purpose and authority.

(a) Purpose. By and through this Ordinance, the City of Portland declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Commercial Property Assessed Clean Energy ("C-PACE") program so that owners of qualifying property can access financing for energy savings improvements to their commercial properties located in the City.

(b) Enabling legislation. The City enacts this Ordinance pursuant to 35-A MRS §§ 10201 et seq., as amended, also known as "the Commercial Property Assessed Clean Energy Act" or "the Commercial PACE Act."

(c) Title. This Ordinance shall be known and may be cited as "The City of Portland's Commercial Property Assessed Clean Energy ("C-PACE") Ordinance" (this "Ordinance").

(Ord. No. 41-23/24, 10-16-2023)

Sec. 6-196. Definitions.

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings. As used in this Ordinance, the following words and phrases shall have the meanings indicated:

City/Town shall mean the City of Portland.

Commercial PACE or ("C-PACE") shall mean Commercial Property Assessed Clean Energy.

Commercial PACE Agreement shall mean an agreement that authorizes the creation of a Commercial PACE Assessment on Qualifying Property and that is approved in writing by all owners of the Qualifying Property at the time of the agreement and by the City.

Commercial PACE Assessment shall mean an assessment made against Qualifying Property to finance an Energy Savings Improvement.

Commercial PACE District shall mean the area within which the City establishes a Commercial PACE Program hereunder, which is all that area within the City boundaries.

Commercial PACE Lien shall mean a lien, secured against a Qualifying Property that is created by a Commercial PACE Assessment.

Commercial PACE Loan shall mean a loan, payable through a Commercial PACE Assessment and secured by a C-PACE Lien, made to the owner(s) of a qualifying property pursuant to a Commercial PACE Program to fund Energy Savings Improvements.

Commercial PACE Program shall mean program established under this Ordinance pursuant to the Commercial PACE Act under which commercial property owners can finance Energy Savings Improvements on Qualifying Property.

Energy Savings Improvement shall mean an improvement or series of improvements to Qualifying Property that are new and permanently affixed to Qualifying Property and that:

(a) Will result in increased energy efficiency or substantially reduced energy use and:

1. Meet or exceed applicable United States Environmental Protection Agency and United States Department of Energy "Energy Star" program or similar energy efficiency standards established or approved by the Trust; or

2. Involve weatherization of commercial or industrial property in a manner approved by the Trust; or

(b) Involve a renewable energy installation, an energy storage system as defined in 35-A M.R.S. § 3481(6), an electric thermal storage system, electric vehicle supply equipment or heating equipment that meets or exceeds standards established or approved by the Trust. Heating equipment that is not a Renewable Energy Installation must be heating equipment that produces the lowest carbon emissions of any heating equipment reasonably available to the property owner, as determined by the Trust, and must meet the requirements of 35-A M.R.S. §10204 (1)(B).

Qualifying Property shall mean real commercial property in the City that:

(a) Does not have a residential mortgage;

(b) Is not owned by a residential customer or small commercial customer as defined in 35-A M.R.S. §3016(1)(C) and (D), respectively;

(c) Consists of 5 or more rental units if the property is a commercial building designed for residential use;

(d) Is not owned by a federal, state or municipal government or public school; and

(e) Is located in a municipality that participates in a Commercial PACE Program.

Registered Capital Provider or Capital Provider shall mean an approved lender proving financing for the Energy Savings Improvements through a C-PACE Program and registered with Efficiency Maine Trust.

Renewable Energy Installation shall mean a fixture, product, system, device or interacting group of devices installed behind the meter at a Qualifying Property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including but not limited to, photovoltaic systems, solar thermal systems, highly efficient wood heating systems, geothermal systems and wind systems that do not on average generate more energy or heat than the peak demand of the property.

Trust shall mean The Efficiency Maine Trust established in 35-A M.R.S. §10103 and/or its agents, if any.
(Ord. No. 41-23/24, 10-16-2023)

Sec. 6-196.5. Program established; Amendments.

(a) Establishment. The City hereby establishes a Commercial PACE Program allowing owners of Qualifying Property located in the City who so choose to access financing for Energy Savings Improvements to their Qualifying Property, with such financing to be repaid through a Commercial PACE Assessment and secured by a Commercial PACE Lien.

(b) The City may:

1. Administer the functions of the Commercial PACE Program, including, but not limited to, entering into Commercial PACE Agreements with commercial property owners and collecting Commercial PACE Assessments, or designate an agent to act on behalf of the City for such billing and collection purposes; or
2. Enter into a contract with the Trust to administer some or all functions of the Commercial PACE Program for the City, including billing and collection of Commercial PACE Assessments, subject to the limitations set forth in Section 10205, subsection 5 of the Commercial PACE Act.

(c) Amendment to or Repeal of Commercial PACE Program. The City may from time to time amend this Ordinance to use any funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program, and the City shall be responsible for administration of loans made from those funding sources. The City may also repeal this Ordinance in the same manner as it was adopted, provided, however, that such repeal shall not affect the validity of any Commercial PACE Agreements entered into by the City prior to the effective date

of such repeal, or a Commercial PACE Loan or Commercial PACE Lien arising out of such Agreements.
(Ord. No. 41-23/24, 10-16-2023)

Sec. 6-197.Financing; Private Lenders; Terms.

C-PACE Loans may be provided by any qualified Capital Provider private lender participating in the C-PACE Program and a C-PACE Agreement may contain any terms agreed to by the lender and the property owner, as permitted by law, for the financing of Energy Savings Improvements. Unless the City specifically designates funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program and agrees to provide financing for Energy Savings Improvements, the City will not finance or fund any loan under the Commercial PACE Program, and shall serve only as a program sponsor to facilitate loan repayment by including the Commercial PACE Assessment on the property tax bill for the property, and shall incur no liability for the loan.

(Ord. No. 41-23/24, 10-16-2023)

Sec. 6-197.5. Program Requirements and Administration.

(a) Agreement Required. All commercial property owners seeking financing for Energy Savings Improvements on Qualifying Property pursuant to the Commercial PACE Program must enter into a Commercial PACE Agreement, approved as to form and substance by the City and the Trust, authorizing the creation of a Commercial PACE Assessment and acknowledging the creation of a Commercial PACE Lien. A notice of the Commercial PACE Agreement will be filed in the Cumberland County Registry of Deeds, which filing will create a lien until the amounts due under the agreement are paid in full.

(b) Underwriting Standards. A Commercial PACE Agreement entered into pursuant to the Commercial PACE Program must satisfy the minimum underwriting requirements of the Commercial PACE Act and such additional requirements established by the Trust.

(c) Collection of assessments. A commercial property owner participating in the Commercial PACE Program will repay the financing of Energy Savings Improvements through an assessment on their property similar to a tax bill. A Commercial PACE Assessment constitutes a lien on the Qualifying Property until it is paid in full and must be assessed and collected by the City or its designated agent, the Trust, or a 3rd-party administrator contracted by the Trust, consistent with applicable laws. The City may, by written agreement, designate the applicable third-

party Capital Provider as its agent for the billing and collection of Commercial PACE assessment payments in satisfaction of the Commercial PACE Loan. Where Commercial PACE assessment payments are received directly by the City along with other municipal tax payments, such payments received from property owners shall first be applied to City taxes, assessments, and charges. The City shall have no ownership of the Commercial PACE assessments collected except for any administrative costs provided under the Commercial PACE Program or Commercial PACE Agreement. The City shall pay all Commercial PACE assessment payments received by the City to the applicable Capital Provider or the Commercial PACE program administrator within 30 days after the end of the month in which such amounts are collected. The City shall have no obligation to make payments to any Capital Provider with respect to any Commercial PACE repayment amounts or loan obligations other than that portion of the Commercial PACE Assessment actually collected from a property owner for the repayment of a Commercial PACE Loan.

If the Trust or a 3rd-party administrator contracted by the Trust or an agent of the City collects Commercial PACE Assessments on behalf of the City, the Trust or agent shall periodically report to the City on the status of the Commercial PACE Assessments in the City and shall notify the City of any delinquent Commercial PACE Assessments. Upon receiving notification from the Trust or agent of a delinquent Commercial PACE Assessment, the City shall notify the holder of any mortgage on the property of the delinquent assessment.

(d) Notice; filing. A notice of a Commercial PACE Agreement must be filed in the Cumberland County Registry of Deeds. The filing of this notice creates a Commercial PACE Lien against the property subject to the Commercial PACE Assessment until the amounts due under the terms of the Commercial PACE Agreement are paid in full. The notice must include the information required by the Commercial PACE Act.

(e) Priority. A Commercial PACE Lien secures payment for any unpaid Commercial PACE Assessment and, together with all associated interest and penalties for default and associated attorney's fees and collection costs, takes precedence over all other liens or encumbrances except a lien for real property taxes of the municipality and liens of municipal sewer, sanitary and water districts. From the date of recording, a Commercial PACE Lien is a priority lien against a property, except that the priority of such a Commercial PACE Lien over any lien, except a lien for real property taxes of the City or a lien of a municipal

sewer, sanitary or water district, that existed prior to the Commercial PACE Lien is subject to the written consent of such existing lienholder.

(f) Mortgage lender notice and consent. Any financial institution holding a lien, mortgage or security interest in or other collateral encumbrance on the property for which a Commercial PACE Assessment is sought must be provided written notice of the commercial property owner's intention to participate in the Commercial PACE Program and must provide written consent to the commercial property owner and City that the borrower may participate and enroll the collateral property in the Commercial PACE Program. This written consent must be filed in the Cumberland County Registry of Deeds and must include a written acknowledgement and understanding by the financial institution holding the lien, mortgage or security interest in or other collateral encumbrance on the property as required by the Commercial PACE Act.
(Ord. No. 41-23/24, 10-16-2023)

Sec. 6-198.Collection, default; foreclosure.

A. A Commercial PACE Assessment and any interest, fees, penalties and attorney's fees incurred in its collection must be collected in the same manner as the real property taxes of the City. A Commercial PACE Assessment for which notice is properly recorded under this section creates a lien on the property. The portion of the assessment that has not yet become due is not eliminated by foreclosure, and the lien may not be accelerated or extinguished until fully repaid.

1. If a Commercial PACE Assessment is delinquent or in default and the borrower or property owner is delinquent in any tax debt due to the City, collection may occur only by the recording of liens and by foreclosure under 36 M.R.S. §§ 942 and 943. Liens must be recorded and released in the same manner as liens for real property taxes.

2. If only a Commercial PACE Assessment is delinquent but the borrower or property owner is current on payment of all municipal taxes due to the City, then a Commercial PACE lienholder shall accept an assignment of the Commercial PACE Lien, as provided in the written agreement between City and the Capital Provider. The assignee shall have and possess all the same powers and rights at law as the City and its tax collector with regards to the priority of the Commercial PACE Lien, the accrual of interest and fees and the costs of

collection. The assignee shall have the same rights to enforce the Commercial PACE Lien as any private party or lender holding a lien on real property, including, but not limited to, the right of foreclosure consistent with 14 M.R.S. §§ 6203-A and 6321 and any other action in contract or lawsuit for the enforcement of the Commercial PACE Lien.

(b) Judicial or nonjudicial sale or foreclosure. In the event of a judicial or nonjudicial sale or foreclosure of a property subject to a Commercial PACE Lien by a lienholder that is not a Commercial PACE lienholder, the Commercial PACE Lien must survive the foreclosure or sale to the extent of any unpaid installment, interest, penalties or fees secured by the lien that were not paid from the proceeds of the sale. All parties with mortgages or liens on that property, including without limitation Commercial PACE lienholders, must receive on account of such mortgages or liens sale proceeds in accordance with the priority established in the Commercial PACE Act and by applicable law. A Commercial PACE Assessment is not eliminated by foreclosure and cannot be accelerated. Only the portion of a Commercial PACE Assessment that is in arrears at the time of foreclosure takes precedence over other mortgages or liens (except liens for real property taxes of the municipality and liens of municipal sewer, sanitary and water districts); the remainder transfers with the property at resale.

(c) Unless otherwise agreed upon by the Capital Provider, all payments on a Commercial PACE Assessment that become due after the date of transfer by judicial or nonjudicial sale or foreclosure must continue to be secured by a lien on the property and are the responsibility of the transferee.

(d) Release of lien. The City will discharge a Commercial PACE Lien created under the Commercial PACE Act and this Ordinance upon full payment of the amount specified in the Commercial PACE Agreement. A discharge under this subsection must be filed in the Cumberland County Registry of Deeds and must include reference to the notice of Commercial PACE Agreement previously recorded pursuant to the Commercial PACE Act and this Ordinance.

(e) No City Responsibility for Commercial Pace Assessment Payments. The City shall not be obligated to make any Commercial PACE Assessment payment during any period in which the City is deemed to be the owner of the Qualified Property by virtue of the automatic foreclosure of a tax lien mortgage, pursuant to 36 M.R.S. § 943, as amended, provided that the City includes such a

provision in the Commercial PACE Agreement for that Qualified Property.

(Ord. No. 41-23/24, 10-16-2023)

Sec. 6-198.5. Liability of municipal officials; liability of City.

(a) Notwithstanding any other provision of law to the contrary, City officers, officials, and employees, including without limitation, Tax Assessors and Tax Collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a Commercial PACE Program, including without limitation, claims for or related to uncollected Commercial PACE Assessments under this Ordinance.

(b) Other than the fulfillment of its obligations specified in a Commercial PACE Agreement, the City has no liability to a commercial property owner or the Trust for or related to Energy Savings Improvements financed under a Commercial PACE Program.
(Ord. No. 41-23/24, 10-16-2023)

Sec. 6-199. Conformity to Changed Standards.

This Ordinance is intended to comply with the Commercial PACE Act and the administrative rules of the Trust issued in connection with the Commercial PACE Act, as the same may be amended. If the Trust or any State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the City's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the City shall take necessary steps to conform this Ordinance and its Commercial PACE Program to those standards, rules or model documents.

(Ord. No. 41-23/24, 10-16-2023)

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ARTICLE IX. DISORDERLY HOUSES

Sec. 6-200. Disorderly houses prohibited.

(a) No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit (hereinafter jointly and severally "building") which is a disorderly house as defined herein.

(b) A "disorderly house" is any building which:

- (1) The police have visited a minimum number of times in any thirty (30) day period, as set forth in paragraph (3) below, in response to situations which are created by the owner, tenants, or owner's or tenants' cohabitees, guests or invitees and which would have a tendency to unreasonably disturb the community, the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are audible outside the building; loud noise or fights within the building or in its vicinity involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; other similar activities in the building or outside the building itself; or
- (2) The police have visited three (3) or more times in any thirty (30) day period in response to situations which are created by the owner, tenants, or owner's or tenants' cohabitees, guests or invitees and involve the arrest of owners or tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law, or create a reasonable suspicion that illegal drug use or sales under 17-A M.R.S.A. chapter 45 or prostitution or public indecency under 17-A M.R.S.A. chapter 35 has occurred; or
- (3) The following table delineates the number of police visits per dwelling size which create a disorderly house under paragraph (1) above:

Units per building	Number of visits by police in any 30-day period
5 or fewer	3
6 to 10	4
11 or more	5

(c) The situation to which the visit pertains shall be documented by the police department. Such documentation may include sworn affidavits by named citizens which may be sufficient to create a reasonable suspicion said illegal activity has occurred. (Ord. No. 165-10/11, 4-4-11)

Sec. 6-201. Notice of disorderly house.

Whenever a building has been identified as a disorderly house by the city, it shall cause written notification of the events which form the basis for that designation to be given to the owner as long as that owner has registered in accordance with section 6-150 et seq. (disclosure of building ownership). Such notice shall be sufficient for all legal purposes. The notice shall require the owner to meet with representatives of the city (including the police department) within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Police Chief or his or her designee, to identify ways in which the problems which have been identified will be eliminated.

At the time of said meeting, the owner shall be obligated to provide to the city the following documentation:

- (1) A copy of the names of all tenants or other persons authorized to reside or presently residing in the building and the units they occupy;
- (2) Copies of all leases with tenants residing in the building;
- (3) Contracts with any property manager or other person responsible for the orderly operation of the building;
- (4) An accurate and up to date disclosure of building ownership form as required in 6-150 et seq.

In addition, the owner will agree to take effective measures to address the disorderly house, which measures shall be memorialized in a written agreement at the conclusion of the meeting with the city and shall be implemented within one (1) week of said meeting unless another date is agreed upon by the police department. Failure to enter into such an agreement at the conclusion of the meeting will be deemed a violation of this housing code, and the city may file a complaint in the district court seeking all compensatory and equitable relief permitted by law.

If the same building should be classified as a disorderly house on a subsequent occasion within three (3) years, then the city is under no obligation to meet with the owner but may condemn and post the building or any units therein, and/or proceed directly with a complaint to the district court seeking all compensatory and

equitable relief permitted by law.

(c) The notices provided for in this section may be given to an owner who has not complied with section 6-150, but are not required.

(Ord. 165-10/11 - 4/4/11)

Sec. 6-202. Enforcement.

(a) Authority to Enforce. If the owner (1) refuses to agree to take effective measures to address the disorderly house, (2) takes ineffective measures to address the disorderly house as determined by the city, (3) fails to implement the agreement reached with the city to address the disorderly house or (4) if, in the discretion of the city, the disorderly house requires immediate posting, the city may condemn and post the building against occupancy, and/or may file a legal action against the owner seeking any and all damages and remedies to which it is entitled pursuant to state and local laws.

(b) Notice of Suit. If the City pursues legal action against an owner or landlord for a disorderly house violation, notice shall be provided to the tenants by the City. Notice shall be made within a reasonable time following the service of the complaint upon the property owner. If a tenant list has been previously provided by a landlord, notice shall be made by regular mail to all known tenants in the building. If no tenant list has been provided, notice shall be made by regular mail to all occupants in each unit of the building.

(c) Condemnation. In the event that condemnation is required to address one or more disorderly house violation(s), the City shall provide notice to tenants of the building. Notice shall be made within a reasonable time following the City's election to condemn the building. Notice shall be made by: (1) regular mail to all known tenants or to all occupants in each unit in the building; and (2) by posting a copy of said notice at the premises.

(Ord. No. 165-10/11 - 4/4/11; Ord. No. 271-17/18, 7-16-2018)

Sec. 6-203. Cost of service for responses to disorderly houses.

(a) Whenever the police department is required to respond to a situation at a disorderly house, as defined in section 6-200, which constitutes the ninth (9th) or greater response in any thirty (30) day period, the owner of the disorderly house shall pay the cost of service for each such response as follows:

(1) For each such response for service the owner shall pay fifty dollars (\$50.00) which shall be in addition to any penalty to which the owner may be subject.

(b) Failure to pay the cost of service within thirty (30) days after demand therefor shall subject the owner to the penalties provided in section 1-15.

(c) Charges which become payable hereunder shall be treated as liens on the property in question and shall be enforced in accordance with the provisions of section 1-16.
(Ord. No. 165-10/11, 4-4-11)

Sec. 6-204. Violations.

Any person violating any of the provisions of this article or failing or neglecting or refusing to obey any order or notice of the police department issued hereunder shall be subject to a penalty as provided in section 6-1.
(Ord. No. 165-10/11, 4-4-11)

ARTICLE X. ENERGY BENCHMARKING

6-205. General.

The energy and water use of municipal and covered buildings shall be benchmarked in accordance with this article.
(Ord. No. 67-16/17, 11-7-2016)

6-206. Purpose.

To encourage efficient use of energy and water and to reduce the emission of greenhouse gases, this ordinance requires owners of Covered Properties and Municipal Properties to annually measure and disclose energy usage to the Department. Furthermore, this Ordinance will authorize the Department to collect energy and water usage data to enable more effective energy and climate protection planning by the City and others and to provide information to the real estate marketplace to enable its members to make decisions that foster better energy performance.
(Ord. No. 67-16/17, 11-7-2016)

6-207. Applicability.

This Ordinance shall be applicable to all Municipal and Covered Properties as defined in this Ordinance.

6-208. Definitions.

Benchmarking information shall mean information generated by the Benchmarking Tool, as herein defined including descriptive information about physical property and its operational characteristics. The information shall include, but need not be limited to:

- (a) Property address;
- (b) Primary use type;
- (c) Gross floor area;
- (d) Site Energy Use Intensity (EUI) as defined in this section;
- (e) Weather normalized source EUI;
- (f) Annual greenhouse gas emissions;
- (g) Water use;
- (h) The energy performance score that compares the energy use of the building to that of similar buildings, where available; and
- (i) Compliance or noncompliance with this Ordinance.

Benchmarking Tool shall mean the Internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance and water usage of buildings nationwide.

Covered Property shall mean a parcel, as described in public records or as determined by the Department, containing any of the following:

- (a) One or more non-residential building(s) where such building(s) singly or together contain more than 20,000 square feet ("Non-Residential Covered Property"); and
- (b) One or more residential building(s) that singly or together contain 50 or more residential Dwelling Units whether they are rental Dwelling Units or Dwelling Units owned as condominiums, cooperatives or otherwise ("Residential Covered Property"). Residential covered property shall not include separate free-standing single family or two-family dwelling

units, or single free-standing structures or buildings which by themselves contain ten (10) units or fewer.

Department means the City of Portland Energy and Sustainability Coordinator and his or her department or office.

Dwelling Unit shall mean a single residential unit consisting of one or more habitable rooms, occupied or arranged to be occupied as a residential unit separate from all other residential units within a building, and used primarily for residential purposes and not primarily for professional or commercial purposes.

Energy shall mean electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

Energy Performance Score shall mean the numeric rating generated by the ENERGY STAR Portfolio Manager tool or equivalent tool adopted by the department that compares the energy usage of the building to that of similar buildings.

ENERGY STAR shall mean the U.S. Environmental Protection Agency program related to improving energy efficiency in buildings and products.

ENERGY STAR Portfolio Manager shall mean the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

Energy Use Intensity (EUI) shall mean the kBTUs (1,000 British Thermal Units) used per square foot of gross floor area.

Gross Square Feet shall mean the gross floor area of the property.

Municipal Property shall mean a property with one or more buildings that is 5,000 gross square feet or more that is owned by the City of Portland.

Owner shall mean:

(a) An individual or entity having title to a Covered Property;

(b) An agent authorized to act on behalf of the owner of a Covered Property;

(c) The net lessee in the case of a property subject to a net lease with a term of at least forty-nine years, inclusive of all renewal options;

(d) The board of managers or trustees in the case of a condominium; and/or

(e) The board of directors or trustees in the case of a cooperative apartment corporation.

Qualified Benchmark is an entity that meets the department's qualifications for inputting Benchmarking Information into the Benchmarking Tool.

Residential Property shall mean a property containing one or more Dwelling Units.

Site Energy shall mean the amount of heat and electricity consumed by a Covered Property or Municipal Property as reflected in utility bills or other documentation of actual energy use.

Source Energy shall mean all the energy used in delivering energy to a Covered Property, including power generation and transmission and distribution losses, to perform a specific function, such as but not limited to space conditioning, lighting, or water heating.

Tenant shall mean a person or entity leasing, occupying or holding possession of a Covered Property or Municipal Property.

Utility shall mean an entity that distributes and/or sells energy, including, but not limited to, natural gas, propane, electric or thermal energy for Covered Properties or Municipal Properties.
(Ord. No. 67-16/17, 11-7-2016)

6-209. Benchmarking for Municipal and Covered Properties.

(a) No later than May 1, 2019 , and no later than May 1 every year thereafter, the total Energy and Water consumed by each Municipal Property, along with all other descriptive information required by the Benchmarking Tool, shall be entered into the Benchmarking Tool for the previous calendar year.

(b) Owners of Covered Property shall annually input the total Energy and Water consumed by each Covered Property, along

with all other descriptive information required by the Benchmarking Tool, into the Benchmarking Tool for the previous calendar year. The Owner shall input this information according to the following schedule:

- (1) A Residential Covered Property no later than one year after the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that offer easy access to usage data as needed to use Energy Star Portfolio Manager, and by May 1 every year thereafter;
- (2) Non-residential Covered Property. For Non-residential Covered Properties in which any single tenant occupies ninety percent (90%) or more of the property's available floor space, by May 1, 2020. For all other Non-residential Covered Properties, no later than one year after the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that offer easy access to usage data as needed to use Energy Star Portfolio Manager, and by May 1 every year thereafter; and
- (3) A new Covered Property that has not accumulated twelve (12) months of energy and water use data by the first applicable date following occupancy for inputting Energy and Water use into the Benchmarking Tool shall comply with this Ordinance by May 1 the following year.

(Ord. No. 67-16/17, 11-7-2016; Ord. 105-18/19, 11-19-2018; Ord. No. 286-18/19, 7-15-2019)

6-210. Notification Of Covered Properties.

Between September 1 and December 1 of each year that Benchmarking is required under Section 6-209 above, the City shall notify Owners of Covered Properties of their obligation to input Energy and Water use into the Benchmarking Tool. By January 15 of each year, the City shall post the list of the addresses of Covered Properties on a public website.

(Ord. No. 67-16/17, 11-7-2016; Ord. 105-18/19, 11-19-2018)

6-211. Qualifications of Benchmarkers.

The City Manager or his or her designee, including but not limited to the Department, may establish certification and/or licensing requirements for the users of Benchmarking Tools.

(Ord. No. 67-16/17, 11-7-2016; Ord. 105-18/19, 11-19-2018)

6-212. Disclosure And Publication Of Benchmarking Information.

(a) Owners shall annually provide Benchmarking information to the Department, in such form as established by the Department, by the date provided by the schedule in Section V.

(b) An exemption from this reporting requirement for any current reporting period may be granted if:

- (1). The Owner demonstrates to the Department that he or she has been unable to obtain tenant authorization to obtain tenant utility data, despite a good faith effort to obtain such consent; or
- (2). The Owner or Tenant demonstrates to the Department that such disclosure may result in the release of proprietary information which can be characterized as a trade secret.

(c) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

- (1) No later than a year and a half after the effective date of this Ordinance and by September 1 of each year thereafter for Municipal Properties; and
- (2) No later than one year after Benchmarking Information is provided under Section 6-209 and by September 1 of each year thereafter for Covered Properties. Benchmarking Information received by the Department for the first year a Covered Property is required to input the total Energy and Water consumed and other descriptive information as required by the Benchmarking Tool into the Benchmarking Tool will be not be published except to disclose whether or not the Covered Property is in compliance with this Ordinance.

(d) The Department shall make available to the public and update at least annually, the following information:

- (1) Summary statistics on energy and water consumption for Municipal Properties and Covered Properties derived from aggregation of Benchmarking information for both;
- (2) Summary statistics on overall compliance with this Ordinance including an assessment of accuracy;
- (3) For each Municipal Property and Covered Property:

- (i) The status of compliance with the requirements of this Ordinance;
- (ii) Annual summary statistics for the Municipal Property or Covered Property, including EUI, annual greenhouse gas emissions, and an energy performance score where available; and
- (iii) A comparison of Benchmarking Information across calendar years for any years such Municipal Property or Covered Property has input the total Energy consumed and other descriptive information for such Properties as required by the Benchmarking Tool into the Benchmarking Tool.

(Ord. No. 67-16/17, 11-7-2016; Ord. 105-18/19, 11-19-2018)

6-213. Provision of Benchmarking Information by Tenants.

(a) Each Tenant located in a Covered Property shall, within thirty (30) days of a request by the Owner and in a form to be determined by the Department, provide all information that cannot otherwise be acquired by the Owner and that is needed to comply with the requirements of this Ordinance. Failure to provide information to an Owner may result in penalties as provided in the City Code and this Ordinance.

(b) Where the Owner is unable to input the total energy consumed by the Covered Property as well as all other descriptive information for such Covered Property as required by the Benchmarking Tool into the Benchmarking Tool due to the failure of any or all Tenants to report the information required by this Ordinance, the Owner shall input alternate values as established by the Department prior to the implementation of this Ordinance, into the Benchmarking Tool.

(Ord. No. 67-16/17, 11-7-2016)

6-214. Assessing Results and Annual Report to City Council.

(a) By December 31, 2020, or two years after the Department has certified that utility service providers have made utility use data readily available in a standardized and secure manner through "green button" or similar programs or standards that offer easy access to usage data as needed to use Energy Star Portfolio Manager, whichever is later, the Department shall review the effect of this Ordinance on improving energy and water performance for Covered Buildings. If energy and water performance for Covered Buildings has not improved significantly, the Department shall make recommendations to the City Manager as to whether amendments to this Ordinance or other measures are

necessary to improve building energy and water performance for Covered Buildings.

(b) In December of each calendar year, the Department shall prepare and submit an annual report to the City Council, which evaluates the administration and enforcement of the Ordinance and contains a summary of the benchmarking data provided to the City as required by this Ordinance, as well as any other necessary data or recommendations on the Ordinance could be improved.
(Ord. No. 67-16/17, 11-7-2016; Ord. 105-18/19, 11-19-2018)

6-215. Maintenance of Records.

(a) Owners shall preserve and maintain records as the Department determines is necessary for carrying out the purposes of this Ordinance, including but not limited to energy and water bills and any and all other documents received from Tenants and/or Utilities. Such records shall be preserved by Owners for a period of three (3) years. At the request of the Department, such records shall be made available for inspection and audit by the Department.

(b) At the time any occupied Covered Building is transferred, the buyer and seller shall arrange for the seller to provide to the buyer all information necessary for the buyer to report Benchmarking information for the entire year in a timely manner. It shall be a violation of this Ordinance for any seller to fail to so provide any such information.
(Ord. No. 67-16/17, 11-7-2016)

6-216. Violations.

It shall be unlawful for any entity or person including, but not limited to, Owners or Tenants to fail to comply with the requirements of this Ordinance or misrepresent any material fact in a document required to be prepared or disclosed by this Ordinance.
(Ord. No. 67-16/17, 11-7-2016)

6-217. Enforcement and Administration.

(a) The City Manager, the Department or their designee shall enforce the provisions of this Ordinance.

(b) The City Manager, the Department or their designee may promulgate regulations relative to the administration of the requirements of this Ordinance, as necessary.

(c) If any person or entity including, but not limited to, Owners or Tenants violate any provision of this Ordinance, the

following enforcement measures may be taken:

(1) For the first violation, a written warning may be issued; and

(2) Any subsequent or ongoing violation will be subject to a fine of up to \$20.00 per day pursuant to the provisions of Chapter 1, Section 1-15 herein.

(Ord. No. 67-16/17, 11-7-2016)

6-218. Severability.

If any provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

(Ord. No. 67-16/17, 11-7-2016)

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.

Applicant means a prospective tenant for a rental housing unit, who signs or intends to sign a lease or other contractual agreement in relation to the unit.

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.

Rental Application means the written document used by a landlord to determine if an applicant is qualified to become a tenant of a rental housing unit.

Rental Application Fee means any cost, payment, charge or any other kind of expenditure or remuneration, including administrative costs, that an applicant is required to pay in order to have his or her rental application considered by the landlord.

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; Ord. No. 206-19/20, 8-3-2020)

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.

6-223. Notification of rent increases.

Notwithstanding 14 M.R.S. Section 6015, a Landlord shall give ninety (90) days' written notice of any rent increase to a Tenant.

(Ord. No. 76-16/17, 11-21-2016; By Referendum, 11-8-2022)

6-223.1. Rental applications, generally; application fees prohibited.

(a) Disclosure of Application Criteria. Before accepting a rental application, a landlord must disclose to the applicant, in writing, the criteria on which the application will be judged.

(b) Availability of Units. Landlords shall only advertise rental housing units, receive applications, and screen applicants for rental housing units when such rental housing units are actually available and ready for occupancy or are expected to be available for occupancy within a reasonable time period; provided, however, that an applicant may consent to be screened and placed on a waiting list. For purposes of this Section, a rental housing unit is no longer considered available if a different applicant has been screened by the landlord, has been offered the rental housing unit and accepted it, and has placed a deposit on the rental housing unit. A rental housing unit may be considered available if a tenant of a unit has declared they will not be renewing a lease or have otherwise vacated the property. Landlords shall document the date and time that deposits are placed on rental housing units.

(c) Application Fees. All application fees for rental housing units are prohibited, including, but not limited to, any fees or charges to applicants for the following: national, state and local criminal background checks, credit reports, rental history records and/or reference checks, eviction records and/or employment verification.

(Ord. No. 206-19/20, 8-3-2020; By Referendum, 11-8-2022)

Sec. 6-223.2 Maximum deposit.

Notwithstanding 14 M.R.S. Section 6032, a lease or tenancy at will agreement for a dwelling intended for human habitation may not require a security deposit equivalent to more than the rent for one (1) month.

(By Referendum, 11-8-2022)

6-224. Protection of Tenants.

(a) The Housing and Economic Development 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 Housing and Economic Development 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; Ord. No. 88-20/21, 9-21-2020)

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 nine (9) members, including three (3) members who are landlords, three (3) members who are tenants, one (1) member who is not a landlord or a tenant, one (1) member experienced in legal rights/interest of tenants, and one (1) member experienced in legal rights/interests of landlords.

(1) All members of the Committee, excluding the members experienced in legal rights/interests of tenants and landlords, shall be residents of the City of Portland. The members experienced in legal rights/interests of tenants and landlords shall be either a resident of or

work in the City of Portland.

(2) All members shall be appointed by the City Council to serve staggered terms set by City Council order.

(3) The Southern Maine Landlord Association may submit one name for consideration for the member experienced in legal rights/interests of landlords. If the Southern Maine Landlord Association fails to do so, the City Council may appoint the member without the Association's recommendation or approval.

(4) Pine Tree Legal Assistance may submit one name for the member experienced in legal rights/interests of tenants. If Pine Tree Legal Assistance fails to do so, the City Council may appoint the member without Pine Tree's recommendation or approval.

(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. Provide the Housing Committee with recommendations or proposals for improvements, modifications, or changes regarding landlord and tenant policy issues; and
2. Identify educational opportunities, seminars, and materials that would be useful to landlords and tenants.

(Ord. No. 76-16/17, 11-21-2016; Ord. No. 32-18/19, 8-13-2018; Ord. No. 215-18/19, 5-6-2019)

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, 6-223.1, 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; Ord. No. 206-19/20, 8-3-2020)

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)

ARTICLE XII. RENT CONTROL AND TENANT PROTECTIONS

Sec. 6-230. Purpose.

The purpose of this Article is to address increasing rental costs within the City of Portland; to promote neighborhood and community stability; to protect the City's tenant population; to limit arbitrary evictions; and to stabilize and make more predictable future rent increases, all while remaining in conformance with Maine law, and ensuring that Landlords within the City receive a fair return on investment.
(By Referendum, 11-3-2020)

Sec. 6-231. Applicability.

This Article shall apply to Rental Units in the City limits of Portland, exempting the following:

(a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;

(b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;

(c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;

(d) Rental Units within a building containing only two (2), three (3) or four (4) dwelling units, one of which the property owner currently occupies as his or her principal residence;

(e) Accommodations where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency; and

(f) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code.
(By Referendum, 11-3-2020 By Referendum, 11-8-2022)

Sec. 6-232. Definitions.

Allowable increase percentage means the standard amount that the rent of a Covered Unit may be raised within the following Calendar Year, unless a Landlord is entitled to additional increases as provided in Sections 6-233 or 6-234 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2021, and shall be equal to 70 percent of the change in the Consumer Price Index (CPI-U) for Greater Boston Metro Area for the preceding twelve (12) months, as published in August by the United States Bureau of Labor Statistics or its designee. For the purposes of this ordinance, the Rent Board shall presume that the Allowable increase percentage is sufficient to allow a reasonably prudent landlord who received a fair return on investment prior to the enactment of this ordinance to continue to maintain a fair net operating income that increases over time at a just and reasonable rate, yielding a fair return on investment under the normal course of doing business.

Base rent means the initial amount of rent that a Landlord charged for a Covered Unit prior to the increases allowed under this ordinance, as more specifically defined in Section 6-233 of this Article. For the purposes of the ordinance, the Rent Board shall presume that the Base Rent was sufficient to have provided the Landlord a fair return on investment prior to the enactment of this ordinance.

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not yet applied to the rent charged to a Tenant.

Constructed means a Rental Unit that has received its final certificate of occupancy from the City's Permitting and Inspections Department, or its designee.

Covered unit means a Rental Unit within the City of Portland that does not fall within a category exempted from this Article by Section 6-231.

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2021.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2021 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

Fair return on investment means an amount sufficient to allow a just and reasonable rate of return, to encourage the investment of capital in the rental housing market, to fairly compensate investors for the risks they have assumed, and to achieve minimum constitutionally protected standards. For the purposes of this ordinance, a Fair return on investment must be calculated using Maintenance of Net Operating Income methodology, as that term is used in other jurisdictions with similar ordinances, that presumes the net operating income the landlord earned from a Covered unit during calendar year 2019 yielded a fair return on investment, unless the landlord proves that special or peculiar circumstances prevented the landlord from receiving a fair return on investment during that period. The Rent Board may adopt rules or regulations to ensure the fair and consistent application of such methodology.

Landlord means an owner, manager, managing agent, sublessor, 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.

Major renovation or reconfiguration means one or more capital investments or improvements where the total cost of construction or improvement attributable to the Rental unit involved exceeds 20% of the property value, prior to improvement,

of the Rental unit involved, as determined by the city's tax assessor.

Qualified family member means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage, or adoption.

Rent means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in consideration with, the use or occupancy of rental units and housing services. Such consideration includes, but is not limited to, monies and fair value of goods and services rendered to or for the benefit of the Landlord under the Rental Agreement, or in exchange for a Rental Unit, or housing services of any kind.

Rent board means the set of appointed individuals responsible for the administration of this Article, in accordance with the terms set forth below.

Rent stabilization allowances means collectively the Allowable Increase Percentage and any additional rent increase exemptions approved by the Rent Board under Section 6-234 of this Article.

Rent stabilization ordinance means Chapter 6, Articles XII and XIII of the Code of Ordinances, City of Portland, Maine, as amended.

Rental agreement means a contract between a Landlord and a Tenant for the use and/or occupancy of a Rental Unit.

Rental unit means any dwelling unit that is rented or otherwise made available for rent for residential use or occupancy, together with all additional rights, privileges, or services connected with use or occupancy of such a unit, including but not limited to vehicle parking spaces, storage, and commons areas and/or recreational facilities held out for use by the Tenant.

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2021, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tenancy means the right or entitlement of a Tenant to use or occupy a rental unit.

Tenant-Based Rental Assistance means any and all forms of tenant-based rental assistance and vouchers, including but not limited to:

- (a) Tenant-based rental assistance through the Section 8 Housing Choice Voucher Program, 42 U.S.C § 1437f (o);
- (b) Tenant-based rental assistance through the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C § 12701 et seq.;
- (c) Tenant-based rental assistance under the HOD-Veterans Affairs Supportive Housing (HUD-VASH), authorized by§ 8 (o) (19) of the United States Housing Act of 1937, 42 U.S.C. § 1437f (o) (19);
- (d) Tenant-based rental assistance through the Shelter Plus Care Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11403-11407b, as amended;
- (e) Tenant-based rental assistance through the Supportive Housing Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11381-11389, as amended;
- (f) Tenant-based rental assistance through the Section 8 Disaster Voucher Program (DVP);
- (g) Tenant-based rental assistance through the Housing Opportunities for Persons with AIDS (HOPWA) Program, 42 U.S.C. § 12901 -12912 as amended;
- (h) Tenant-based rental assistance through the Community Block Grant Program, 42 U.S.C. § 5301 et seq. as amended;
- (i) Tenant-based rental assistance through the Continuum of Care Program authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11381-11389;
- (j) Tenant-based rental assistance through the Rural Development Voucher Program authorized through § 542 of the Housing Act of 1949, as amended. See 78 Fed. Reg. 49374 (Aug. 14, 2013) (proposed rule);

- (k) Tenant-based rental assistance through the Maine Bridging Rental Assistance Program, authorized by M.R.S. Title 34-B § 3011;
- (l) Tenant-based rental assistance through the Maine State Housing Authority Home To Stay Program, M.R.S. Title 30-A § 4771;
- (m) Tenant-based rental assistance through the Maine State Housing Authority Stability Through Engagement Program, M.R.S. Title 30-A § 4771;
- (n) Tenant-based rental assistance through the City of Portland's Tennant Based Rental Assistance Program, M.R.S. Title 30-A § 4771;
- (o) Tenant-based rental assistance through the City of Portland's General Assistance Program, authorized by M.R.S. Title 22 § 4301 et seq.; and
- (p) Such other Tenant-based rental assistance or rental vouchers or rental coupons as may be authorized under any federal, state, or local program.

Tenants Union means any group, organization, committee, collective, association or entity, whether incorporated or unincorporated, of any kind, whatsoever, in which tenants participate and which exists for the purpose, in whole or in part, of dealing with Landlords concerning rental conditions or any matter related to the Landlord-tenant relationship, including but not limited to the rights and interests of tenants under this Chapter.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-233. Establishment of base rent.

(a) *Base Rent for Current Covered Units.* Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151. Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance, except as otherwise provided within this section..

(b) *Base rent for Discontinued Covered Units.*

- (i) If a Covered Unit was not required to be registered with the City as of April 1, 2021, but is required to be registered with the City after such date, the Base Rent shall be the amount of Rent charged 120 days prior to the date when the Covered Unit became required to be registered, or if no Rent was charged at such time, the first Rent charged by the Landlord any time thereafter. The Base Rent for any new Covered Unit entering the rental housing market for the first time shall be the Rent charged to the first Tenant, as set by the Landlord.
- (ii) If a Covered Unit was required to be registered with the City as of April 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the time the Covered Unit was removed from the rental housing market.
- (iii) If a Covered Unit was required to be registered with the City as of January 1, 2021, but is subsequently removed from the rental housing market for a period of at least sixty (60) months, the Base Rent for such a Covered Unit shall be the Rent charged to the first Tenant upon reentry into the rental housing market, as set by the Landlord.

(c) *Base rent following major renovation or reconfiguration of Covered Units.* Upon a major renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increased Base Rent. When determining the appropriate increased Base Rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, the amount necessary to ensure a fair return on investment, and any other factor determined relevant in the opinion of the Rent Board; the Rent Board may consider any amount of Banked Rent accrued for that unit, but after determining the appropriate Base Rent, all previously accrued Banked Rent shall be forfeited..

(d) *Base rent following consolidation of Covered Units.* When two (2) or more Covered Units are consolidated to create a single

Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit.
(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage for the following calendar year, and shall announce and explain the methodology for calculating the Allowable Increase Percentage at the first meeting of the Rent Board following such publication. The Rent Board shall hear public comment after such announcement.

(b) A Landlord may not increase the rent charged for a Covered Unit within twelve (12) months following a previous Rent increase. After twelve (12) months, the Landlord may only increase the rent charged for a Covered Unit by an amount that conforms to the following specifications:

1. *Annual Increase Percentage.* Unless a Landlord qualifies for an additional increase as further described below, rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.
2. *New Tenancy.* A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit, but only if the previous Tenancy was terminated voluntarily by the previous Tenant, without coercion or unreasonable influence from the Landlord. This increase may be applied at most once per twelve (12) months, regardless of the number of new tenancies. The Housing Safety Office shall investigate any report that the Tenancy was not terminated voluntarily by the Tenant, or that the Tenant was coerced or unreasonably influenced by the Landlord to terminate the Tenancy. Any tenancy in which the property owner served the tenant with a notice to quit or summons and complaint for forcible entry and detainer shall not be deemed to be a situation in which the previous tenant voluntarily terminated the tenancy.
3. *Banked Rent.* If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this

banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.

4. *Additional Rent Board Approved Increases necessary to ensure a fair return on investment.* In addition to the above rent adjustments, upon receipt of an application submitted by the Landlord, the Rent Board may approve additional rent increases necessary to ensure a fair return on investment.

To calculate what amount is necessary to ensure a fair return on investment, the Rent Board shall employ generally acceptable Maintenance of Net Operating Income methodology, and may not consider any valuation-based or capitalization-based methodology or any calculation or methodology factoring market rent or market value of the Covered Unit.

Rent board approval under this provision is intended to ensure a fair rate of return under abnormal, unexpected, or irregular circumstances, including, but not limited to, capital improvements and minor renovations, uninsured repairs, the provision of new housing services, revaluation for property tax assessment, or other unusual expenses. The Rent Board shall presume that the Allowable Increase Percentage will be sufficient to satisfy all regular increases in operating costs, routine maintenance expenses, and other normal or regular costs or expenses, allowing the Landlord to maintain a fair return on investment.

The Landlord submitting an application for an additional rent increase bears the burden of proof, including the burden of providing all necessary documentation, to demonstrate that the increase is necessary to receive a fair return on investment. Such documentation shall include, but is not limited to: historical net operating income, revenue and expenses; the costs and expenses requiring Rent board approval of an additional increase; and what portion of shared costs and expenses can be fairly attributed to each individual covered unit.

(c) At no time may a Landlord raise the rent of a Covered Unit by more than ten (10) percent. Any rent increases available

to a Landlord in excess of ten (10) percent must be banked for later use.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than ninety (90) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, the amount of the increase, any remaining Banked Rent that has not been included in the Rent increase, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article, and any notice not containing all such documentation shall be void.

(e) Tenants, individually or collectively, who receive notice of a rent increase that they believe does not conform with this Section may file a complaint with the Housing Safety office. The Housing Safety office shall promptly investigate such complaint and take appropriate action. If, within fourteen (14) days of filing such a complaint, the notice is not rescinded by the Landlord, an appeal of said rent increase may be filed with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider de novo the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. An increase determined by the Board to be more than is allowed by this Article shall be considered a violation and the Board may determine the appropriate penalty for any such violation in a manner consistent with the provisions of this Code. Multiple tenants collectively alleging the same or similar violations against a single Landlord, including but not limited to a Tenants Union or members of or participants in a Tenants Union, may file their complaints or appeals collectively as a single document, and the Rent Board shall hear all such matters together as a single complaint or appeal; but notwithstanding such consolidated hearing the Rent Board may elect to issue separate decisions.

f) A landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand, accept or retain any

rent increase otherwise permitted by this section or any other provision of this Code or Maine statute.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-235. Process of banking rent increases.

If a Landlord chooses to not impose any rent increases to which they are entitled pursuant to Section 6-234 above, these increases may be banked, in whole or in part, with the annual registration required under Section 6-151. Banked increases may be used to raise the rent of Covered Units in subsequent years in addition to Rent Stabilization Allowances, subject to the limitations in Section 6-234, including that no single increase of such rent shall exceed ten (10) percent.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 235.1. Alternative calculation of maximum allowable rent.

At no time shall any Landlord charge Rent on a Covered Unit that exceeds the Base Rent plus any accrued increases allowed under this Ordinance, and any Landlord who charges Rent on a Covered Unit that is greater than such amount is in violation of this Ordinance. This section shall not be construed to retroactively revoke any allowable increases accrued under previous versions of this Ordinance.

(By Referendum, 11-8-2022)

Sec. 6-236. Termination of Tenancies.

(a) In order to be terminated by a Landlord, all tenancies must be terminated by providing a minimum of 90 days' written notice to Tenant except as provided below:

1. "For Cause" tenancies terminable on 7 days' notice pursuant to 14 M.R.S. § 6002(1) may be terminated in accordance with Section 6002(1);
2. Short-term rentals with a term of fewer than 30 days' are exempt from the 90-day notice period outlined herein;
3. Where a Landlord provides the amount of one month's rent as reimbursement to Tenant for the inconvenience of termination, tenancies may be terminated by notice to the Tenant of sixty (60) to eighty-nine (89) days;
4. Where a Landlord provides the amount of two months' rent as reimbursement to Tenant for the inconvenience

of termination, tenancies may be terminated by notice to the Tenant of thirty (30) to fifty-nine (59) days.

(b) Reimbursement amounts outlined under subsections (a) above are lump-sum amounts payable in a single installment for the collective benefit of all tenants of a unit. Tenants are responsible for allocating the reimbursement amount among themselves.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-237. 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.

(c) It shall be prohibited for a landlord to refuse to rent or negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any tenant because of the tenant's source of income or because of the requirements of any program providing the source of income;

(d) It shall be prohibited for or a landlord to refuse to participate in or comply with any federal, state, or local requirements of a tenant-based rental assistance program, including, but not limited to the following:

1. Refusing to allow inspections of a dwelling by the public housing authority or other entity administering a tenant-based rental assistance program.
2. Refusing to make reasonable repairs necessary for the dwelling to meet the housing quality standards of the tenant-based rental assistance program; such repairs will be considered reasonable if they do not substantially alter or change the housing unit or do

not require repairs substantially different from those that would be required to bring the rental unit into compliance with the Maine Warranty of Habitability Act or local building or housing codes applicable for new construction.

3. Refusing to complete any necessary paperwork, including but not limited to such documents as the Request for Tenancy Approval form, the Housing Assistance Payments Contract, and the Tenancy Addendum or applicable General Assistance forms; and
4. Refusing to provide information required by the public housing authority or other entity administering the source of income or tenant-based rental assistance program.

(e) It shall be prohibited for a Landlord to refuse to rent or negotiate for the rental of, otherwise make unavailable or deny, a dwelling to a Tenant, retaliate against, or otherwise discriminate against a Tenant because the Tenant, or a Tenants Union on behalf of the Tenant, has complained or initiated a complaint or appeal to assert the Tenant's rights or interests under this Ordinance, or because the Tenant is a member of or participates in a Tenants Union. There is rebuttable presumption that any adverse action by the Landlord, including but not limited to forcible entry and detainer, was commenced in retaliation against the Tenant if, within six months prior to the commencement of the adverse action the Tenant, or a Tenants Union on behalf of the Tenant, complained or initiated a complaint or appeal to assert the Tenant's rights or interests under this Ordinance.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-238. Notice of ordinance to tenants.

(a) The Planning Department or its designee shall create and make available on the City's publicly accessible web site a plain language document that explains the rights, responsibilities, and protections created by this Ordinance.

(b) The document referenced above shall be provided by Landlords to all Tenants in Covered Units at the commencement of the rental of the Covered Unit and shall be provided again upon any update to the document made by the City.

(c) An acknowledgement of receipt of the document 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) Landlords of buildings shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

(By Referendum, 11-3-2020)

Sec. 6-239. Non-waiver of rights.

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 Rental Agreement that offers greater rights than those conferred hereby.

(By Referendum, 11-3-2020)

Sec. 6-240. Enforcement and remedies.

Any violation of this Article is considered a civil infraction; all such violations, including any penalty determined to be appropriate by the Rent Board, shall be enforced pursuant to the Portland City Code Chapter 1, §1-15. Violations of this Article, including enforcement of penalties for all such violations, shall be given the highest enforcement priority by the City.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-241. Limitation of Liabilities

(a) Nothing in this Article shall be interpreted to contravene the general laws of the State of Maine.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)

Sec. 6-242. Severability.

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

(By Referendum, 11-3-2020)

Sec. 6-243. Tenants Unions.

(a) Any Tenants Union shall have standing as a party to assert the rights or interests of any Tenants, individually or collectively, under this Chapter in any complaint, appeal, or other proceeding brought before the Housing Safety Office, the Rent Board, or the Superior Court in an appeal from any final decision under this Chapter in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(b) The Housing Safety Office shall create a registration form and accept the registration of Tenants Unions representing Tenants with rights and interests under this Chapter. Such registration shall include the name, telephone number, and e-mail address of a principal contact for the Tenants Union. The Housing Safety Office shall maintain and publish a list of Tenants Unions registered under this section, including contact information, for use by Tenants wishing to join or contact a Tenants Union. Nothing in this Section shall be construed to require a Tenants Union to register with the City. The City shall be prohibited from requesting, collecting, maintaining or publishing the names of individual Tenant members of any Tenants Union.
(By Referendum, 11-8-2022)

Sec. 6-244. - Sec. 6-249. Reserved.

ARTICLE XIII. RENT BOARD

Sec. 6-250. Creation; composition.

There shall be a Rent Board of seven (7) members. Members of the Rent Board shall be residents of the city and shall not be officers or employees of the city or any of its agencies or departments.

Two (2) members shall be appointed to fill at-large seats, and may reside in any part of the city. The remaining five (5) members shall be comprised of one member from each of the five (5) city council districts with the highest concentration of Rental Units. Should the location of said city council districts be changed, the districts of Rent Board members shall change to mirror such changes.

The City shall take reasonable steps, but is not required, to appoint to the Rent Board with no more than three (3) landlords and at least three (3) tenants.
(By Referendum, 11-3-2020 By Referendum, 11-8-2022)

Sec. 6-251. Appointment; terms.

The members of the Rent Board shall be appointed by the Mayor, subject to the approval of the City Council for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three (3) members shall expire in any calendar year.
(By Referendum, 11-3-2020 By Referendum, 11-8-2022)

Sec. 6-252. Vacancies.

Permanent vacancies on the Rent Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.
(By Referendum, 11-3-2020)

Sec. 6-253. Removal of members.

Any member of the Rent Board may be removed for cause by the City Council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.
(By Referendum, 11-3-2020)

Sec. 6-254. Compensation.

Members of the Rent Board shall serve without compensation.
(By Referendum, 11-3-2020)

Sec. 6-255. Chair and vice-chair.

(a) The members of the Rent Board shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their number as vice-chair. The chair may administer oaths. The chair shall have the right, upon request, to designate any person or organization as a specially interested party for purposes of offering evidence and conducting cross-examination at hearings.

(b) In the absence of the chair, the vice-chair shall act as chair and shall have all the powers of the chair. The vice-chair shall have such other powers and duties as may from time to time be provided by the rules of the Rent Board.
(By Referendum, 11-3-2020)

Sec. 6-256. Staff secretary; minutes, public records.

The Housing Safety Office shall designate a member of its staff to serve as staff secretary of the Rent Board and attend all its proceedings. The staff secretary shall keep the minutes of the proceedings of the Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.
(By Referendum, 11-3-2020)

Sec. 6-257. Quorum and necessary vote.

As to any matter requiring a hearing, no business shall be transacted by the Rent Board without a quorum, consisting of four (4) members being present. The concurring vote of at least four (4) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three (3) weeks at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.
(By Referendum, 11-3-2020)

Sec. 6-258. Meetings, hearings, and procedures.

(a) Regular meetings of the Rent Board shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any three (3) members of the Board or at the request of the city council. All meetings and hearings of the board shall be open to the public.

(b) The Rent Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the staff secretary and with the city clerk. Any rule so

adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.
(By Referendum, 11-3-2020)

Sec. 6-259. Public hearings.

Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Rent Board and shall be conducted in accordance with relevant state law, this code, and the rules of the board.
(By Referendum, 11-3-2020)

Sec. 6-260. Record and decisions.

(a) The minutes of the staff secretary, and the transcript if one (1) is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Rent Board, and the decision of the Board shall constitute the records.

(b) Every final decision of the Rent Board shall include written findings of fact, and shall specify the reason or reasons for such decision.

(c) The staff secretary shall mail notice of any decision of the Rent Board to the applicant and any designated interested parties within five (5) days of such decision.
(By Referendum, 11-3-2020)

Sec. 6-261. Conflicts.

No member of the Rent Board shall participate in the hearing or disposition of any matter in which they have an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended.
(By Referendum, 11-3-2020)

Sec. 6-262. Appeals to Superior Court.

An appeal from any final decision of the Rent Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.
(By Referendum, 11-3-2020)

Sec. 6-263. Jurisdiction and authority.

In addition to the jurisdiction conferred on it by other ordinances of the City and in accordance therewith, the Rent Board shall have the following jurisdiction and authority:

(a) To hear, review, and approve or deny Landlord applications for rent increases greater than the Allowable Increase Percentage, as provided for in Section 6-234 above;

(b) To hear, review, and approve or deny Landlord applications for increases in Base Rent due to the major renovation or reconfiguration of existing Covered Units, as provided for in Section 6-234 above;

(c) To hear, review, and grant or deny complaints or appeals from Tenants, individually or collectively, regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance, or allegations violations of Maine statute regarding the habitability of residential units; such appeals shall be heard and decided de novo;

(d) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed;

(e) To mediate any dispute arising between Landlords and Tenants where both parties request such mediation by submitting the landlord/tenant mediation form, as maintained and edited by the Housing Safety Office, signed by both Landlord and Tenant; all parties to such mediation must agree and shall be required to mediate in good faith; such authority to mediate disputes shall not be construed to limit the Rent Board's authority to hear, review or decide any tenant complaint or appeal without the consent of the Landlord; the Board may appoint one or more of its members, in lieu of the full Board, to mediate disputes on a rotating basis, and such mediation may be conducted outside of a public hearing, and a quorum of the Rent Board shall not be required for such mediation;

(f) To determine, in a manner consistent with the provisions of this Code, what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance that are determined by the Rent Board;

(g) To prepare and recommend to the City Council changes and amendments to the City's Rent Stabilization Ordinance;

(h) To prepare an annual report on the state of the City's rental unit availability, which shall be presented to the City Council as part of a regularly-scheduled public hearing. This report shall include a summary of rents within each of the five (5) council districts. Such reporting may or may not be done in conjunction with similar reporting required of the City's Rental Housing Advisory Committee, as established by this Chapter;

(i) To adopt or amend, subject to approval by the City Council, such rules and regulations as are necessary to implement, or to allow for the efficient and consistent application of, the provisions of the Rent Stabilization Ordinance, including but not limited to rules and regulations governing the proceedings of the Rent Board's hearing of Landlord applications or of Tenant complaints or appeals and rules and regulations providing standard procedures and methodology for calculating the amount of rent necessary to allow the Maintenance of Net Operating Income and yield a Fair Return on Investment under various circumstances; the Board may adopt, subject to approval by the City Council, rules and regulations, including methodology, allowing the Housing Safety Office or a hearing officer to review Landlord applications and to complete standard calculations in order to provide for or facilitate an expeditious process and efficient consideration by the Rent Board; Rules and Regulations adopted pursuant to this authority, and any amendments thereto, shall become effective only when approved by the City Council, and shall be kept on file in the Housing Safety Office;

(j) To initiate changes and amendments to the city's Rent Stabilization Ordinance.

(By Referendum, 11-3-2020; By Referendum, 11-8-2022)