

Order 18-17/18

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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

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NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE  
CHAPTERS 1, 4, 5, 6, 10, 11, 12, 15, 16, AND 30  
Re: Permitting and Inspections Clarifications and Updates**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,  
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 1, Sections 1- 15 of the Portland City Code is hereby amended to read as follows:*

**Sec. 1-15. General penalty; continuing violations.**

(a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not less than one hundredfifty dollars (~~\$50.00~~100.00) nor more than five hundred dollars (\$500.00) for each offense. Wherever a minimum fine is established in this Code, it shall be deemed a sum certain for each alleged offense in any action brought to enforce this Code. Whenever in this Code a minimum but no maximum fine or penalty is imposed, the court may in its discretion fine the offender any sum of money exceeding the minimum fine or penalty so fixed, ~~but not exceeding the sum of one hundred dollars (\$100.00)~~. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

(b) In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the corporation counsel may elect under which to proceed; but not more than one (1) recovery shall be had against the same person for the same offense.

(c) In addition to the penalties provided in subsection (a), the city is authorized to institute, or cause to be instituted by the corporation counsel, any and all actions, legal or equitable, that may be appropriate or necessary for the

~~enforcement of the provisions of this Code may enjoin or abate any violation of this Code by appropriate action.~~

2. That Chapter 4, Sections 4-19, 4-27, 4-51 and 4-81 of the Portland City Code is hereby amended to read as follows:

**Sec. 4-19. ~~Reserved.~~ Standards for denial.**

In addition to the provisions of Chapter 15, a license under this Article shall be denied to the following persons:

(1) To a corporation if any principal officer thereof or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five (5) years; or

(2) To an applicant, other than a corporation, if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five (5) years.

**Sec. 4-27. Notice and hearing.**

The ~~Department of~~ Permitting and Inspections Department shall conduct a public hearing with respect to the grant of any original license issued under this division.

...

**Sec. 4-51. Required.**

(a) No person licensed by the state to sell liquor to be consumed on the premises, and no bottle club licensed by the city, shall permit on the premises any music except that produced by radio or mechanical device, any dancing, or entertainment of any sort without an entertainment license from the city. The license required by this subsection and state law authorizes entertainment only during the hours when state law permits the sale of alcohol for consumption on the premises.

(b) After-hours entertainment shall require a separate license as provided in this division subject to the following restrictions and requirements:

(1) Operations under such separate license shall end at 3:00 a.m.

...

(5) In addition to the after-hours license, at least seven (7) days in advance of each event, the license holder shall deliver a written notice to the ~~Department of~~ Permitting and Inspections Department during normal business hours specifying the date upon which the event will be held. The ~~Department of~~ Permitting and Inspections Department will forward the notice immediately to the police department, track the number and frequency of events per licensee per calendar month and inform a licensee if an event is not allowed.

(c) *Exceptions:* Upon application for a license for a single event, the council may allow after hours entertainment to take place after 3:00 a.m. for a public purpose and may permit individuals under the age of 21 to attend the event, subject to such conditions, if any, that the council imposes to protect the public health, safety and welfare. Any events permitted under this paragraph will not count as one of the twenty-four events per year allowed by section (b)(4) above.

(d) No person shall conduct, maintain or operate a dance hall, ~~a single dance, or~~ a concert hall ~~or a single concert~~, as defined in section 4-42 of this code, without a license.

(f) No person shall conduct, maintain, or operate a single dance or single concert, as defined in section 4-42 of this code, on private property, where greater than 100 attendees are anticipated, or where alcohol will be consumed, without a license.

(e) No person shall conduct, maintain, or operate a single dance or single concert, as defined in section 4-42 of this code, on public property without a license from the Parks, Recreation, and Facilities Department.

...

#### **Sec. 4-81. Applications and fees.**

Applications for a state license to conduct beano or a game of chance shall be deemed sufficient applications for the purpose of chapter 15 if accompanied by the fees prescribed

therein. Upon compliance with this article and chapter 15, the ~~Department of~~ Permitting and Inspections Department shall signify the consent of the city council to such application.

3. That Chapter 5, Section 5-401 of the Portland City Code is hereby amended to read as follows:

**Sec. 5-401. Reserved~~Permit required~~.**

~~(a) An annual permit is required for the keeping of any domesticated chickens. The annual permit is personal to the permittee and may not be assigned.~~

~~(b) The fee for an annual permit to keep chickens is twenty-five dollars (\$26.00).~~

~~(c) An applicant for a permit to keep chickens must demonstrate compliance with the criteria and standards in this Article in order to obtain a permit.~~

4. That Chapter 6, Sections 6-1, 6.1.1 and 6-2 of the Portland City Code are hereby amended to read as follows:

**Sec. 6-1. Penalties.**

~~Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the provisions set forth in Chapter 6 is liable for the penalties set forth in this section. For purposes of this Chapter, the Director of Permitting and Inspections is the building authority.~~

(a) Penalties. ~~Except for paragraph g., m~~Monetary penalties shall be assessed on a per-day basis for each day on which a violation exists:

~~1. The minimum penalty for starting construction or undertaking a land use activity without a required permit is one hundred dollars (\$100.00) per day, and the maximum penalty is two thousand five hundred dollars (\$2,500.00) per day.~~

21. 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. ~~As used in this section, "significant code violation" means any of the following:~~

~~Inadequate or blocked ingress or egress;~~

~~a. Overcrowded conditions as described in section 6-110;~~

~~b. Unsanitary conditions as described in section 6-109, including but not limited to vermin infestation;~~

~~c. Inadequate or defective smoke or fire detection systems;~~

~~d. Inadequate or defective plumbing or electrical systems;~~

~~e. Substantially damaged or defective structural elements; and~~

~~f. Intentional denial of heat or electricity to the legal occupant of a dwelling unit by the owner of the dwelling unit.~~

As used in this section, the terms "occupant", "dwelling unit" and ~~"owner" have the same meanings as provided in section 6-106.~~

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 subparagraph 12 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, tThe 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.

~~Notwithstanding paragraph 4, for violations of this chapter that occur in a shoreland area as defined in section 14-447, the violator shall be ordered to correct or mitigate the violation unless the correction or mitigation 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 court shall consider, but is not limited to,~~ 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 ~~a housing safety official designated by the city manager~~his or her designee 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~~8~~ shall be lifted when the building authority or ~~a housing safety official designated by the city manager~~his or her designee determines that the violation or violations have been fixed.

~~(b) Proceedings brought for benefit of municipality. All fines resulting from these proceedings penalties assessed pursuant to this section shall be paid to the city.~~

### **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.

## **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 ~~section 6-17~~the fee schedule adopted pursuant to 6-16 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.

5. *That Chapter 6, Articles II, III, and IV, Sections 6-16 to 6-91 of the Portland City Code are hereby repealed in their entirety and Sections 6-92 to 6-103 are enacted in their place to read as follows:*

## **~~ARTICLE II. BUILDING CODE~~**

### **~~Sec. 6-16. Maine Uniform Building and Energy Code.~~**

~~The construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures, shall comply with the Maine Uniform Building and Energy Code ("MUBEC").~~

### **~~Sec. 6-17. Fee Schedule.~~**

~~The applicant shall submit the cost of work in order to determine the permit fee. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees. All building permit applications shall be accompanied by the appropriate fee as established below. For~~

~~building permit fees for eligible affordable housing developments, however, see Section 14-486:~~

~~(a) Construction work:~~

~~(1) Cost of work fees:~~

~~Up to \$1,000.00 . . . . . \$25.00  
\$1,000.00 or more . . . . . \$25.00 + \$15.00 per  
\$1,000.00 above \$1,000.00, except that the cost  
of work fees for a project that has completed  
Level I, II, or III Site Plan review, or received  
Administrative Authorization approval, pursuant  
to the applicable Chapter 14, Division V, on or  
before March 31, 2016 and has applied for a  
building permit on or before September 30, 2016  
shall be:~~

~~Up to \$1,000.00 . . . . . \$25.00  
\$1,000 or more . . . . . \$25.00 + \$11.00 per  
\$1,000 above \$1,000.~~

~~(2) Related fees:~~

~~Below \$25.00 permit fee . . \$50.00 additional  
Above \$25.00 permit fee . . \$100.00 additional~~

~~(3) Amendments to application:~~

~~Up to \$1,000.00 . . . . . \$25.00  
\$1,000.00 or more . . . . . \$25.00 + \$15.00 per  
\$1,000.00 above \$1,000.00, except that Amendments  
to application fees for a project that has  
completed Level I, II, or III Site Plan review,  
or received Administrative Authorization approval  
pursuant to the applicable Chapter 14, Division  
V, on or before March 31, 2016 and has applied  
for a building permit on or before September 30,  
2016 shall be:~~

~~Up to \$1,000.00 . . . . . \$25.00  
\$1,000.00 or more . . . . . \$25.00 + \$11.00 per  
\$1,000.00 above \$1,000.00.~~

~~(b) Fees for specific items (additional to cost of work~~

~~fees (above):~~

~~(1) Air conditioning and ventilation systems . . . . \$30.00 + \$10.00 per \$1,000.00 cost~~

~~(2) Change of use permit . . . . \$30.00 + \$10.00 per \$1,000.00 cost~~

~~(3) Food truck operating on private property . . . . \$30.00~~

~~(4) Demolitions:  
Structures . . . . . \$30.00 + \$10.00 per \$1,000.00 cost~~

~~(5) Heating systems-all types. . \$30.00 + \$10.00 per \$1,000.00 cost~~

~~(6) Oil and gas burner. . . . . \$30.00 + \$10.00 per replacement \$1,000.00 cost~~

~~(7) Stop work order removal . . \$ 300.00~~

~~(8) Certificate of Occupancy. . \$100.00 for each Inspection~~

~~(9) Home occupation . . . . . \$150.00 plus cost of work~~

~~(10) Re-inspections . . . . . \$150.00 for each~~

~~(c) Fees in lieu of cost of work:~~

~~(1) Signs . . . . . \$30.00 + \$2.00/sq.ft.~~

~~(2) Tanks: propane gas, gasoline and fuel oil:~~

~~Under 300 gals . . . . . \$30.00~~

~~300 gallons or more . . . . \$35.00~~

~~Removal. . . . . \$30.00~~

~~(3) Tent use . . . . . \$30.00~~

~~(4) Parking lots . . . . . \$100.00~~

~~(5) Subdivision fee. . . . . \$500.00 base fee~~

plus

	<del>\$25.00 per lot or dwelling unit</del>
<del>(6) Hoods, commercial cooking. . .</del>	<del>\$30.00 + \$10.00 per \$1,000.00 cost</del>
<del>(7) Commercial cooking . . . . . Appliances</del>	<del>\$30.00 + \$10.00 per \$1,000.00 cost</del>
<del>(8) Fire alarm and sprinkler . . . systems</del>	<del>\$30.00 + \$10.00 per \$1,000.00 cost</del>
<del>(9) Moving building . . . . .</del>	<del>\$30.00 + \$10.00 per \$1,000.00 cost</del>
<del>(10) Metalbestos chimney . . . . .</del>	<del>\$30.00 + \$10.00 per \$1,000.00 cost</del>

~~Except as otherwise provided herein, permit fee shall be based upon the estimated or the actual cost of the work for which the permit is required, whichever is greater, including towers, permanent swimming pools and any other structures altered, constructed or demolished. Ten (10) percent of any fee, or ten dollars (\$10.00), whichever is greater, shall be non-refundable to cover the administrative costs.~~

**~~Sec. 6-18. Approval of fire chief.~~**

~~Whenever there is an application for a permit for any structure, other than a single or two family dwelling, such permit shall not be issued without the written certificate of the fire chief or his authorized representative that the work described is in compliance with other requirements of this code or of state law as to fire prevention or exiting.~~

**~~Sec. 6-19. Certificate of occupancy.~~**

~~No certificate of occupancy nor temporary certificate of occupancy shall be issued under the provisions of this article where any condition of the building or the property is not in compliance with any other section of this code.~~

**~~Sec. 6-20. Appeals.~~**

~~Whenever the building official shall disapprove an application or refuse to grant a permit applied for under the MUBEC or when it is claimed that the provisions of the MUBEC did~~

~~not apply, or the true intent and meaning of the MUBEC have been misconstrued or wrongly interpreted, any person aggrieved thereby may appeal from the decision of the building official to the board of appeals within ten (10) days from the action of the building official. The board of appeals may reverse an incorrect decision of the building official and may permit exceptions to or variances from the specific provisions of the MUBEC where it is established that strict application of the provisions of this code will result in undue hardship, and where the purpose of the MUBEC, in promoting the public health, safety and welfare, is not adversely affected thereby.~~

~~**Sec. 6-21. Violations.**~~

~~Any person, firm or corporation who violates any of the provisions of the MUBEC or fails to comply with the standards for performance set forth herein, or who violates or fails to comply with any lawful order made pursuant hereto, or who builds inconsistently with any statement of specifications or plans submitted and approved hereunder or in violation of any certificate or permit in force hereunder, shall be punished, jointly and severally, for each and every violation by a penalty, as provided in section 6-1 of this code. The imposition of one (1) penalty for any violation shall not excuse the violations nor permit it to continue, and all such persons, firms, or corporations shall correct or remedy such violations within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.~~

~~**Sec. 6-22. Occupant load limits.**~~

- ~~(a) The building authority shall determine the maximum acceptable occupant load for each place of assembly in accordance with the MUBEC. Such limit shall either be contained on the certificate of occupancy for the assembly use or on a separate certificate. The certificate containing the maximum acceptable occupant load shall be permanently posted in a conspicuous place in the place of assembly near the entrance.~~
- ~~(b) Any establishment that is determined by the building authority or the fire chief or his/her designee to have exceeded the posted occupant limit shall be considered to be in violation of this section. Notwithstanding Sections 6-21, or 1-15, or any other section of the Portland City Code, upon written notice~~

~~to the owner or the manager of the establishment by the building authority or the fire chief or his/her designee, the following penalties shall be due and payable to the City by the owner of the establishment:~~

- ~~1. First violation: Two hundred fifty dollars  
— (\$250.00)~~
- ~~2. Second violation within twelve (12) months of  
— prior violation: Five hundred dollars (\$500.00).~~
- ~~3. Third violation and/or any subsequent violation  
— within twelve (12) months of a prior violation:  
— One thousand dollars (\$1,000.00).~~
- ~~4. Determination of violations under this section  
— shall be appealable to the City Manager or  
his/her — designee.~~

~~(c) The building authority, or the fire chief or his/her designee, upon finding any establishment to have exceeding its maximum occupancy load limit, shall order any performance, presentation, spectacle or entertainment to be stopped until the condition is corrected.~~

#### ~~Sec. 6-23. Demolition requirements.~~

- ~~(a) 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.~~
- ~~(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) Before a permit to demolish or remove a structure is issued, the Building Authority shall inspect the premises for the presence of friable asbestos material. For the purposes of this subsection, "friable asbestos material" means 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. No permit shall be issued until the applicant has removed and disposed of all such material in accordance with applicable state and federal regulations.~~

~~(d) Except as provided in the Historic Preservation Ordinance (§§14-601, et seq.) of this Code, no permit shall be issued for the demolition of any structure subject to the provisions of that Article.~~

~~(e) Before a permit either to demolish or remove a structure or a part thereof or to remove or dispose of existing demolition debris, as defined herein, is issued, the applicant will satisfy the building official that:~~

~~1. All such debris on the island will be removed therefrom and transported to the mainland for disposal prior to the expiration of the permit.~~

~~2. Debris will be removed to the Regional Waste System Construction and Demolition Debris Disposal Facility, as required by Section 12-103 of this Code.~~

~~3. The disposal of the debris at such facility will be in accordance with all applicable federal and state rules, requirements and regulations relating to the transportation and disposition of such material.~~

~~(f) Demolition debris includes, but is not limited to, materials which are created by site preparation, clearing land, or erection of a 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.~~

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

~~Sec. 6-24. Swimming Pools, spas and hot tubs.~~

~~(a) Definitions.~~

~~1. Barrier shall mean a fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.~~

~~2. Swimming Pool shall mean any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.~~

~~(b) An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:~~

~~1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).~~

~~2. Openings in the barrier shall not allow passage of a 4-inch diameter (102 mm) sphere.~~

~~3. Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.~~

~~4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45~~

~~inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.~~

~~5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.~~

~~6. Maximum mesh size for chain link fences shall be a 2.25-inch (57 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).~~

~~7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).~~

~~8. Access gates shall comply with the above standards and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:~~

~~8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and~~

~~8.2. The gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.~~

~~9. Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:~~

~~9.1. The pool shall be equipped with a powered safety cover in compliance with accepted industry safety standards; or~~

~~9.2. All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal house-hold activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or~~

~~9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the building authority, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by section 9.1 or 9.2 above.~~

~~10. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:~~

~~10.1 The ladder or steps shall be capable of being secured, locked or removed to prevent access, or~~

~~10.2 The ladder or steps shall be surrounded by a barrier which meets the requirements set~~

~~forth above. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.~~

~~11. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.~~

~~(c) Spas or hot tubs with a safety cover which complies with accepted industry safety standards shall be exempt from the provisions of this section.~~

**~~Sec. 6-25. Municipal plumbing inspection and permit fees.~~**

~~In addition to all other fees hereunder or under any state law, the city shall charge a ten-dollar (\$10.00) base fee for plumbing inspections and the following fees for plumbing permits:~~

~~(a) Internal plumbing code fees:~~

~~Fixture fee:~~

<del>1-3 Fixtures:</del>	<del>\$24.00</del>
<del>Each additional:</del>	<del>\$6.00</del>

~~Reinspection fee: Twenty dollars (\$20.00). A reinspection fee shall be charged when a reinspection is required as a result of improper or incomplete work.~~

~~(b) Septic system fee:~~

~~1. Complete system:~~

~~a. Non-engineered system: One Hundred dollars (\$100.00).~~

~~b. Primitive disposal system (includes one alternative toilet): One hundred dollars (\$100.00).~~

~~c. Engineered system (includes one disposal area): Two hundred dollars (\$200.00).~~

~~d. Separate laundry disposal field: Thirty-five~~

~~dollars (\$35.00).~~

~~e. Seasonal conversion permit: Fifty dollars (\$50.00).~~

~~f. Variance: Twenty dollars (\$20.00).~~

~~2. Individual components:~~

~~a. Treatment tank:~~

~~i. Non-engineered system: Eighty dollars (\$80.00).~~

~~ii. Engineered system: One hundred dollars (\$100.00).~~

~~b. Holding tank: Twenty dollars (\$20.00).~~

~~c. Alternative toilet (only): Fifty dollars (\$50.00).~~

~~d. Disposal field:~~

~~i. Non-Engineered system: Seventy-five dollars (\$75.00).~~

~~ii. Engineered system: One hundred fifty dollars (\$150.00).~~

~~e. Variance: Twenty dollars (\$20.00).~~

~~f. Other system components (e.g. pump station, etc.): Twenty dollars (\$20.00).~~

~~(c) Late fee for work done without a permit (internal or septic): Double fee.~~

~~Sec. 6-26. Reserved.~~

~~Sec. 6-27. Reserved.~~

~~Sec. 6-28. Reserved.~~

~~Sec. 6-29. Reserved.~~

~~Sec. 6-30. Reserved.~~

~~Sec. 6-31. Reserved.~~

### ~~ARTICLE III. ELECTRICAL CODE\*~~

#### ~~DIVISION 1. GENERALLY~~

~~**Sec. 6-32. Adoption of the National Electrical Code.**~~

~~There is hereby adopted for the purpose of regulating the construction, installation, alteration, repair, maintenance and removal of electric conductors and equipment installed within or on public and private buildings or other structures including mobile homes and recreational vehicles and other premises such as yards, carnival parking and other lots and industrial substations; for the purpose of regulating the connection of such installations to a supply of electricity and for the purpose of regulating any other outside conductors on the premises, the National Electrical Code, 1999 edition (as recommended by the National Fire Protection Association), which is adopted and approved and made a part of this Code as fully as if every word were printed herein; provided, however, that where there is a conflict between the rules and requirements of the National Electrical Code, 1999 edition, and the laws of this state or the ordinances of this city, such laws or ordinances shall control. One (1) copy of the code has been and is now on file in the office of the city clerk available for public use, inspection and examination during normal working hours.~~

~~**Sec. 6-32.5. Additional definitions.**~~

~~*Noncombustible construction:* That type of construction in which a degree of fire safety is obtained by the use of noncombustible material for structural members and other building assemblies. Other building assemblies as defined for electrical shall mean metallic systems.~~

~~**Sec. 6-33. Connections.**~~

~~(a) Wires in the interior of buildings, or on private premises, shall not be connected with an outside circuit which crosses or runs along or under any street or way of the city without written or oral permission therefor having been first obtained from the electrical inspector.~~

~~(b) In any connection involving an aluminum conductor, an antioxidant chemical or compound approved by the electrical inspector shall be utilized.~~

~~**Sec. 6-34. Services.**~~

~~(a) All new and upgraded services shall be one hundred (100) ampere minimum. There shall be illumination installed in the vicinity of the main service so that the occupant may safely~~

~~attend to fuses or breakers.~~

~~(b) All main switches shall be grounded to the water system on the street side of the water meter using the appropriate section of the National Electrical Code as incorporated herein to determine grounding electrode conductor size. Where exceptionally long and difficult runs are encountered, it is permissible (if cleared with the inspector) to ground to the nearest cold water pipe and install a bonding jumper around water meter and shut off. If a driven rod is used, it shall be five-eighths-inch copper, not less than eight (8) feet long, and in addition there shall be a ground made to the next cold water pipe in accordance with the appropriate section of the National Electrical Code as incorporated herein.~~

~~(c) Temporary services installed for building and constructions shall have a service of one hundred (100) ampere minimum in a waterproof metal box and padlocked when not in use. Approved ground rod shall be used. All fifteen (15), twenty (20), or thirty (30) ampere working circuits shall be protected by ground fault circuit interrupters.~~

~~(d) All service connections by Central Maine Power Company must be authorized by the electrical inspector after the electrical inspector has made certain that the installation is safe and installed in accordance with the National Electrical Code as incorporated herein.~~

~~(e) Thin wall tubing (EMT) shall not be used on the exterior of a building for a service or any other electrical installation whatsoever.~~

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

~~(g) All service panels or branch panels must be labeled to show circuits controlled. There shall be no panel installed in a bathroom or closet. All branch panels shall have an approved terminal bar for equipment grounding conductors, in accordance with the appropriate section of the National Electrical Code as incorporated herein. No grouping of wires into a lug will be allowed.~~

~~(h) 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.~~

~~(i) Service boxes or equipment shall be installed in a location satisfactory to the building authority and to the utility company and shall be:~~

~~(1) Readily accessible.~~

~~(2) Not located in clothes closets, bathrooms, stairways or rooms where the temperature normally exceeds thirty (30) degrees centigrade or eighty-six (86) degrees Fahrenheit.~~

~~(3) Located away from areas where easily ignitable materials are present.~~

~~(j) Services located on the exterior of residential and all other structures shall not be located where subject to physical damage, except where the service is installed using materials that have been approved as not subject to physical damage or where the building authority has granted permission for such installation.~~

~~**Sec. 6-35. Removal of current-carrying devices attached to buildings.**~~

~~No person except a licensed electrician shall remove, adjust, relocate, disconnect or disturb in any way any electrical conduit, cables, wiring, fixtures, cable or conduit supports, meters or enclosures, or any current-carrying device attached to a building. Such electrician shall also be responsible for replacement and/or reinstallation of the above-listed items and for the proper installation or replacement of equipment on buildings as noted herein.~~

~~**Sec. 6-36. Bypassing service.**~~

~~It shall be unlawful to breach, jump or bypass in any way any service to a building without first getting permission from Central Maine Power Company or the electrical inspector (except in case of emergency, storms, ice, wind, etc.).~~

~~**Sec. 6-37. Burners.**~~

~~Any person who is in the business of installing or servicing oil burner equipment must have a license therefor from the state oil burner licensing board. Any alterations,~~

~~installations, addition of controls, etc. of oil burners must be done by a person having such a license and in addition a permit from the building authority.~~

~~**Sec. 6-38. Reserved.**~~

~~**Sec. 6-39. Cables/nonmetallic conduit.**~~

~~Where cables or nonmetallic conduit are connected back into a service panel, or on new runs of cables or nonmetallic conduit, anti-shorts shall be installed.~~

~~(a) Nonmetallic sheathed cable shall not be used in buildings built of noncombustible material.~~

~~(b) Rigid PVC shall not be used in buildings built of noncombustible materials.~~

~~**Sec. 6-40. Mechanical grounds.**~~

~~Mechanical grounds shall be connected by the use of a crimp pressure connector or by "wire nuts" or "scotch locs" inside the wall case and pigtailed to the wall case by a grounding screw and to the green grounding screw on the receptacle.~~

~~**Sec. 6-41. Fire alarms.**~~

~~Fire alarm systems, except home alarms, will be of the electrically supervised battery back-up, with zone indicators and test switch. Alarm controls and all component parts must be Underwriter's Laboratory approved. A permit must be obtained from the building authority before installation is started. Upon completion, tests must be made with the building authority and other authorized persons present. Operating instructions must be posted close by the control panel and zone listed.~~

~~**Sec. 6-42. Liability.**~~

~~This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electrical wiring, devices or equipment for damages to persons or property caused by any defect therein, nor shall the city or its electrical inspectors be held as assuming any such liability by reason of the examinations or inspections authorized or required herein.~~

~~**Sec. 6-43. Fire protection.**~~

~~(a) Electrical installations shall be made so as to reduce to a minimum the likelihood of the spread of fire through fire-stopped partitions, floors, hollow spaces, fire walls, fire partitions, vertical shafts, ventilation shafts or air-conditioning ducts.~~

~~(b) Where a fire separation is pierced by a raceway or cable, any opening around the raceway or cable shall be closed. Such closing shall be approved by the building authority.~~

~~**Sec. 6-44. Violations.**~~

~~Any person found in violation of any of the provisions set forth in this article, including the National Electrical Code, shall be subject to a penalty as provided in section 6-1.~~

~~**Sec. 6-45. Reserved.**~~

~~**Sec. 6-46. Reserved.**~~

~~**Sec. 6-47. Reserved.**~~

~~**Sec. 6-48. Reserved.**~~

~~**Sec. 6-49. Reserved.**~~

~~**Sec. 6-50. Reserved.**~~

~~DIVISION 2. PERMITS~~

~~**Sec. 6-51. Required.**~~

~~(a) A permit must be procured from the building authority before commencing work upon the installation of wires for the purpose of conducting electric current for power, heating, illuminating or signaling purposes, or for electrical appliances and apparatus in or upon public or private buildings, structures or premises, either new or existing.~~

~~(b) A permit must also be procured before commencing work upon the alteration or the addition to, or both, of wires already installed and approved by the electrical inspector.~~

~~**Sec. 6-52. Exceptions.**~~

~~(a) Permits required by the preceding section shall not be required under the following conditions: for replacement of lamps, portable devices to existing receptacles, telephone or telegraph transmission, municipal signal and fire alarm or radio companies, public utility work and maintenance, and work by municipal employees on municipal property.~~

~~(b) A home owner may do wiring on a single family residence which he or she owns and in which he or she is a resident under the following restrictions:~~

- ~~(1) The owner must obtain a permit and have all work inspected.~~
- ~~(2) The owner shall not connect wires into any service panel. (This must be done by a licensed electrician.)~~
- ~~(3) The owner shall not install, relocate, disconnect or disturb in any way the main service entrance to a home. (This must be done by a licensed electrician under a permit obtained by a master electrician or an electrician holding a limited license for one- and two-family dwellings.~~

#### ~~Sec. 6-53. Application.~~

~~(a) An application for a permit under this division, describing the work to be done, must be made in writing on standard forms provided by the building authority by the person performing the work. The application shall state the name of the person and the address where the installation is to be made, the nature of all work to be done and the name of the person performing same. Where blueprints are required, these will be submitted before the permit is issued (other than for temporary power). The permit, when issued, shall be for such installation as described on same and no deviations shall be made from the permit without the approval of the electrical inspector.~~

~~(b) Plans and specifications must be submitted as part of the application for the following types of work, and no such work shall be commenced prior to the issuance of all required permits:~~

- ~~(1) Wiring installations of public buildings, industrial establishments, or factories;~~
- ~~(2) Large light and power installations; or~~
- ~~(3) Other installations as determined by the building authority to be of such size or complexity as to require such submissions.~~

~~A copy of all plans and specifications required under this section shall be kept on file in the office of the building authority.~~

~~**Sec. 6-54. Qualifications.**~~

~~No permit as required in this division shall be issued unless the applicant holds a current master electrician's license, or a limited or special license for the particular work to be installed, issued by the state electricians' examining board pursuant to Title 32 M.R.S.A. § 1101 et seq. as amended.~~

~~**Sec. 6-55. Use; term.**~~

~~(a) Permits are required under this division before installation is started except with the permission of the electrical inspector. No permits, once issued, are transferable. Any person, after having been issued a permit, shall correct any defective work within forty-eight (48) hours after notification by the electrical inspector. 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.~~

~~(b) Every permit issued by the electrical division shall expire and become null and void 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, at any time after work is commenced, for a period of one hundred twenty (120) days. Before such work can be recommenced, a new permit shall be issued.~~

~~**Sec. 6-56. Fees.**~~

~~(a) All applications for permits must be accompanied by the required fee, the amount of which is to be determined as follows:~~

~~(1) *Minimum fee:* The minimum fee to be charged for any one (1) permit shall be:~~

~~Residential . . . . . \$45.00~~

~~Commercial . . . . . 55.00~~

~~(2) *Receptacles, switches, fixtures, each* . . . . . 0.20~~

~~(3) *Smoke Detection Outlet, each* . . . . . 0.20~~

<del>(4) Services, meters, each . . . . .</del>	<del>1.00</del>
<del>1 and 3 phase through 800A . . . . .</del>	<del>15.00</del>
<del>800 amp and larger . . . . .</del>	<del>25.00</del>
<del>Branch circuit panels, each . . . . .</del>	<del>4.00</del>
<del>(5) Interior transformers:</del>	
<del>0-25kva, each . . . . .</del>	<del>5.00</del>
<del>25kva up to 200kva, each . . . . .</del>	<del>8.00</del>
<del>Over 200kva, each . . . . .</del>	<del>10.00</del>
<del>(6) Temporary service . . . . .</del>	<del>15.00</del>
<del>(7) Outside lighting and signs, . . . . .</del>	<del>10.00</del>
<del>(8) Motors, all sizes, each . . . . .</del>	<del>2.00</del>
<del>(9) Generator . . . . .</del>	<del>20.00</del>
<del>(10) Residential heating:</del>	
<del>Electric units, each . . . . .</del>	<del>1.00</del>
<del>Oil or gas, each . . . . .</del>	<del>5.00</del>
<del>(11) Appliances, each . . . . .</del>	<del>2.00</del>
<del>(12) Miscellaneous:</del>	
<del>Swimming pools, above or inground, each . . . . .</del>	<del>10.00</del>
<del>Air conditioners:</del>	
<del>Central unit, each . . . . .</del>	<del>10.00</del>
<del>Window units . . . . .</del>	<del>3.00</del>
<del>Signs, inside . . . . .</del>	<del>5.00</del>
<del>Fire and burglar alarm systems:</del>	

Residential . . . . .	5.00
Commercial/industrial . . . . .	15.00
Circuses, carnivals, fairs, etc. . . . .	25.00
Alterations to existing wiring . . . . .	5.00
Emergency lighting, battery units, each . . . . .	1.00
Repairs after a fire . . . . .	15.00

~~(b) All work requires a permit. A belated fee of one hundred dollars (\$100.00) additional per permit may be assessed for permits taken out after work has been started or completed before an inspection. If upon inspection by the electrical inspector there is found to be work performed that was not included on the permit, an additional permit to cover this work must be obtained, and the fee for the additional permit shall be double the fee set forth above, but in no event less than ten dollars (\$10.00).~~

~~**Sec. 6-57. Installations without a permit.**~~

~~Whenever any electrical work or wiring is found to have been installed without a permit where one is required, an electrical inspector is authorized to cut the wires, remove the fuses or otherwise make the specific circuit or system inoperative until such permit has been secured from the building authority. The fee for the permit shall be double the fee set forth in section 6-56(a), but in no event less than ten dollars (\$10.00).~~

- ~~**Sec. 6-58. Reserved.**~~
- ~~**Sec. 6-59. Reserved.**~~
- ~~**Sec. 6-60. Reserved.**~~
- ~~**Sec. 6-61. Reserved.**~~
- ~~**Sec. 6-62. Reserved.**~~
- ~~**Sec. 6-63. Reserved.**~~
- ~~**Sec. 6-64. Reserved.**~~
- ~~**Sec. 6-65. Reserved.**~~

~~DIVISION 3. INSPECTION AND ENFORCEMENT~~

~~**Sec. 6-66. Duties of electrical inspector generally.**~~

~~(a) After installation and upon request, the electrical inspector shall examine all the work described on the permit to see that it is installed in accordance with the incorporated National Electrical Code and the ordinances of the city.~~

~~(b) The electrical inspector shall enforce the provisions of this article to the extent that wires, conduits, fixtures, equipment and other appliances used for light, heat, power transmission, etc., shall be installed, constructed and guarded so as to reduce as far as practicable the danger therefrom to life and property.~~

~~(c) The electrical inspector shall have the authority to reject any work that is not completed either in accordance with any permit issued under this article or with any applicable code or ordinance, or in a workmanlike or safe manner.~~

**~~Sec. 6-67. Right of entry to inspect.~~**

~~The electrical inspector shall have the right during reasonable hours to enter in and upon 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 the installation of electrical wiring, devices, appliances and equipment contained therein.~~

**~~Sec. 6-68. Right of access and inspection.~~**

~~The electrical inspector shall have access at all reasonable times to all wiring devices, appliances and apparatus in or upon any public or private premises, which carry or are intended to carry an electrical light or power current, and no person shall arrange, fix or change any such wiring, devices, appliances, or apparatus without giving the building authority reasonable notice and opportunity to inspect and approve such alterations or changes.~~

**~~Sec. 6-69. Concealment.~~**

~~It shall be unlawful for any person to cover or conceal, or cause to be concealed, any wiring for which a permit has been issued, or is required, before the wiring is inspected and approved (or tagged) by the electrical inspector. The electrical inspector shall have seventy-two (72) hours after notification to make the inspection.~~

**~~Sec. 6-70. Red tag for defects; blue tag for compliance.~~**

~~In a case where work is found to be defective, the inspector will hang a red tag and notify the person who is responsible for the defect. When installation has conformed with this article to the satisfaction of the inspector, a blue tag will be displayed. Under no circumstances will partitions be covered or complete installations made without this blue tag. If covered or walled in before the blue tag is displayed, the inspector has the power to have same removed so that the wiring is made visible for inspection.~~

~~**Sec. 6-71. Enforcement for defective installations.**~~

~~(a) When any electrical work or wiring is found to have been installed in a manner not in accordance with the provisions of this article, the electrical inspector is hereby authorized and empowered to place a stop order, remove fuses, cut wires, or otherwise render the system inoperative until such work or wiring has been corrected, reinspected and approved.~~

~~(b) No stop order may be removed without authorization of the electrical inspector and the payment of an additional ten dollar (\$10.00) fee.~~

~~(c) Any electrical wire, device, apparatus, fixture or other appliance used for electrical purposes which may, in the opinion of the electrical inspector, at any time become defective so as to be a possible source of fire or accident, or a danger to persons or property, shall be condemned by the inspector or person and when, in his or her opinion, it is necessary in order to prevent such accident or danger, the inspector is hereby authorized to disconnect such wires or apparatus, or to cause the same to be disconnected from service.~~

~~(d) In case any person owning or using any electrical wire, apparatus, fixture, or other appliance, which have been condemned by the inspector, shall fail to have the same put in safe condition and accepted by the inspector within forty eight (48) hours after the same has been condemned, or within such other reasonable length of time as shall be prescribed by the inspector, the inspector shall remove the fuses, cause wires to be cut, or by other means render the system inoperative and no person, in any manner, shall reconnect the same or cause the same to be connected until the defects have been corrected and the system approved by the inspector.~~  
~~**Sec. 6-72. Closing in inspection.**~~

~~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 an inspection.~~

~~**Sec. 6-73. Appeal.**~~

~~When the electrical inspector condemns all or a part of any electrical installation, the owner may, within ten (10) days after receiving written notice from the electrical inspector, file an appeal in writing for review of the action with the board of appeals. The appeal shall be conducted pursuant to section 6-18(121.5).~~

~~**Sec. 6-74. Reserved.**~~

~~**Sec. 6-75. Reserved.**~~

~~**Sec. 6-76. Reserved.**~~

~~**Sec. 6-77. Reserved.**~~

~~**Sec. 6-78. Reserved.**~~

~~**Sec. 6-79. Reserved.**~~

~~**Sec. 6-80. Reserved.**~~

~~**Sec. 6-81. Reserved.**~~

~~**Sec. 6-82. Reserved.**~~

~~**Sec. 6-83. Reserved.**~~

~~**Sec. 6-84. Reserved.**~~

~~**Sec. 6-85. Reserved.**~~

~~**ARTICLE IV. MECHANICAL CODE**~~

~~**Sec. 6-86. Adoption of BOCA National Mechanical Code.**~~

~~There is hereby adopted for the purpose of regulating the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of building service equipment the following certain code recommended by the Building Officials and Code Administrators International, Inc., the BOCA National Mechanical Code, 1993 edition, and the whole thereof, except for such portions as are deleted, modified or amended in this article.~~

~~**Sec. 6-87. Definitions.**~~

~~The BOCA National Mechanical Code shall be construed as follows:~~

- ~~(a) Name of jurisdiction. Wherever the phrase "name of jurisdiction" appears in the code, "the City of Portland" shall be substituted.~~

~~(b) Name of state. Wherever the phrase "name of the state" appears in the code, "the State of Maine" shall be substituted.~~

~~(c) Mechanical official. Wherever the term "mechanical official" appears in the code, it shall mean the "building authority or his or her authorized representative."~~

~~(d) Other regulations. Wherever the code refers to "other regulations," "all pertinent laws," or "other provisions of law," such reference shall include, at a minimum, the Maine Revised Statutes Annotated, Private and Special Laws of the State of Maine, regulations of administrative agencies of the State of Maine, other provisions of these codes except those deleted, and all other ordinances of the city.~~

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

#### ~~Sec. 6-88. Amendments.~~

~~The BOCA National Mechanical Code is hereby amended as follows:~~

~~Section M-113.0 is hereby amended as follows:~~

~~M-113.2 Periodic inspections: The fees for all periodic inspections shall be in accordance with the provisions of the BOCA National Building Code, as amended.~~

~~M-113.3 Fee schedule: The fees for all mechanical work shall be paid in accordance with the provisions of the BOCA National Building Code, as amended.~~

~~Section M-116.0 is hereby deleted in its entirety and replaced with the following:~~

~~M-116.0 Violations: Violations shall be punished in accordance with the provisions of sections 1-15 and 6-18 of the Portland City Code. Each day that a violation continues after notice has been sent shall constitute a separate offense.~~

~~Section M-121.0 is hereby deleted in its entirety and replaced with the following:~~

~~M 121.0 Appeals: The appeals provisions of section 6-18 shall govern appeals under the BOCA National Mechanical Code.~~

~~Editor's note--Ord. No. 170-93, § 4, adopted Dec. 20, 1993, repealed former § 6-88, amendments, and added similar new provisions in lieu thereof as herein set out. Formerly, such provisions derived from § 3-1.4 of the city's 1968 Code as amended by Ord. No. 211-79, adopted Oct. 22, 1979; Ord. No. 354-81, adopted Dec. 21, 1981; and Ord. No. 110-90, adopted Oct. 1, 1990.~~

~~**Sec. 6-89. Standards and review; appeals and waiver.**~~

~~An appeal of a decision by the building authority may be taken to the board of appeals pursuant to section 6-18(121.5) of this code.~~

~~**Sec. 6-90. Standards mandatory.**~~

~~Except as otherwise expressly provided in this article, all general provisions of this article and the code incorporated herein are mandatory. Exceptions to general prohibitions or requirements shall be narrowly construed and narrowly applied. Any person asserting that failure to comply with a general prohibition or requirement is authorized by an exception to such general prohibition or requirement shall bear the burden of proof as to such exception.~~

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~~**Sec. 6-91. Other code and statutory provisions.**~~

~~Where any other provisions of this Code contain more stringent requirements, compliance with the more stringent requirements shall be required. Where approval of the fire chief, health authority or any other specified city official is required by any provision of this Code as to the subject matter of the permit application, such approval shall be a condition precedent to issuance of the permit under this Code. Whenever there is an application for a permit for any structure, other than a single- or two-family dwelling, such permit shall not be issued without the written certificate of the fire chief or his authorized representative that the work described is in compliance with other requirements of this Code or of state law as to fire prevention or exiting.~~

~~**Sections 6-16 to 6-91. Reserved.**~~

**ARTICLE II. BUILDING CODE**

**DIVISION 1. - In General**

**Sec. 6-92. Reserved. 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,
  - 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.

**Sec. 6-93. Reserved 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 designee.

**Sec. 6-94. Reserved 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 6-2 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.

**Sec. 6-95. Reserved 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.

#### **Sec. 6-96. Reserved 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.

#### **Sec. 6-97. Reserved 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.

## DIVISION 2. - BUILDING STANDARDS

### Sec. 6-98. Reserved 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; and
2. The National Electric Code (2014) ("NEC").

(b) MUBEC 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) The NEC shall be enforced by the building authority.

### Sec. 6-99. Reserved 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.

**Sec. 6-100. Reserved 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).

**Sec. 6-101. Reserved 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.

**Sec. 6-102. Reserved 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.

**Sec. 6-103. Reserved 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.

6. That Chapter 6, Article V., Sections 6-106, and 6-116 to 6-132 of the Portland City Code are hereby amended to read as follows:

**Sec. 6-106. Definitions.**

. . .

*Enforcement authority* means and includes the building authority, ~~a housing safety official designated by the City manager, or his or her designee, and~~ the health authority, ~~and the director of planning and urban development.~~

. . .

~~Licensed 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. ~~Licensed 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.

. . .

**Sec. 6-116. Minimum standards for safety.**

. . .

(f) When the health or building authority or ~~a housing safety official designated by the city manager~~ 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~~ his or her designee 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.

**Sec. 6-117. Inspections.**

The health or building authority or ~~a housing safety official designated by the city manager~~ 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.

**Sec. 6-118. Notices.**

When any violation is found to exist within the meaning of this article, the health or building authority or ~~a housing safety official designated by the city manager~~ 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.

**Sec. 6-119. Reinspections.**

After the expiration of the time for correction of a violation, the health or building authority or ~~a housing safety official designated by the city manager~~ 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.

**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 ~~a housing safety official designated by the city manager~~ his or her designee. Property unfit for human habitation shall include but not be limited to:

. . .

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

The building authority or ~~a housing safety official designated by the city manager~~ 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.

**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 ~~a housing safety official designated by the city manager~~ his or her designee shall in writing approve of its use and shall likewise authorize the removal of the posted notice.

**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 ~~a housing safety official designated by the city manager~~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 ~~a housing safety official designated by the city manager~~his or her designee.

**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.

**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 ~~a housing safety official designated by the city manager~~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 ~~a housing safety official designated by the city manager~~his or her designee in writing of the intent to so transfer either by delivering the notice to the building authority or ~~a housing safety official designated by the city manager~~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 a ~~housing safety official designated by the city manager~~his or her designee.

**Sec. 6-127. Appeals.**

An appeal from any final decision of the building authority or a ~~housing safety official designated by the city manager~~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.

**Sec. 6-129. Exception for island properties.**

The building authority or a ~~housing safety official designated by the city manager~~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.

**Sec. 6-130. 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 building authority or a housing safety official designated by the city manager issued hereunder shall be subject to a penalty as provided in section 6-1.~~

(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 6-2 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.

**Sec. 6-131. Reserved 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. Where 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.

**Sec. 6-132. Licensed Lodging facility.**

1.(a) Statement of policy. The intent of this section is to provide tenant-at-will status to residents of licensed lodging facilities, as defined in section 6-106, after they have resided in a unit for thirty (30) days or more. Such licensed 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.

2.(b) License Registration required for licensed lodging facilities. No person, firm, corporation or other entity shall offer or provide licensed-lodging facilities, as that term is defined in section 6-106, without having obtained a license to do so, registered pursuant to Article VI.

(a) Licensing procedure.

~~(b) The licensing procedure shall be that established in chapter 15, licenses and permits, except as modified herein.~~

~~(c) The license application shall be accompanied by a diagram showing the location of all rooms situated within the building or structure which is the subject of the application, including, but not limited to, the location of rooms providing sleeping accommodations, bathrooms, and kitchens.~~

~~(d) Licensing fee. The license fee shall be ten dollars (\$10.00) for each unit of licensed lodging and shall be renewable annually. In the renewal application, the owner shall identify occupants who have qualified as constructive tenants-at-will pursuant to the provisions of subsection (f) below during the previous year.~~

~~(e)(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 ~~of licensed lodging~~.

~~(f)(d)~~ Constructive "tenant at will" status after 30 day occupancy. Any person who has occupied a licensed 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.)

~~(g)(e)~~ Termination of owner's interest.

1. Upon termination of an owner's interest in any building or structure operating as a lodging facility, providing licensed lodging, 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 licensed lodging 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

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

7. That Chapter 10, Section 10-18 of the Portland City Code is hereby amended to read as follows:

**Sec. 10-18. Amendments.**

The Fire Prevention Code adopted by section 10-16 is amended, modified and deleted in the following respects:

(a) Section 1.10 (Board of Appeals); delete.

...

(c) Section 1.12.7 is amended to read as follows:

...

(A) License from ~~city clerk~~Permitting and Inspections Department—required, see: Private and Special Laws of 1917, Chapter 160.

(B) Imposed by state statutes.

(C) Building permit required.

(D) Application and license issued through ~~City Clerk's~~Permitting and Inspections Department—office after Fire Department review.

8. That Chapter 11, Sections 11-2, 11-4, 11-10 to 11-12, 11-14, 11-15 of the Portland City Code are hereby amended to read as follows:

**Sec. 11-2. Copies on file with the ~~Department of~~ Permitting and Inspections Department.**

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the ~~Department of~~ Permitting and Inspections Departmentfor public inspection and use.

...

**Sec. 11-4. Amendments.**

The Maine State Food Code 2013: Food Code adopted by section 11-1 is amended and modified in the following respects.

- (a) Section 1.201.10.B shall be amended as follows:

...

*Temporary food service establishment* shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that sell unopened prepackaged food, with a license period not to exceed three (3) months, and the other license shall be for establishments that sell or serve either food that is not prepackaged or prepackaged food that is opened prior to its sale, including the opening of one (1) or more prepackaged items for the purpose of providing free samples, with a license period not to exceed ~~two (2) weeks~~ fourteen (14) days per transitory gathering.

...

**Sec. 11-10. Certified Food Protection Managers.**

- (a) A food service establishment must have at least one employee granted supervisory and management responsibility designated a Certified Food Protection Manager (CFPM) as defined in Section 1.201.10.B of Maine State Food Code 2013: Food Code adopted in Section 11-1, above. Proof of CFPM certification is required as follows:

...

- (b) Proof of compliance with the requirements of this section shall be provided to the City Food Inspector. Prior to the issuance of any license required by Chapter 15, the City Food Inspector must certify to the ~~Department of~~ Department Permitting and Inspections that the requirements of this Section have been met. Failure to provide proof of compliance with

the requirements of this Section will be subject to a denial, suspension or revocation of a license in accordance with the provisions of Chapter 15. In addition to license suspension or revocation, violations of subsection 11-10(a)(3) & (4), above, shall result in a penalty to the violator of \$150.00.

**Sec. 11-11. Ice cream trucks.**

All ice cream trucks shall comply with the following:

- (a) *General regulations.* All ice cream trucks shall comply with all requirements of section 11-35, including the requirements for a base station, and all other requirements of this article except those relating to toilet facilities, in addition to the requirements set forth in this section.

...

- (g) *License, insurance required.* Each ice cream truck shall be required to be separately licensed under this article and to provide to the ~~Department of~~ Permitting and Inspections Department evidence of public liability insurance in an amount of not less than four hundred thousand dollars (\$400,000.00) as amended, with the city named as an additional insured on the policy.

...

**Sec. 11-12. Stationary food vending unit.**

A stationary food vending unit shall be subject to the following regulations:

- (a) Only nonalcoholic beverages and prepackaged foods shall be sold from a stationary food vending unit, and there shall be no cooking in or near the unit.
- (b) An applicant for a stationary food vending unit license shall provide the ~~Department of~~ Permitting and Inspections Department, in addition to any other information required by chapter 15, with acceptable proof of ownership or control of the property upon which the unit will be located. Such proof shall consist of a deed, lease or other written agreement.

...

Sec. 11-14. ~~Penalties~~Reinspection Fees.

...

Sec. 11-15. ~~Reserved.~~Violations.

(a) Any person who owns or operates a food service establishment, or other entity subject to the provisions of this chapter, shall be guilty of an offense and subject to the penalties and remedies provided in section 1-15 of this Code, if that person does any of the following:

1. Violates a provision of this chapter, or any codes adopted pursuant to this chapter;
2. Allows a violation to occur or remain after notice; or
3. Fails to comply with any lawful order issued pursuant to this chapter.

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

...

Sec. 11-22. **License Required.**

No person shall operate any food service establishment within the city unless licensed to do so by the city. Applications for licenses for a food service establishment, other than a temporary food service establishment, must be submitted at least thirty (30) calendar days before operations are planned to commence. Applications for licenses for a temporary food service establishment must be submitted at least seven (7) business days before operations are planned to commence.

...

Sec. 11-25. **Suspensions and revocations.**

Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the ~~Department of~~Permitting and Inspections Department upon application, in writing, from the holder if the health inspector certifies to the ~~Department of~~Permitting and Inspections Department that he or she has reinspected the

premises and the condition for which the suspension was imposed has been corrected.

9. That Chapter 12, Sections 12-27, 12-109 and 12-202 of the Portland City Code are hereby amended to read as follows:

**Sec. 12-27. Enforcement.**

It shall be the duty of the chief of police or public works authority or their duly authorized representatives to cause the enforcement of the provisions of this article relating to city streets or public property and to prosecute any and all persons violating any such provisions. The chief of police or the public works 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 to carry out this duty.

It shall be the duty of the chief of police or the building authority, or their duly authorized representatives to cause the enforcement of the provisions of this article relating to private property and to prosecute any and all persons violating any such provisions. The chief of police or 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 to carry out this duty.

...

**Sec. 12-109. Licensing of commercial refuse collectors and refuse transporters.**

No person shall collect or transport Portland waste within the corporate limits of the City of Portland without obtaining a license from the public works authority upon payment of such fees as the council may prescribe by order or without being a party to a waste hauling agreement with RWS, or the City, or paying the tonnage fee imposed by section 12-109.1, for disposal of Portland waste collected or transported by the person. Such license shall be issued for the fiscal year and shall be subject to the provisions of chapter 15 of this Code, except that the public works authority shall be substituted for the ~~Department of~~ Permitting and Inspections Department in all instances.

...

**Sec. 12-202. Conditions precedent to issuance.**

Prior to the issuance of any license to construct or operate a rendering facility, and in addition to any other requirements of this article or chapter 15, the applicant shall file with the ~~Department of~~ Permitting and Inspections Department a performance bond, a clear letter of credit, or deposit the cash equivalent thereof, in an amount not less than twenty-five thousand dollars (\$25,000.00) or such amount as the council at the time of licensing may determine, payable to the City of Portland, to cover the reasonable costs and expenses incurred by the city in cleaning any rendering facility upon the facility's temporary or permanent closure, said bond or cash equivalent to remain in effect throughout the period for which the license is issued.

10. *That Chapter 15, Sections 15-2 to 15-14 of the Portland City Code are hereby amended to read as follows:*

**Sec. 15-2. Applicability.**

(a) It is the sense of the city council that, to the extent practical, licensing procedures within the city should be uniform, and should be conducted at all times so as to give the maximum degree of protection to the licensee consistent with protection of the public health, safety and welfare. To that end, this chapter shall apply to all licenses and permits issuable by the city through the ~~Department of~~ Permitting and Inspections Department, and all licenses and permits issued by the state to which the city council have a right or duty to offer recommendations, comments, or to consent, set forth in this Code. Notwithstanding the aforesaid, any more stringent licensing or other requirement of this Code which is not inconsistent with this chapter, shall be deemed to be an additional requirement of this chapter.

~~(b) Notwithstanding the foregoing, the director of waterfront and transportation facilities, or his or her authorized designee, shall be responsible for licensing of taxicabs and liveries under article II of chapter 30, and all references herein to the Department of Permitting and Inspections Department shall be to the said director in regard to such licensing under article II of chapter 30.~~

**Sec. 15-3. License required.**

(a) No person shall engage in, operate any business, or use or permit the use of any device for which one (1) or more licenses are required by this Code or permit others operating under such licenses to act, without having obtained each and every such license required therein and shall not operate or use such license or device during any time that the applicable license has been suspended or after revocation as provided herein.

(b) A license may be issued pending receipt of the criminal history report from the State Bureau of Identification for pawnbrokers, junk dealers, secondhand dealers and flea markets as defined in Section 23-16, provided that the ~~Department of~~ Permitting and Inspections Department has received all other documentation required for the issuance of such license and a copy of the applicant's criminal history record from the Portland Police Department, which criminal history record does not contain a disqualifying criminal conviction. If, after issuance of the license, the ~~Department of~~ Permitting and Inspections Department receives a criminal history report from the State Bureau of Identification that contains disqualifying information, the ~~Department of~~ Permitting and Inspections Department shall immediately move to suspend or revoke the license pursuant to Chapter 15 Section 15-8(a)(6) of the City Code.

(c) Any person engaged in, or operating any business or activity, or who uses or permits the use of any device for which a license is required, shall procure a license for each and every such business activity, device or location of each activity or device unless this Code specifically provides to the contrary.

(d) Every license shall be exhibited in a conspicuous place on the premises, device or vehicle at all times that the premises, device, or vehicle is open to the public.

#### **Sec. 15-4. Licensing authority.**

(a) All licenses shall be issued, denied, suspended or revoked and all hearings shall be held by the ~~Department of~~ Permitting and Inspections Department except as expressly provided in this Code. The ~~Department of~~ Permitting and Inspections Department is authorized to notify the state licensing division of bureau of alcoholic beverages that the city council consent to the extension of existing state liquor

licenses to city licensees pending the next meeting of the city council.

#### **Sec. 15-5. Applications.**

(a) All applications shall be made in writing on a form provided by the ~~Department of~~ Permitting and Inspections Department. Each application submitted to the ~~Department of~~ Permitting and Inspections Department shall state the name and business address of each applicant, the license desired, location to be used, if any, the date of the application, and such additional information as may be deemed necessary or useful by the ~~Department of~~ Permitting and Inspections Department in determining whether such permit or license applied for should be issued.

(b) Other papers:

- (1) Any application for a license for which a criminal conviction is a disqualification under this Code shall be accompanied by a written waiver of the applicant's right to privacy or confidentiality under the State Criminal History Records Act [16 M.R.S.A. § 611 et seq.] and otherwise to the extent necessary for the ~~Department of~~ Permitting and Inspections Department, acting through the chief of police, to determine whether or not such disqualification exists.
- (2) If the applicant is other than a natural person, the names of all principal officers shall accompany the original application.
- (3) A statement to the fact that no employee or officer of the city is beneficially interested in the license or licenses, or in lieu thereof, a statement of the names of such employees or officers as are beneficially interested.
- (4) In the case of a renewal, the licensee shall submit to the ~~Department of~~ Permitting and Inspections Department on a form provided by the ~~Department of~~ Permitting and Inspections Department, a certified ownership report for the previous twelve (12) month period. Such report, among other things, shall list the names of all persons, or groups of persons acting

in concert who at any time during the period had an actual ownership interest.

- (5) Any organization claiming status as a bona fide nonprofit organization shall furnish sufficient evidence of such status.

#### **Sec. 15-6. Fees.**

(a) Application fees. Except as expressly provided, all applications for original licenses or for the consent of the city council, other than a flea market seller, temporary FSE or auction license, shall be accompanied by an administrative fee of thirty-five dollars (\$35.00) to defray the cost of processing the application. All applications for renewal of licenses shall be accompanied by the fees for issuance and an administrative fee of twenty-five dollars (\$25.00), except for a flea market seller to defray the cost of processing the application. ~~The latter shall be refundable if the application is denied.~~ In any case where notice by publication or mail is required, the applicant shall pay the cost of publication and postage in advance. Application fees shall not be refundable.

(b) Appeals fee. Appeals from determinations of the ~~Department of~~ Permitting and Inspections Department shall be accompanied by a filing fee of twenty-five dollars (\$25.00) and the appellant shall also pay the full cost of publication and postage in advance, if such notice is required. For the purposes of this subsection, notice by publication shall be deemed to apply to the hearing on appeal whenever the requirement of publication would exist in the first instance. Appeals fees shall not be refundable except that, upon a successful appeal, the Permitting and Inspections Department shall credit the appeal fee toward the fee for issuance and shall refund any excess.

(c) Filing fees. Whenever any document, other than an application for any license, is required or permitted to be filed with the ~~Department of~~ Permitting and Inspections Department in connection with any license, and no fee for such filing is otherwise prescribed, the fee for filing such document shall be two dollars (\$2.00) for the first page, and one dollar (\$1.00) for each page thereafter. Filing fees shall not be refundable.

(d) Fees for issuance. Fees for issuance of licenses shall be as provided in section 15-12. Fees for issuance shall be

refundable in the amounts, and under the conditions, as set forth in a policy adopted by the Permitting and Inspections Department.

(e) Late fees. An additional fee shall be charged for issuance of any license after expiration of the holder's prior license, unless the application for the renewal license was filed prior to such expiration. The additional fee for issuance or renewal of any license applied for after the applicant has commenced the activity, or has permitted the use of the device to be licensed prior to such issuance, shall be ten dollars (\$10.00) or five (5) percent per month of the fee for issuance, whichever is greater, but shall not exceed the fee specified in this chapter for issuance of that license. Late fees shall not be refundable.

(f) Proration. The fee for issuance of an original license, unless issued late as provided in subsection (e), and which is issuable on an annual basis, but which when issued will not give the licensee twelve (12) full months use prior to expiration, shall be reduced by ten (10) percent for each full month that licensee will not have the use of the license, but in no case shall the license fee be reduced by more than fifty (50) percent. Notwithstanding the foregoing, there shall be no proration of the fee for excavators' licenses issued pursuant to chapter 25, article VII of this Code.

~~(g) Fees to be cumulative. Fees provided for in this section shall be deemed cumulative and shall be in addition to any other fee or fees required for the issuance of any permit under section 15-12. Except as specifically provided, such fees shall not be waived, refunded or prorated, except that upon a successful appeal, Department of Permitting and Inspections shall credit the appeal fee toward the fee for issuance and shall refund any excess; and further, except that if, during the unexpired term of the license, a licensed activity is subsequently prohibited by amendment to this Code, the Department of Permitting and Inspections shall refund to the licensee a portion of the license fee in accordance with the formula for proration of fees set forth in section 15-6(f). Where a maximum license fee is established by the state, the fees set by this chapter shall be deemed cumulative to the extent of such maximum fee.~~

(h) Refunds where activity subsequently prohibited. If, during the unexpired term of the license, a licensed activity is subsequently prohibited by amendment to this Code, the

Permitting and Inspections Department shall refund to the licensee a portion of the license fee in accordance with the formula for proration of fees set forth in section 15-6(f).

**Sec. 15-7. Investigation of applicant.**

(a) Upon receipt of an application for any license or permit, other than a renewal application substantially identical to the original application, the ~~Department of~~ Permitting and Inspections Department shall inquire of other city departments, as appropriate, for comments as to whether a license may be granted consistently with the provisions of the laws and ordinances enforced by such departments. In all appropriate cases, the building authority shall verify that the premises to be used for the proposed activity comply with the building code, electrical code, plumbing code and zoning ordinance, and if applicable, state junkyard screening law; the health authority shall cause inspections to be made of the proposed location of any premises dispensing food or liquor; the fire chief shall cause inspection to be made for the purpose of determining if city ordinances, a state law, or state regulations concerning fire and safety have been complied with; and if the license is not issuable to any class of persons, the police chief shall cause an investigation to be made of the principal officers or persons to be licensed. All such persons shall report to the ~~Department of~~ Permitting and Inspections Department in writing, and copies of any such report shall be deemed a public record.

(b) Whenever a criminal background check is done prior to issuance of a license, any cost of such background check which is charged to the City by another agency shall be added to the fees to be paid by the applicant.

**Sec. 15-8. Standards for denial, suspension or revocation.**

(a) *Grounds.* In addition to any other specific provision of this Code authorizing such action, a license or permit may be denied, suspended or revoked upon a determination of the existence of one (1) or more of the following grounds:

... (b) *Hearings.*

(1) Except as expressly provided in this Code, no license to which this chapter applies may be revoked or suspended without prior notice to the licensee, and after a hearing.

(2) In the case of the suspension or revocation of a license, a hearing shall be given to the licensee and a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included in the notice of hearing. Unexcused failure of licensee to appear at the hearing shall be deemed a waiver of the rights to said hearing.

~~(3) Upon a determination that immediate and irreparable harm will be suffered by the public prior to the time that a hearing on suspension or revocation of a license can be scheduled and a finding of probable cause for such suspension or revocation, the Department of Permitting and Inspections Department~~ may suspend a license, pending hearing, effective upon the giving of actual notice to the licensee; provided that the ~~Department of Permitting and Inspections Department~~ shall give an opportunity to be heard as soon as practicable thereafter. At any hearing, the licensee shall be given the opportunity to answer the complaint and to present evidence. The complainant shall also be notified of the hearing and given the opportunity to be heard.

(4) All suspensions or revocations shall be upon substantial evidence and all hearings shall be conducted with substantial fairness and strict adherence to the rules of evidence shall not be required.

(5) All hearings on suspension or revocation of licenses shall be held within thirty (30) days of delivery to licensee of the generalized statement of complaint.

(c) *Abandoned licenses.* The applicant shall pay the issuance fee and obtain any license from the ~~Department of Permitting and Inspections Department~~ within thirty (30) days after it has been approved by the ~~Department of Permitting and Inspections Department~~. Upon failure to pay the issuance fee and obtain the license within said thirty-day period, the approval shall be void and the application deemed abandoned. For good cause shown, the ~~Department of Permitting and Inspections Department~~ may extend the thirty-day period provided such extension does not result in the issuance of the license being delayed more than one hundred eighty (180) days from its

approval by the ~~Department of~~ Permitting and Inspections Department.

### **Sec. 15-9. Appeals.**

(a) *Procedure.* An appeal to the city manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the ~~Department of~~ Permitting and Inspections Department by filing a notice of appeal and the prescribed fee with the city manager within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. Within two (2) business days of the filing of an appeal, the city manager shall designate himself or any agent or employee to act as hearing designee in the appeal. The hearing designee shall hear the appeal within ten (10) business days after the filing of the appeal and may affirm, reverse or modify the decision appealed from. The taking of an appeal shall not stay a decision appealed from, except that at the request of the licensee, the ~~Department of~~ Permitting and Inspections Department may stay the effective date of a suspension, revocation or denial of a renewal license upon a finding that the public is not likely to suffer any harm during the pendency of the appeal. In such case, the ~~Department of~~ Permitting and Inspections Department shall make a written finding of his or her decision in this regard and shall notify the appellant.

(b) *Scope of review.* On appeal, the hearing officer shall review the decision of the ~~Department of~~ Permitting and Inspections Department and any disciplinary action taken pursuant thereto to determine whether the decision was based upon substantial evidence and the disciplinary action taken was proportionate to the violation. The hearing officer may take additional evidence with respect to such decision or action and if additional testimony or evidence is taken shall determine the appeal upon all of the evidence, except as provided in this section.

(c) *Appeal to the superior court.* Any person aggrieved by a decision of a hearing officer on appeal may appeal therefrom to the superior court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

### **Sec. 15-10. Notices of hearing.**

(a) *Content.* Whenever a public hearing is required, the ~~Department of~~ Permitting and Inspections Department shall give

notice of the time and place of the hearing, the type of license involved, and the nature of the hearing, and the address or location of the property involved.

(b) *Service.* Except as expressly provided, whenever notice by mail is required, such notice shall be mailed by regular United States mail at least ten (10) days in advance of the hearing date. When notice by publication is required, such notice shall be published in a newspaper of general circulation in the city at least once, not more than thirty (30), nor less than seven (7) days before the date of the hearing. Where notice to abutters is required, all owners or occupants of property within five hundred (500) feet of such parcel or tract shall be deemed to be abutters, and service shall be made by ordinary mail at least seven (7) days before the date of the hearing. In the case of abutters, the owners and occupants of property listed in the assessor's records on the last tax date prior thereto, shall be deemed to be the persons to whom notice is to be given. The ~~Department of~~ Permitting and Inspections Department shall take reasonable measures to notify renters in close proximity.

(c) *Notice requirements not mandatory.* Failure of any person other than the applicant or licensee to receive a notice of the public hearing shall not necessitate another hearing and shall not invalidate any action taken as a result thereof, except as otherwise expressly provided by law.

#### **Sec. 15-11. License not to be transferable.**

(a) No license shall be transferred to any person, to any location, or to any other vehicle or device, and no license fee shall be refunded if the licensed activity is ceased prior to the expiration of the license. All purported transfers not in accordance with this section are void. A license shall be deemed the subject of an attempted transfer whenever there is a sale of the business, vehicle or device, or where there is a change in actual ownership interest. Upon any such event, the licensee shall immediately surrender the license to the ~~Department of~~ Permitting and Inspections Department; except that, in the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupted licensee or licensee receivership may retain the license and operate under the same for the benefit of the estate with the written permission and approval of the ~~Department of~~ Permitting

and Inspections Department until such time as such operation is no longer needed to benefit the estate. Thereafter, such personal representatives, receivers, or trustees shall either return the license to the ~~Department of~~ Permitting and Inspections Department or transfer same to any other person, under order of the court having jurisdiction and upon written notice to the ~~Department of~~ Permitting and Inspections Department. In the interim, between the death of the licensee and the appointment of an executor or administrator, or in cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license upon written notice to the ~~Department of~~ Permitting and Inspections Department. Duly appointed and qualified guardians and conservators of the estate of a licensee may retain the license of their ward during the term of office upon written notice to the ~~Department of~~ Permitting and Inspections Department.

(b) In all cases arising out of this section in which the ~~Department of~~ Permitting and Inspections Department is required to determine the identity or composition of or ownership interests in an applicant or licensee, or to determine whether a transfer of an ownership interest in an applicant or licensee has taken place, he shall look to the substance rather than the form of transactions and any person aggrieved may appeal the ~~Department of~~ Permitting and Inspections Department's determination to the city manager.

**Sec. 15-12. Fees and expiration dates**

(a) Unless specified elsewhere in this Code, fees for licenses issued pursuant to this Code and the expiration date of each license shall be as follows:

Location in Code	Description	Fee	Expiration Date
...			
	Single dance <u>with alcohol or with greater than 100 attendees</u>	\$36.00	Per dance

Location in Code	Description	Fee	Expiration Date
...			
	Single concert <u>with alcohol or with greater than 100 attendees</u>	\$36.00	Per concert
Ch. 4, Art. IV	Gaming:		
...			
Ch. 30, Art. IV	Bicycle cabs	100.00, plus 20.00 per driver	January 31 <u>April 30</u>
Ch.30, Art. V	Tour companies	300.00, plus 30.00 per vehicle/operator operator	April 30

(b) Fees for licenses to be established by the city pursuant to state law shall be as follows:

Description	Fee	Expiration Date
Amusements, including images; pageantry; sleight of hand tricks; puppet shows; feats of balancing; wire dancing; personal agility; or dexterity	\$21.00	Per day
Billiards or pool, per table	\$31.00	Twelve months or concurrent with state liquor license or with any city license
Bowling alley, per establishment	\$88.00	April 30

Description	Fee	Expiration Date
<del>Carnival (travelling amusement show)</del>	<del>\$114.00</del>	<del>Per day</del>
...		
Menageries	\$21.00	Per day
...		
<del>Merry-go-round or other rides, per type of ride</del>	<del>\$62.00</del>	<del>Per day</del>
<del>Merry-go-round or other rides, per type of ride</del>	<del>\$244.00</del>	<del>December 31</del>

...

**Sec. 15-12.1. Waiver of fees.**

The city council may, in its discretion, waive or reduce any fee required of any nonprofit organization where the council determines that the purpose of the licensed activity or the funds to be raised by the activity are of direct benefit to the citizens of the city. Additionally, the ~~Department of~~ Permitting and Inspections Department may waive or reduce the fee required of the nonprofit organization for a temporary food service establishment license when the organization demonstrates that it will retain 100 percent of the proceeds of the temporary sale of food.

**Sec. 15-13. Supplementation of applications.**

Whenever a license is in effect, the licensee shall be responsible for notifying the ~~Department of~~ Permitting and Inspections Department in writing of any material change in facts set forth in the application for any license held from the city within seven (7) days thereafter. Failure to comply with this requirement shall be a violation of this chapter.

**Sec. 15-14. Violations.**

In addition to any action which may be taken by the ~~Department of~~ Permitting and Inspections Department or the city council with respect to the suspension or revocation of a license:

(a) Violation of this chapter, or of any licensing provisions of the city governed by this chapter, or of any rule made pursuant thereto shall be a civil violation subject to the penalties of section 1-15; and

~~(a)~~ (b) The Permitting and Inspections Department 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.

11. *That Chapter 16, Sections 16-10, 16-13 to 16-15 and 16-21 of the Portland City Code are hereby amended to read as follows:*

**Sec. 16-10. List of employees.**

The therapeutic massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the chief of police, his or her authorized deputy, the ~~Department of~~ Permitting and Inspections Department upon request.

...

**Sec. 16-13. Standards for denial.**

In addition to the provisions of chapter 15, a license under this article shall be denied to the following persons:

...

The ~~Department of~~ Permitting and Inspections Department shall make and keep a written record of every decision to deny an application for any license hereunder.

**Sec. 16-14. Grounds for suspension or revocation.**

(a) All licenses. In addition to the grounds for revocation or suspension set forth in chapter 15 and section 16-

13, any license may be suspended or revoked upon a determination that the licensee:

- (1) Failed to notify the ~~Department of~~ Permitting and Inspections Department of any change in material fact set forth in the application for such license; or

...

**Sec. 16-15. Application for therapeutic massage establishment, combined massage establishment/massage therapist and massage therapist licenses.**

Any person desiring a license pursuant to this chapter shall file a written, signed application with the city clerk on a form to be furnished by the ~~Department of~~ Permitting and Inspections Department. An application for a combined massage establishment/massage therapist license, a massage therapist license or a conditional massage therapist license shall be accompanied by two (2) front face photographs of the applicant taken within thirty (30) days of application, of such size as the ~~Department of~~ Permitting and Inspections Department may specify.

...

**Sec. 16-21. Penalty.**

The violation of any provision of this chapter shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Permitting and Inspections Department 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 Chapter~~city may enjoin or abate any violation of this chapter by appropriate action.~~

12. *That Chapter 30, Sections 30-35, 30-39, 30-43, 30-44, 30-46, 30-50, 30-51, 30-59, 30-60, and 30-79 of the Portland City Code are hereby amended to read as follows:*

**Sec. 30-35. Fees.**

Fees shall be as provided under chapter 15, ~~except that a portion of the issuance fee (prorated on a weekly basis) shall be refunded upon surrender of the license if the licensee dies, or becomes permanently disabled, from conducting the taxicab business or driving a taxicab or livery vehicle.~~

...

**Sec. 30-39. Definitions.**

For purposes of this article, the following definitions shall apply, unless the context clearly implies otherwise:

Director means the designee of the city manager.

*Horse-drawn cab* means any horse-drawn vehicle used for the transportation of passengers for hire.

License inspector means and includes any person designated by the director to perform inspections of taxicabs.

*Street, way, or public place* means any street, way, trail, path, promenade, park, plaza, square, or other public property, or any portion thereof.

*To operate* means to drive, or to cause or permit another to drive.

...

**Sec. 30-43. Applications.**

In addition to the general provisions of chapter 15 relating to the contents of applications, applications for horse-drawn cab licenses shall contain the following:

- (a) A complete listing of all operators to be employed by or associated with the applicant, giving their full names, ages, and present addresses, ~~and including a complete statement of their health and physical conditions;~~

...

**Sec. 30-44. Reserved ~~Licensing authority.~~**

~~Notwithstanding any provisions of chapter 15 to the contrary, the director of waterfront and transportation facilities, or his/her designee, (referred to hereafter as the "director") shall be the licensing authority for horse-drawn cab licenses.~~

...

**Sec. 30-46. Denial, suspension, or revocation.**

In addition to the general provisions of chapter 15 relating to the grounds for denial, suspension, or revocation of licenses, a horse-drawn cab license may be denied, suspended, or revoked on any of the following grounds:

- (a) The applicant or licensee or any operator is less than eighteen (18) years of age or has had a disqualifying criminal conviction ~~at any time within the immediately preceding five (5) years;~~

...

**Sec. 30-50. Maximum fare; rate card to be displayed in vehicle.**

The fare for any trip in any licensed horse-drawn cab shall not exceed five dollars (\$5.00) per passenger per quarter hour or fraction thereof, regardless of the distance of the trip. A rate card to be issued by the director and bearing the following statement shall be displayed in the interior of each such vehicle so as to be clearly visible to all passengers at all times while such vehicle is in service:

PASSENGER INFORMATION

The maximum fare for any trip in this vehicle is \$5.00 per passenger per quarter hour or fraction thereof, regardless of the distance of the trip. If you have questions or complaints about the fare you have been charged or the service you have received, please call ~~the director of waterfront and transportation facilities~~Business Licensing ~~for~~of the City of Portland (telephone: 874-~~85576900~~) (email: BL@portlandmaine.gov), or write to:

~~Director of Waterfront and Transportation~~  
~~Facilities~~Business Licensing  
City of Portland  
~~40 Commercial~~389 Congress Street

Portland, Maine 04101

Please include your name, address and telephone number to allow adequate follow-up by city.

**Sec. 30-51. Display of plate ~~and badge~~.**

A plate, to be issued by the ~~director~~ Permitting and Inspections Department and bearing an identification number, shall be displayed in a conspicuous place on the exterior of each licensed horse-drawn cab at all times while in service. ~~A badge, to be issued by the director and identifying the wearer by number as a licensed operator of such vehicle, shall be worn prominently on his person by each such operator at all times while on duty.~~

...

**Sec. 30-59. Reserved ~~Keeping of horses; storage of vehicles and equipment~~.**

~~No horse, vehicle, or other equipment used in the operation of any licensed horse-drawn cab shall be kept or stored on any street or way or in any public place while not in service.~~

**Sec. 30-60. Reserved ~~Horse droppings~~.**

~~Every operator of any licensed horse-drawn cab shall promptly remove all droppings left on any street or way or in any public place by any horse in his charge and shall directly dispose of same in a safe, lawful, and inoffensive manner. Suitable containers, shovels, and brooms shall be supplied by him and kept at hand at all times for such purposes.~~

...

**Sec. 30-79. Licensing authority.**

Notwithstanding any provision of chapter 15 to the contrary, the ~~director of waterfront and transportation facilities~~ Permitting and Inspections Director, or his or her designee, (referred to hereafter as the "director") shall be the licensing authority for bicycle cab licenses.

**BE IT FURTHER ORDERED**, that the following Schedule of Fees is hereby adopted:

**SCHEDULE OF FEES**  
**CITY OF PORTLAND CODE OF ORDINANCES, CHAPTER 6, ARTICLE II**  
**BUILDING, PLUMBING, ELECTRICAL, AND RELATED FEES**

**COST OF WORK PERMIT FEES**

Air conditioning unit	First \$1,000 cost of work: \$30.00 Each additional \$1,000 cost of work: \$10.00
Change of use	
Commercial hoods and cooking appliances	
Demolition	
Fire alarm and sprinkler system	
Heating system	
Metalsbestos chimney installation	
Moving a building	
Oil and gas burner replacement	
Projects not otherwise listed	
Permit application amendment	First \$1,000 cost of work: \$25.00 Each additional \$1,000 cost of work: \$15.00

**ELECTRICAL PERMIT FEES (in lieu of cost of work)**

Minimum fee (in lieu of individual fees, where greater):	
• Residential	\$45.00
• Commercial	\$55.00
Air conditioners	
• Central unit (each)	\$10.00
• Window units	\$3.00
Alterations to existing wiring	\$5.00
Circuses, carnivals, fairs, etc.	\$25.00
Emergency lighting, battery units (each)	\$1.00
Fire and burglar alarm systems	
• Residential	\$5.00
• Commercial or industrial	\$15.00
Generator	\$20.00
Interior transformers	
• 0-25 kva (each)	\$5.00
• 25kva – 200kva (each)	\$8.00
• More than 200 kva (each)	\$10.00
Motors (each)	\$2.00
Outside lighting and signs	\$10.00
Receptacles, switches, fixtures (each)	\$0.20
Repairs after fire	\$15.00

Residential heating	
• Electric units (each)	\$1.00
• Oil or gas (each)	\$5.00
Signs, interior	\$5.00
Smoke detection outlet (each)	\$0.20
Services, meters (each)	\$1.00
• 1 and 3 phase through 800 amp	\$15.00
• 800 amp and larger	\$25.00
• Branch circuit panels (each)	\$4.00
Swimming pools (each)	\$10.00

**PLUMBING PERMIT FEES (in lieu of cost of work)**

Plumbing inspection fee (in addition to permit fees)	\$10.00
Internal plumbing	1-3 fixtures: \$24.00 Each additional fixture: \$6.00
Septic system:	
• Non-engineered	\$100.00
• Primitive disposal system (including one alternative toilet)	\$100.00
• Engineered	\$200.00
• Separate laundry disposal field	\$35.00
• Seasonal conversion	\$50.00
Septic components:	
• Treatment tank (non-engineered system)	\$80.00
• Treatment tank (engineered system)	\$100.00
• Holding tank	\$20.00
• Alternative toilet	\$20.00
• Disposal field (non-engineered system)	\$75.00
• Disposal field (engineered system)	\$150.00
• Other system components	\$20.00
Variance (in addition to permit fees)	\$20.00

**OTHER PERMIT FEES (in lieu of cost of work)**

Food truck on private property	\$30.00
Home occupation (in addition to any work permit)	\$150.00
Parking lot	\$100.00
Signs	Base fee: \$30.00 Add'l fee per sq. ft. of signage: \$2.00
Subdivision	Base fee: \$500.00

	Add'l fee per lot or dwelling unit: \$25.00
Tank (propane, gasoline, fuel oil):	
• Installation under 300 gallons	\$30.00
• Installation over 300 gallons	\$35.00
• Removal	\$30.00
Tent use	\$30.00

**ADMINISTRATIVE FEES (in addition to permit fees)**

Certificate of Occupancy inspection	\$100.00
Missed scheduled inspection	\$150.00
Stop work order removal:	
• Projects with cost of work up to \$10,000.00, where no work is completed during stop work order	\$150.00
• Projects with cost of work up to \$10,000.00, where work is completed in violation of stop work order	\$300.00 <sup>1</sup>
• Projects with cost of work greater than \$10,000.00, where no work is completed during stop work order	\$1,000.00
• Projects with cost of work greater than \$10,000.00, where work is completed during duration of stop work order	\$2,000.00 <sup>1</sup>
Reinspections: <sup>1</sup>	
• First	\$150.00
• Second	\$300.00
• Third and subsequent	\$500.00
City secures building	\$500.00
	plus costs, including material and labor

<sup>1</sup> The payment of the fee to remove the stop work order in these circumstances shall not excuse the violation, nor shall it prevent the City from seeking additional civil penalties for the violation.

<sup>2</sup> After initial failed scheduled inspection for permit or compliance OR after initial reinspection after a notice of violation.