

## PART II CODE OF ORDINANCES

### Chapter 1 GENERAL PROVISIONS

#### **Sec. 1-1. How Code designated and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Portland, Maine," and may be so cited. Such Code may also be cited as the "Portland City Code."

(Code 1968, § 101.1)

**State law reference(s)**--Codification authority, 30 M.R.S.A. § 2154.

#### **Sec. 1-2. Definitions and rules of construction.**

It is the legislative intent of the city council, in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the city. In the construction of this Code and any amendment thereto, the following rules shall be observed, unless the context clearly indicates otherwise:

*Charter.* The word "Charter" shall mean the Charter of the City of Portland, as set out in Part I of this volume, and shall include any amendment to such Charter.

*City.* The word "city" shall mean the City of Portland, Maine.

*City council.* The term "city council" or "council" shall mean the City Council of the City of Portland.

*Code.* The term "this Code" or "Code" shall mean the Code of Ordinances, City of Portland, Maine, as designated in section 1-1.

*County.* The term "the county" or "this county" shall mean the County of Cumberland in the State of Maine.

*Gender.* A word importing gender shall extend and be applied to the other gender and to firms, partnerships and corporations as well.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

*Officer department, board, commission, etc.* Whenever any officer, department, board, commission or other city agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Portland, Maine." Whenever, by the provisions of this Code, any officer, department, board, commission or other agency of the city is assigned any duty or empowered to perform any act or duty, reference to such officer, department, board, commission or other agency shall mean and include any authorized representative.

*Person.* The word "person" means any natural individual, firm, trust, partnership, association, or corporation in his or her or its own capacity or as administrator, conservator, executor, trustee, receiver, or other representatives appointed by the court. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine as applied to partnerships or associations, the word shall include the partners or members thereof, and such word as applied to corporations shall include the officers, agents or employees thereof who are responsible for any violation of such section.

*Shall.* The word "shall" is mandatory.

*State.* The term "the state" or "this state" shall be construed to mean the State of Maine.

*Tense.* Words used in the present or past tense include the future as well as the present and past.

*Written, in writing.* The words "written" or "in writing" may include printing.

(Code 1968, §§ 101.8, 101.13)

### **Sec. 1-3. Section catchlines and other headings.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be

the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

**Sec. 1-4. Certain ordinances not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance when not inconsistent with this Code:

- (a) Promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city;
- (b) Granting any right or franchise;
- (c) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
- (d) Making any appropriation;
- (e) Levying or imposing taxes;
- (f) Establishing or prescribing grades in the city;
- (g) Providing for local improvements and assessing taxes therefor;
- (h) Dedicating or accepting any plat or subdivision in the city;
- (i) Extending or contracting the boundaries of the city;
- (j) Prescribing the number, classification, or compensation of any city officers or employees;
- (k) Providing for retirement benefits;
- (l) Prescribing specific parking restrictions, no-parking zones, specific speed zones, parking meter zones and specific stop or yield

intersections or other traffic ordinances  
pertaining to specific streets;

- (m) Pertaining to rezoning;
- (n) Any other ordinance, or part thereof, which is not of a general and permanent nature;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

**Sec. 1-5. Code does not affect prior offenses, rights, etc.**

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

**Sec. 1-6. Revival of ordinances.**

When any ordinance repealing a former ordinance, repeal clause, or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision.

(Code 1968, § 101.12)

**Sec. 1-7. Amendments to Code.**

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Portland, Maine (or Portland City Code), is hereby amended to read as follows:...." The new provisions shall then be set out in full as desired.

(b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, City of Portland, Maine (or Portland City Code), is hereby amended by adding a section, to be numbered

\_\_\_\_\_, which said section reads as follows:...." The new section shall then be set out in full as desired.

**Sec. 1-8. Supplementation of Code.**

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_ (inserting section numbers to

indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-9. Official copies kept by city clerk.**

The city clerk shall keep two (2) copies of this Code in a book or binder in loose-leaf form, or in such other form as he may consider expedient, so that all amendments thereto and all ordinances hereafter passed may be inserted in their appropriate place and all deletions may be extracted therefrom for the purpose of maintaining such two (2) copies in such condition that they will show all effective ordinances at any time in such manner that ready reference may be had thereto. In determining the form, chapter or section in which any ordinance hereafter passed shall be inserted in such volumes, and in determining what shall be taken out, if any doubt arises, the city clerk shall be guided by the advice of the corporation counsel.

(Code 1968, § 101.3)

**Sec. 1-10. Revision published by corporation counsel.**

The corporation counsel shall prepare and publish revised sheets of pages in need of revision by reason of enactment, amendment or repeal at regular intervals. The city clerk shall distribute such revised sheets to those members of the city government as designated in section 1-13 and to such other persons requesting them for such fee as the city council shall direct.

(Code 1968, § 101.4)

**Sec. 1-11. Form and content of extracts.**

No officer or employee of the city or member or employee of any board or commission of the city shall issue, sell, or distribute as a publication on the part of the city any book, pamphlet, leaflet, card, circular or other printed matter purporting to contain excerpts or quotations from this Code or purporting to give the law on any subject to the public either as a reprint of a statute, ordinance or other legislative

enactment, or as a digest, interpretation, resume, condensation, or explanation of the same without submitting such book, pamphlet, leaflet, card, circular or other printed matter, or the portion of the same which purports to quote or give the law, to the corporation counsel for examination and approval as to form and as to whether or not the law is correctly stated therein.

(Code 1968, § 101.5)

**Sec. 1-12. Numbering of sections.**

No officer or employee of the city shall issue any book or pamphlet containing any section or sections of this Code numbered differently than as numbered herein, and no section number shall be changed by such officer or employee in drafting any ordinance amending any section.

(Code 1968, § 101.6)

**Sec. 1-13. Distribution of Code.**

All copies of this Code, except such as shall be reserved by the corporation counsel for use in the legal department, shall be deposited with the city clerk. He or she shall deliver one (1) copy thereof to each member of the city council, one (1) copy to the city manager, and one (1) copy to each department head of the city and to such other persons in each department as its head may designate. The city clerk shall sell copies of the Code at such price as the city council shall fix; provided, however, that the city council may direct such other free distribution of the Code as it sees fit.

(Code 1968, § 101.7)

**Sec. 1-14. Severability.**

Should any provision or section of this Code or any rule or regulation adopted pursuant to this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the city council that this Code, and rules and regulations adopted pursuant hereto, shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

(Code 1968, § 101.14)

**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 fifty dollars (\$50.00) 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 may enjoin or abate any violation of this Code by appropriate action.  
(Code 1968, §§ 101.10, 101.11; Ord. No. 495-85, 4-1-85)

**Charter reference(s)**--Maximum penalty, Art. I, § 1.

**Sec. 1-16. Uniform procedure for collecting assessments.**

The following provisions shall apply to all liens created by ordinance, except where this Code or state law expressly provides otherwise:

- (a) *Assessments.* Persons billed for assessments for services which are enforceable by lien under this Code or for sewer assessment charges shall have thirty (30) days from the date of mailing in which to pay said bill or to appeal to the city manager as provided herein. If said bill remains unpaid at the end of the thirty-day time period, the bill shall be deemed an assessment against the property.

(b) *Appeals.*

1. *Procedure.* An appeal to the city manager may be taken by a person aggrieved or affected by the assessment by filing a notice of appeal within thirty (30) days of the mailing of the bill, and not thereafter.

A person filing an appeal must pay all outstanding assessments, plus any interest and fees owed on those assessments in order to enter an appeal under this section. The manager may waive the payments required under this paragraph if the appeal seeks to correct administrative or arithmetic errors only.

Every appeal shall be in writing and shall state the basis for the appeal.

The city manager shall designate himself or any agent or employee to act as hearing officer in the appeal. The hearing officer shall provide such person with the opportunity to be heard and to demonstrate why the property is not subject to the assessment.

The hearing officer may affirm, modify or vacate the assessment appealed from. The written decision of the hearing officer shall be issued to the appellant within thirty (30) days of the close of the hearing.

If the applicant prevails, the city shall refund the appropriate amount within thirty (30) days of the date of the written decision.

Any person aggrieved by a decision of the hearing officer may obtain review available by law in the superior court in accordance with the provisions of the Maine Rules of Civil Procedure 80B.

2. *Notice of hearing.* Notice of the hearing shall be mailed by regular United States mail at least seven (7) days in advance of the hearing date.

- (c) *Collection.* The director of finance, after the expiration of the three (3) months from the assessment or after three (3) months from the decision of the hearing officer, whichever is later, shall give notice to the person against whom a charge is assessed, by certified mail, return receipt requested to his/her last-known address, stating the amount due, describing the real estate upon which the charge is assessed, alleging that a lien is claimed on the real estate to secure payment of the charges and demanding payment within thirty (30) days after service or mailing of the notice.

After expiration of the thirty (30) days, and within one (1) year thereafter, the director of finance shall record in the Cumberland County Registry of Deeds a lien certificate, signed by the director of finance, setting forth the amount of the assessment, a description of the real estate on which the charge was assessed and allegations that a lien is claimed on the real estate to secure the payment of the charge, that a demand for payment has been made, and that the assessment remains unpaid. At the time of filing, the director of finance shall provide a copy of the lien to the treasurer and shall mail a copy of the lien certificate, certified mail, return receipt requested, to all record owners of the property at their last-known addresses.

- (d) *Notice of foreclosure.* The costs to be paid by the taxpayer shall be the sum of the assessment, interest to be computed in the same manner as provided for real estate taxes, costs of recording the lien and costs for certified mail notices.

If the amount due pursuant to the lien, including interest and costs, shall not be paid within eighteen (18) months after the date of the filing of the lien certificate in the registry of deeds, the lien shall be deemed to have been foreclosed and any right of redemption expired. Except where state statute provides otherwise, the foreclosure shall not affect the rights of persons with interests of record in the real estate recorded prior to the interest of the city, or having priority under state statute.

The director of finance shall notify the party named on the lien and each record holder of a mortgage on the real estate, where state law provides that the city's lien has priority, not more than forty-five (45) days nor less than thirty (30) days before the foreclosing date of the lien, in a writing sent by certified mail, return receipt requested, to his/her last-known address, of the impending automatic foreclosure and the exact date of foreclosure. Said notice shall be in substantially the form of the notice required by 36 M.R.S.A. Section 943, as amended.

- (e) The procedure for collecting assessments described in this section shall apply to all pending assessments which are enforceable by lien, except where liens for said assessments have previously been filed prior to the effective date of the ordinance from which this section is derived.

(Ord. No. 123-89, 10-2-89; Ord. No. 156-96, 2-5-96)

**Cross reference(s)**--Funds due to city, § 2-201 et seq.