

Chapter 12 GARBAGE, WASTES AND JUNK*

***Cross reference(s)**--Litter in cemeteries, § 7-131; disposal of wastes by food service establishments, § 11-26; littering prohibited in parks, § 18-22; litter removal from sidewalks, § 25-171 et seq.

State law reference(s)--Litter control, 17 M.R.S.A. § 2261 et seq.; solid waste management, 38 M.R.S.A. § 1301 et seq.

Art. I. In General, § 12-1--12-15

Art. II. Garbage and Solid Waste Removal/Recycling, §§ 12-16--12-45

Art. III. Health Nuisances, §§ 12-46--12-60

Art. IV. Public and Private Dumps, §§ 12-61--12-74

Art. V. Junked Motor Vehicles, §§ 12-75--12-99

Art. VI. Solid Waste Disposal, §§ 12-100--12-119

Art. VII. Rendering Wastes, §§ 12-120--12-205

Div. 1. Generally, §§ 12-120--12-149

Div. 2. Waste Transportation Licenses, §§ 12-150--12-199

Div. 3. Construction and Operation of Rendering Facilities, §§ 12-200--12-209

Art. VIII. Polystyrene and Plastic, §§ 12-210--12-229

Div. Polystyrene §§ 12-211--12-219

Div. Plastic §§ 12-220--12-229

Art. IX. Waste Reduction, §§ 12-230--12-237

Art. X. Abandoned Bicycles, §§ 12-238--12-241

ARTICLE I. IN GENERAL

- Sec. 12-1. Reserved.
- Sec. 12-2. Reserved.
- Sec. 12-3. Reserved.
- Sec. 12-4. Reserved.
- Sec. 12-5. Reserved.
- Sec. 12-6. Reserved.
- Sec. 12-7. Reserved.
- Sec. 12-8. Reserved.
- Sec. 12-9. Reserved.
- Sec. 12-10. Reserved.
- Sec. 12-11. Reserved.
- Sec. 12-12. Reserved.
- Sec. 12-13. Reserved.
- Sec. 12-14. Reserved.

Sec. 12-15. Reserved.

ARTICLE II. GARBAGE AND SOLID WASTE REMOVAL/RECYCLING*

***Editor's note**--Ord. No. 157-98, adopted Nov. 16, 1998, amended this article in its entirety, in effect repealing former §§ 12-16--12-30 and enacting similar new provisions in lieu thereof as herein set out. Formerly, such sections derived from §§ 305.1--305.23 of the 1968 Code as amended by Ord. No. 155-76, adopted April 21, 1976; Ord. No. 63-78, §§ 1--4, adopted Feb. 6, 1978; Ord. No. 358-79, adopted Dec. 3, 1979; Ord. No. 249-88, adopted Nov. 28, 1988; Ord. No. 308-89, §§ 1--3, adopted Jan. 30, 1989; Ord. No. 309-89, §§ 1--3, adopted Jan. 30, 1989; Ord. No. 123-89, adopted Oct. 2, 1989; Ord. No. 40-91, adopted July 1, 1991; Ord. No. 41-91, adopted July 1, 1991; and Ord. No. 274-97, adopted May 5, 1997.

***Editor's note**--pursuant to Order 216-06/07 passed on 5/21/07 the disposal fees at Riverside Recycling are hereby established as \$100.00 per ton (commercial) or \$35.00 per yard (small commercial/residential); said fees to go into effect on April 1, 2007. This order amended order 67, 8-2-00 and order 114, 12-3-01; It is also ordered that the Public Works Authority is authorized to charge less than \$100.00 per ton or \$35.00 per yard at any time when it determines, in its sole discretion, that a lesser charge is appropriate.

Sec. 12-16. Definitions.

The following words and terms as used in this article shall have the meanings ascribed thereto, unless the context otherwise indicates:

Authorized collector shall mean employees or contractors of the public works authority or a private collector employed by the owner, occupant, agent or other person having custody of a building.

Building shall mean any structure or vessel, whether public or private, that is adapted to or used: for dwelling occupancy; for the transaction of business; for the rendering of professional services; amusement; the display, or sale or storage of goods, waste, merchandise, articles or equipment; for the performance of work or labor; for office buildings, stores, theatres, markets, restaurants, warehouses, grain processing factories, abattoirs, worship, garages, bakeries; or structures where domestic or other animals or fowl are kept; for sheds, barns, outbuildings, or other structures or premises used as accessory to any such use.

Bulky waste shall mean any items whose large size or weight precludes or complicates their handling by normal collection, processing or disposal methods, as further defined by the rules and regulations of the department of public works.

City street shall mean a street formally accepted by the city council or determined to be a city street by a court decision or other act of law; it includes any publicly owned esplanade or sidewalk abutting the traveled portion of the street.

Commercial property shall mean any property upon which is situated a structure used for commercial or business purposes including, but not limited to, the following:

- (a) Apartment buildings containing ten (10) or more dwelling units;
- (b) Hotels, restaurants, warehouses;
- (c) Markets, bakeries, grocery stores, fruit stands;
- (d) Manufacturing or industrial;
- (e) Business offices; and
- (f) Condominiums.

Discarded goods shall mean any old, worn out, broken or abandoned household or commercial goods, equipment, personal property or materials left on a city street or on public property without authorization from the City. It includes bulky waste.

Occupant shall mean the person that has the use of or occupancy of any building or a portion thereof, whether the actual owner or tenant. In the case of vacant buildings or any vacant portion of a building, the owner, agent or other person having the custody of the building shall have the responsibility of an occupant of the building or portion thereof.

Owner shall mean the actual owner of the building, whether individual, partnership or corporation, or the agent of the building, or other person having custody of the building or to whom the rent is paid.

Public works authority shall mean the department of public works of the city of Portland.

Recyclable material shall mean paperboard, newspaper, glass, magazines, junk mail, cardboard, #2 natural plastic and aluminum cans and foil, and any additional material so designated by the public works authority. Recyclable material shall be considered waste material for purposes of this article.

Residential properties shall mean any property upon which is situated a residential structure containing at least one (1) dwelling unit but not more than nine (9) dwelling units.

Solid waste shall mean ordinary household waste including, but not limited to, the following: Garbage, trash, rubbish, paper, plastics, metal cans, glass, crockery, cold ashes, and refuse.

Suitable container for material other than recyclable material and yard waste shall mean a plastic bag of fifteen (15) gallon or thirty (30) gallon size officially designated for that purpose by council order. The maximum weight of any bag shall not exceed thirty (30) pounds. Bags may be placed in watertight containers with handles, covered by a tight fitting cover free of sharp edges.

***Editor's Note:** Pursuant to council order 240-05/06 passed on 5/15/06 (effective July 1, 2006), council order 208-09/10 passed on 5/17/10 (effective July 1, 2010) council order 235-14/15 passed on June 24, 2015 (effective July 4, 2015), and council order 233-18/19 passed on May 20, 2019 (effective July 1, 2019), the purple trash bag fees are as follows:

15 gallon: \$1.50
30 gallon: \$3.00

Suitable recycling containers for recyclable material shall mean the lidded, rolling plastic carts distributed by the public works authority or containers designated by the city for receipt of recyclable material at designated recycling drop off locations.

Suitable yard waste containers for yard waste material shall mean a biodegradable plastic bag as designated by the public works authority.

Tobacco or tobacco product shall mean any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in the smoking, chewing or other form of tobacco consumption, including but not limited to cigarette papers and pipes.

Vermin shall mean any noxious offensive animals which shall

include but not be limited to insect larvae, flies, bedbugs, roaches, fleas, lice, ants, wasps, beetles, mites, rats, bats, pigeons, starlings and other nuisance birds.

Waste hauler shall mean a person, firm, corporation or other entity that regularly collects and hauls the solid waste or recycled goods of another person, firm, corporation or other entity for a fee.

Waste material means solid waste, prohibited waste, or bulky waste.

Waste transporter shall mean a person, firm, corporation or other entity, other than the city, that regularly collects and hauls the solid waste that it generates within the city.

Yard Waste shall mean waste material consisting of leaves, grass or garden waste.

(Ord. No. 157-98, 11-16-98; Ord. No. 31-00, 7-17-00; Ord. No. 197-01, 3-7-01; Ord. No. 242-05/06, 5-15-06; Ord. No. 122-10/11, 2-23-11; Ord. No. 104-11/12, 2-6-12, Ord. 264-12/13, 4-16-14; Ord. 108-15/16, 11-16-2015; Ord. No. 32-17/18, 9-18-2017)

Sec. 12-17. Solid Waste and recyclable waste collection

(a) Solid waste and recyclable material will be collected by the city from all residential properties.

(b) Solid waste and recyclable material shall not be collected by the city from any commercial property except as provided in subparagraph (d) below.

(c) Solid waste and recyclable material shall not be collected by the city from the planned residential urban development (PRUD) project, or development which receives city site plan review and approval and such approval requires private solid waste collection, except as provided in subparagraph (d) below.

(d)

(1) *Residential units on privately owned roads.* Effective January 1, 2007, solid waste and recyclable material may be collected by the city from residential units on privately owned roads, in apartment buildings, condominium buildings, or buildings within planned residential urban development projects, or within developments which receive or have received city site plan or subdivision review and approval and such

approval(s) require permanent private solid waste collection within a specific project, pursuant to a written agreement between all the unit owners or an owner's association representing the unit owners and the city. Such agreement shall require at a minimum that solid waste and recyclable material be placed in suitable containers and that the unit owners otherwise comply with all other applicable provisions of this article and any regulations promulgated by the public works authority.

- (2) *Residential units not previously receiving collection services on public roads.* Effective January 1, 2007 solid waste and recyclable material shall be collected by the city from residential units not previously receiving collection services on public roads in apartment buildings or condominium buildings that contain at least ten (10) but not more than nineteen (19) units, upon written notification to the public works authority by the property owner, or, in the case of condominiums, the condominium owners' association, that the property owner or association wants the service.

Unit owners and any owners' association shall comply with all other applicable provisions of this article and any regulations promulgated by the public works authority.

- (3) The city may provide the same services to residential units on privately owned roads or on public roads in apartment buildings, or condominium buildings with more than nineteen (19) units, or projects containing more than (19) units, in accordance with all other applicable provisions of this article and regulations promulgated by the public works authority.
- (4) Subparagraphs (1) and (2) above shall not apply to any residential units in any subdivision or other project in which roads have been or will be privately constructed or improved to serve the project with the intention that such roads shall become public roads until such time as the council formally accepts the road.

(e) A residential or commercial property owner must participate in the city's solid waste disposal program in order to be eligible for other city waste disposal or recycling services or programs including but not limited to the city's

programs for large item pickup. Notwithstanding the above, any residential property owner including, but not limited to, condominium owners within the city is eligible to participate in the hazardous waste disposal program, as well as any other programs available at the Riverside recycling facility.

(Ord. No. 157-98, 11-16-98; Ord. No. 31-00, 7-17-00; Ord. No. 197-01, 3-7-01; Ord. No. 254-02/03, 05-19-03; Ord. No. 242-05/06, 5-15-06; Ord. 99-06/07, 11-20-06, Order 264-12/13, 4-16-14; Ord. 155-18/19, 2-20-2019)

***Editor's Note:** Pursuant to council order no. 241 passed on May 15, 2006 the residential punch pass program at riverside recycling center, established by council order no. 234 and passed on May 19, 2003 was amended by council order no. 241 and passed on May 15, 2006 and effective as of September 1, 2006 is as follows:

Riverside punch pass program includes:

	<u>Fee</u>
Stove/oven (limit of 1 per punch)	\$0.00
Hot water heater (limit of 1 per punch)	\$0.00
Mattress-(limit of 1 per punch)	\$0.00
Boxspring (limit of 1 per punch)	\$0.00
Clothes washer (limit of 1 per punch)	\$0.00
Clothes dryer (limit of 1 per punch)	\$0.00
1 cubic yard miscellaneous (limit of 1 per punch)	\$0.00
1 large miscellaneous item (limit of 1 per punch)	\$0.00
Refrigerator (limit of 1 per punch)	\$0.00
Tires (limit of 1 per punch)	\$0.00
Up to 5 gallons of universal or hazardous waste Per punch	\$0.00

The riverside punch pass shall only be issued to city of Portland residents who are eligible for, and participate in, the city's solid waste collection program, and the punch pass shall be limited to ten punches during each twelve months period.

Editor's Note: Pursuant to Council Order 32-11/12 passed on 4/2/12 and Section 12-17.2 below, the following fee was enacted for bulky waste collection tags:

- Large bulky waste tag: \$40
- Small bulky waste tag: No Charge

Sec. 12-17.1. Residential recycling program required.

(a) Any residential property which does not participate in city solid waste collection and recycling under section 12-17 above, must provide a recycling program for all of its residential dwelling units, either directly by doing such collection itself under a city license as a waste transporter, or by contracting with a licensed waste hauler. For purposes of this section, "residential property" shall mean and include any property in which there is a residential dwelling unit, including commercial property as defined in section 12-16 "commercial

property", subparagraph (a) and subparagraph (f).

Such recycling program must meet the following minimum standards:

- (1) It must be at least as convenient for the resident as the owner's solid waste collection program for the property;
- (2) It must be a single stream recycling program that includes at least the same materials as those collected by the city's recycling program;
- (3) Residential property owners must provide clear and visible signage indicating which container(s) is for recyclables and the types of recyclables collected under the single stream program;
- (4) Residential property owners must provide residents with information about the recycling program upon occupancy and provide updates about any changes in the recycling program to all residents; and
- (5) Source separated recyclables shall not be commingled with solid waste.

(b) No later than January 1, 2015, any residential property owner who does not have solid waste and recycling collection by the city shall begin a recycling program in compliance with this chapter and any applicable regulations.

(c) If a property owner cannot comply with this section by January 1, 2015, he or she may request an extension to come into compliance. Such extension request shall be filed by October 1, 2014, and shall include an explanation of why the property owner cannot comply by January 1, 2015, and a detailed plan to come into compliance as soon as reasonably possible. The public works authority shall determine whether the property owner has good cause for an extension and may issue an extension reasonable under the circumstances, not to exceed twenty-four (24) months from January 1, 2015. If the public works authority determines the property owner does not have good cause for an extension, it shall issue a notice for the property owner to begin its recycling program within thirty (30) days or be in violation of this section.

(d) The public works authority shall provide educational materials to the residential property owners at the commencement of a recycling program under this section.

(e) The public works authority, or his or her authorized representative, may enforce any violation of this section by issuing a uniform summons and complaint, or at the city's option, a complaint pursuant to 30-A M.R.S.A. §4452. Every day upon which any such violation continues shall be deemed a separate violation. Penalties, including payment of the city's attorney's fees and costs, as provided in section 12-30 shall apply to such violations brought under the uniform summons and complaint. If a violation is brought pursuant to 30-A M.R.S.A. § 4452, penalties provided therein shall apply. In addition to any such penalties, the city may enjoin or abate any violation of this section by appropriate action.

(Order 264-12/13, 4-16-14)

12-17.2. Bulky Waste Collection.

(a) Bulky Waste shall be collected by the city as prescribed by the rules and regulations for said program established by the Department of Public Works.

(b) No person shall place bulky waste out for collection by the city unless it is in compliance with the rules and regulations as established by the Department of Public Works for the bulky waste collection program.

(c) The notice provisions of Sections 12-27 and 12-28 of this Article shall not apply to violations of this section.

(d) Whoever violates this Section of this Article shall be guilty of an offense. The penalty for said offense shall be One Hundred Dollars (\$100.00) plus attorneys' fees and costs and costs of proper disposal of the waste material.

(e) For bulky waste collected by the city, the city council shall establish the cost per bulky waste tag by order.

(Ord. No. 197-01, 3-7-01; Ord. No. 122-10/11, 2-23-11; Ord. No. 28-11/12, 4-2-12, Ord. 264-12/13, 4-16-14; Ord. 108-15/16, 11-16-2015)

Sec. 12-18. Containers to be furnished.

(a) It shall be the duty of every tenant, lessee or occupant of every residential property occupied by not more than two (2) families to provide and keep within the building or upon the lot where the building is situated suitable and sufficient containers to receive the accumulation of solid waste on the premises during the interval between collections.

(b) It shall be the duty of the owner or owner's agent of every residential property occupied or intended to be occupied by

more than two (2) families to provide and keep within the building or upon the lot where the building is situated suitable and sufficient containers to receive the accumulation of solid waste on the premises during the interval between collections.

(c) It shall be the duty of the occupant and/or owner or owner's agent of a hotel, restaurant, boarding house, public warehouse, market, bakery, grocery store, fruit stand or other buildings not referred to in sections (a) and (b) herein to provide and keep within the building or upon the lot where the building is situated suitable and sufficient containers to receive the accumulation of solid waste on the premises during the interval between collections.

(d) For waste collected by the city, the council shall establish the cost per bag by order.
(Ord. No. 157-98, 11-16-98; Ord. No. 116-01/02, 12-3-01)

Sec. 12-19. Waste not to accumulate except in suitable storage containers.

(a) The occupants and/or owners of all residential properties shall place or cause to be placed all solid waste and recyclable material in suitable containers and shall not permit any accumulation or deposit of such substances in or about the premises except in such suitable containers.

(b) Any person owning, operating or being in charge of any commercial property shall require that solid waste and recyclable material be stored in suitable containers.
(Ord. No. 157-98, 11-16-98)

Sec. 12-19.1. Recyclable material to be placed in suitable recycling containers/no other material to be placed in or around suitable recycling containers.

(a) Recyclable material shall be placed in a suitable recycling container. No person shall place or cause to be placed in or around any suitable recyclable container any solid waste, garbage or waste matter of any kind.

(b) The notice provisions of Section 12-27 and 12-28 of this Article shall not apply to violations of this Section.

(c) Whoever violates this Section of this Article shall be guilty of an offense. The penalty for said offense shall be double the penalty established in Section 12-30 of this Code plus attorney's fees, costs and the costs of proper disposal of the material.
(Ord. No. 31-00, 7-17-00)

Sec. 12-20. Condition of containers.

(a) All containers used for storage or disposal of solid waste and recyclable material shall be kept clean.

(b) Containers provided in accordance with provisions of this article shall not be removed, destroyed, mutilated or utilized for any purpose other than holding solid waste or recyclable material.

(Ord. No. 157-98, 11-16-98)

Sec. 12-21. Placement for collection; scavenging prohibited.

(a) *Municipal collection.* Suitable containers for collection shall be placed at the curb or on the esplanade between the sidewalk and the gutter not prior to 3:00 p.m. of the day before scheduled municipal collection. Containers placed in the public way on and after such time shall be considered as being intended for collection and, as such, shall be collected by none other than the authorized collector of the public works authority. All emptied containers shall be removed prior to 8:00 p.m. on the day of collection. Such suitable containers shall be covered or securely tied as to prevent spillage, wind-blown littering, or the ingress or egress of flies, rats or other vermin. No person except a legal occupant, owner of the premises, or their authorized agents, or the public works authority shall remove, take or otherwise disturb the waste matter, or any portion thereof so placed for removal.

(b) *Nonmunicipal collection.* The occupants, owners or authorized agents of every building shall place such suitable containers in a place convenient for the removal of the contents by the persons authorized to collect the same. Such occupants, owners or authorized agents shall place such containers only on the premises occupied or owned by them. No other person except the occupants, the owner of the premises or authorized agent, or an authorized collector shall remove, take or otherwise disturb the waste matter, or any portion thereof so placed for removal.

(Ord. No. 157-98, 11-16-98)

Sec. 12-22. Prohibited wastes.

No person shall place any of the following wastes on the street for municipal collection:

(a) Hazardous waste: All hazardous waste as defined by federal and state regulatory agencies;

(b) Hospital waste: All contaminated hospital waste as

defined by federal and state laws, i.e., "red bag" pathological anatomical waste;

- (c) Infectious waste: Wastes which are hazardous by reason of their contamination with infectious materials, i.e., "red bag" waste body parts, pathology lab waste, etc.
- (d) Human fecal waste;
- (e) Animal fecal waste which is not contained in a plastic bag;
- (f) Flammable liquids;
- (g) Powder and liquid pesticides, herbicides and fungicides;
- (h) Paint waste and pigments;
- (i) Construction and demolition debris as defined in section 12-101 of this Code;
- (j) Electrical capacitors: Contain oils that may contain P.C.B.'s;
- (k) Special waste as defined by state law, including, but not limited to, asbestos;
- (l) Laboratory chemicals;
- (m) Biohazard materials;
- (n) Plated metal parts;
- (o) Electrical transformers or parts; and
- (p) Hot ashes.
- (q) Discarded goods.

(Ord. No. 157-98, 11-16-98; Ord. No. 186-99, 1-04-99; Ord. No. 122-10/11, 2-23-11)

Sec. 12-23. Waste not to be thrown in public places; misuse of litter baskets.

(a) No person shall throw or deposit any garbage, or tobacco product, or yard waste, solid waste, prohibited waste, or waste matter, or cause the same to be thrown or deposited upon any street, sidewalk, alley, gutter, park, or other public way, or throw or deposit the same in or upon any premises or vacant

lot or in any water, or to store or keep the same except in suitable containers as required by this article or in litter baskets as supplied by the city. Where the city has supplied litter baskets, no person shall use the litter baskets for the disposal of large volumes of solid waste.

(b) The notice provisions of Sections 12-27 and 12-28 of this Article shall not apply to violations of this section.

(c) Whoever violates this Section of this Article shall be guilty of an offense. The penalty for said offense shall be One Hundred Dollars (\$100.00) plus attorneys' fees, costs and costs of the proper disposal of the material.

(Ord. No. 157-98, 11-16-98; Ord. No. 197-01, 3-7-01; Ord. No. 122-10/11, 2-23-11; Ord. No. 104-11/12, 2-6-12)

Sec. 12-24. Collection vehicles to be covered.

No person shall transport any garbage or putrescible waste over any public way, street or place within the limits of the city except in properly constructed, watertight vehicles or in suitable containers. Vehicles and containers used to transport solid waste shall be so constructed as to prevent the spillage of such solid waste. Such vehicles and containers shall be covered except during the act of filling or emptying them and shall not be permitted to become foul or offensive.

(Ord. No. 157-98, 11-16-98)

Sec. 12-25. Refusal to collect.

The public works authority may refuse to accept for collection any waste material which:

(a) Is in a container found to be unsafe to handle or in poor condition. Said container shall be marked by the public works authority with a sticker or tag. If such a container is placed out for collection again in the same condition, it shall be considered as being intended for collection and shall be picked up and disposed of by the public works authority.

(b) Any solid waste which collection is prohibited hereunder or which is too large to fit into suitable containers or which is over the length, width, weight or bulk requirements set forth in this article.

(c) Is in a container other than a suitable container as defined in this article.

(Ord. No. 157-98, 11-16-98)

Sec. 12-26. Conflict with other laws.

Whenever there shall appear in any chapter of this Code provisions which conflict with the provisions of this article, such other provisions shall control, except that wherever this article imposes greater restrictions, then such restrictions shall control.

(Ord. No. 157-98, 11-16-98)

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 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.

The owner of, and any person having responsibility for, property abutting a city street or sidewalk or esplanade where waste material has been deposited shall be presumed to have deposited same and shall be liable for violations of this article relating to city streets or public property in the absence of evidence to the contrary. Notwithstanding the aforesaid, any owner of and/or any person having responsibility for property abutting a city street or sidewalk or esplanade where any garbage or waste material has been deposited in violation of this article shall cause it to be removed within twenty-four (24) hours of the posting or notification of an order of removal, whichever occurs first, issued by the chief of police or the public works authority or their duly authorized representatives. Oral notice shall only be provided to those persons who have registered their ownership or management interest pursuant to section 6-151 of this Code. Failure to remove such waste within the time specified shall be a violation of this article.

If the waste material has not been removed within twenty-four (24) hours of the posting or notification of an order of removal, whichever occurs first, the public works authority shall arrange to have the waste material removed and shall provide written notice of such removal to the owner of record. The owner of record shall be responsible for the fees for collecting and disposing of the waste material as described in section 12-28 of this article, in addition to the penalties imposed by Section 12-30.

(Ord. No. 157-98, 11-16-98; Ord. No. 122-10/11, 2-23-11; Ord. 18-17/18, 8-21-2017)

Sec. 12-28. Collection fee.

After the posting or notification of an order of removal given under section 12-27, the City fee for collecting waste material remaining on the street after twenty-four (24) hours shall be one hundred dollars (\$100.00) for up to one (1) cubic yard. In the event the waste exceeds one (1) cubic yard, the fee shall be an additional one hundred dollars (\$100.00) per cubic yard or portion thereof. The cubic yard cost to dispose of any amount of collected waste at an approved facility shall be the disposal fee and shall be added to the collection fee. Such fees shall be charged each time that the city removes the waste material deposited in violation of this article from the streets or sidewalks or esplanades abutting the property, whether or not additional notice has been given.

Charges assessed pursuant to this article shall be enforceable by lien for the benefit of the city pursuant to section 1-16 of this Code.

(Ord. No. 157-98, 11-16-98; Ord. No.122/10/11, 2-23-11)

Sec. 12-29. Responsibilities hereunder not transferable.

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

(Ord. No. 157-98, 11-16-98)

Sec. 12-30. Violations.

Whoever violates any provisions of this article shall be guilty of an offense. Each day a violation continues shall be deemed a separate violation. The penalty for said offense, in addition to any other fees imposed by this article shall be as follows:

First violation: Fifty dollars (\$50.00).

Second violation: One hundred dollars (\$100.00).

Third violation and above: One hundred fifty dollars
(\$150.00)

plus attorney's fees and costs.

(Ord. No. 157-98, 11-16-98; Ord. 264-12/13, 4-16-14)

- Sec. 12-31. Reserved.**
- Sec. 12-32. Reserved.**
- Sec. 12-33. Reserved.**
- Sec. 12-34. Reserved.**
- Sec. 12-35. Reserved.**
- Sec. 12-36. Reserved.**
- Sec. 12-37. Reserved.**
- Sec. 12-38. Reserved.**
- Sec. 12-39. Reserved.**
- Sec. 12-40. Reserved.**
- Sec. 12-41. Reserved.**
- Sec. 12-42. Reserved.**
- Sec. 12-43. Reserved.**
- Sec. 12-44. Reserved.**
- Sec. 12-45. Reserved.**

ARTICLE III. HEALTH NUISANCES

Sec. 12-46. Waste not to be thrown in public places.

No person shall throw or deposit or cause to be thrown or deposited in any street, sidewalk, court, square, lane, alley or public place any sawdust, soot, ashes, cinders, garbage, paper, shavings, hair, shreds or manure; oyster, clam or lobster shells; waste or dirty water or any animal, vegetable or offensive matter whatever. No person or persons shall throw or cast any dead animal or any foul or offensive matter in any dock or place between the channel and the shore, nor land any foul or offensive animal or vegetable substance within the city, nor cast any dead animal into the waters of the harbor of Back Cove. No person shall throw, cast or place any living animal with intent to drown the same in any dock or place between the channel and the shore.

(Code 1968, § 306.1)

Sec. 12-47. Removal from public places.

If any of the substances mentioned in section 12-46 shall be thrown or carried into any street, sidewalk, court, square, lane,

alley or public place from any house, building, cellar, yard or any other place, the occupant of such house or place and the person who actually threw and carried the same therefrom shall severally be liable for such violation of this article, and all such substances shall be removed at the expense of the occupant of the house or other place whence the same were thrown or carried within twenty-four (24) hours after personal notice in writing to that effect is given by the chief of police or health authority.

(Code 1968, § 306.2)

Sec. 12-48. Removal from buildings at expense of owner or occupant.

All dirt, sawdust, soot, ashes, cinders, garbage, paper, shavings, hair, shreds or manure; oyster, clam or lobster shells; or any animal or vegetable substances or filth of any kind in any house, building, cellar, yard or other place; which the health authority shall deem necessary for the health of the city to be removed, shall be carried therefrom by and at the expense of the owner or occupant of such house or other place where the same shall be found and removed to such place as directed within twenty-four (24) hours after notice in writing to that effect given by the chief of police or health authority.

(Code 1968, § 306.3)

Sec. 12-49. Failure to comply with order of health authority or chief of police.

(a) Whenever any person shall have been duly notified to remove any of the substances mentioned in this article, or to perform any other act or thing which it may be his duty to perform for the preservation of the health of the city and the time limit for the performance of such duty shall have elapsed without compliance with such notice, the chief of police or health authority shall forthwith cause such substance to be removed at the expense of the person so notified. The chief of police or health authority shall cause all persons who shall violate or disobey any provision of this article to be prosecuted and punished.

(b) If, in the opinion of the health authority, it shall be for the health or comfort of the inhabitants of the city that any particular substance should be removed forthwith and without delay, it shall be his duty to cause the same to be removed accordingly. If the substance existed in violation of this article or of any of the laws, regulations, or ordinances relating to the health of the city, then the expense of removing the same shall be paid by the owner or occupant of the house or

other place where the same was found, and if payment be refused on demand therefor by the chief of police, it shall be sued for in the name of the city.

(Code 1968, § 306.4)

Sec. 12-50. Reserved.

Sec. 12-51. Reserved.

Sec. 12-52. Reserved.

Sec. 12-53. Reserved.

Sec. 12-54. Reserved.

Sec. 12-55. Reserved.

Editor's note--Ord. No. 246-93, § 1, adopted Mar. 22, 1993, repealed § 12-55, which pertained to urinating in public and derived from Ord. No. 171-89, adopted Dec. 4, 1989. For similar new provisions, see § 17-15.

Sec. 12-56. Reserved.

Sec. 12-57. Reserved.

Sec. 12-58. Reserved.

Sec. 12-59. Reserved.

Sec. 12-60. Reserved.

ARTICLE IV. PUBLIC AND PRIVATE DUMPS*

*State law reference(s)--Public dumps generally, 30 M.R.S.A. § 4101 et seq.; fire prevention at dumps, 12 M.R.S.A. § 1351 et seq.

Sec. 12-61. Public dumps established; waste matter not to be dumped elsewhere.

Except as provided in article VI, the public works authority, with prior approval of the city council and health authority, shall designate certain places as dumping grounds for the dumping or depositing of refuse, rubbish, or other waste matter of a similar nature. The dumping or depositing of any refuse, rubbish, or other waste matter of a similar nature by any person at any other place, except as hereinafter provided, is unlawful.

(Code 1968, § 310.1; Ord. No. 137-75, 2-19-75; Ord. No. 260-85, § 2, 12-2-85)

Sec. 12-62. Permit to be issued for fill purposes.

The public works authority, upon written application therefor, shall grant a permit to the owner of any lot, or to any other person with the consent of such owner, to dump or deposit refuse, rubbish, or other waste material of a similar nature upon such lot for fill purposes unless he or she determines that the

activity is in violation of law or would amount to a nuisance. The city council may, by order, establish a reasonable fee for the application or issuance of such permit. Any owner of any lot who dumps or deposits on his or her own lot any refuse, rubbish, or other waste material of a similar nature, or permits any other person to do so, without a written permit from the public works authority, shall be guilty of an offense.

(Code 1968, § 310.2; Ord. No. 260-85, § 3, 12-2-85)

Sec. 12-63. Enforcement.

The public works authority shall notify the chief of police of the location of every public dumping ground designated by the authority, and of every private fill for which the authority has issued a permit, and it shall be the duty of the chief of police to cause the removal of every deposit or accumulation of refuse, rubbish, or waste matter of a similar nature upon private property other than those made in conformity with the provisions of this article.

(Code 1968, § 310.3)

Sec. 12-64. Failure to remove.

Every owner or occupant of any premises, and every landlord or agent of a landlord having general charge of the same, or any other person, who shall throw, dump, or deposit any refuse, rubbish, or waste matter of a similar nature upon any premises without the permit in this article shall, after notice by chief of police, remove such refuse, rubbish, waste matter and material so thrown, dumped, or deposited on such premises to a designated dumping ground within forty-eight (48) hours after receiving such notice, and upon failure to do so the offender shall be guilty of an offense.

(Code 1968, § 310.4)

Sec. 12-65. Dumping on premises of others.

Any person who, without authority from the owner of the premises, dumps or deposits upon such premises, not his own, any refuse, rubbish or other waste matter of a similar nature, or any ashes, cinders, rock, concrete, asphalt or other similar material, shall be guilty of an offense.

(Code 1968, § 310.5)

Sec. 12-66. Reserved.

Sec. 12-67. Reserved.

Sec. 12-68. Reserved.

Sec. 12-69. Reserved.

Sec. 12-70. Reserved.

Sec. 12-71. Reserved.

Sec. 12-72. Reserved.

Sec. 12-73. Reserved.

Sec. 12-74. Reserved.

ARTICLE V. JUNKED MOTOR VEHICLES*

*Cross reference(s)--Traffic and motor vehicles, Ch. 28.

Sec. 12-75. Purpose.

The purpose of the article is to protect the health, safety and general well-being of the citizens of Portland; to enhance and maintain the quality of the environment through the removal of junked motor vehicles from the public way and private property; and the recovery of the costs of removal of such vehicles from the owners of the vehicles or the owners of private property, whose property values are improved by the removal of the junked motor vehicles.

(Ord. No. 162-90, 12-10-90)

Sec. 12-76. Placing on streets and public places.

It shall be unlawful for any person to deposit, place, leave or abandon any old, discarded, worn out or junked motor vehicle, or parts thereof, on any public street or any public place in the city.

(Code 1968, § 317.1)

Sec. 12-77. Removal from streets or public places.

The city shall have the right to remove or cause to be removed any vehicle or part thereof in violation of section 12-76 from any public street or public place and dispose of it as it sees fit without any liability whatsoever.

(Code 1968, § 317.2)

Sec. 12-78. Placing on private property.

It shall be unlawful for any person to deposit, place, leave or abandon any old, discarded, worn out or junked motor vehicle, or parts thereof, on any private property in the city, except in duly authorized locations.

(Code 1968, § 317.3)

Sec. 12-79. Keeping on private property; notice to remove.

It shall be unlawful for any person owning or occupying private property in the city to keep or allow to accumulate any

old, discarded, worn out or junked motor vehicle, or parts thereof, on private property after having received written notice from the city, by the city manager or by an official designated by the city manager, ordering the removal from the property upon not less than thirty (30) days from receipt of the order of the old, discarded, worn out or junked motor vehicle, or parts thereof.

A copy of the order shall be hand delivered or sent by certified mail to the owner or occupant of the private property, or to the owner of the motor vehicle if the owner's identity is known.

The order of removal may be appealed as provided in section 12-80. Failure to appeal such order shall render the order final. In the event of an appeal, the time frames established for the removal of the vehicle shall be stayed during the pendency of the appeal.

(Code 1968, § 317.4; Ord No. 162-90, 12-10-90)

Sec. 12-79.1. Vehicles on islands.

In the case of junked motor vehicles located on private property on any island, the procedures established by 29 M.R.S.A. § 1111-A, as amended hereafter, shall be substituted for those in this article. The appeal procedures set forth in section 12-80 of this article shall be applicable to vehicle removal proceedings on the islands.

(Ord No. 162-90, 12-10-90)

Sec. 12-80. Appeals.

(a) *Procedure.* An appeal to the city manager may be taken by a person in receipt of a notice to remove any old, discarded, worn out or junked motor vehicle, or parts thereof, by filing a notice of appeal within thirty (30) days of the mailing of notice of the order, or receipt of the order, whichever occurs first. The appeal shall be in writing and shall state the basis for 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 vehicle is not subject to removal within the terms of this article.

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

(c) *Action by hearing officer.* The hearing officer may affirm, modify or vacate the order of removal. The written

decision of the hearing officer shall be issued to the appellant. Any person aggrieved by a decision of the hearing officer may obtain review available by law in the superior court in accordance with the Maine Rules of Civil Procedure 80B. (Ord No. 162-90, 12-10-90)

Sec. 12-81. Removal from private property.

If any person shall fail, within thirty (30) days after receipt of the order or within thirty (30) days of receipt of the decision of the hearing officer affirming order of removal of the vehicle, to remove any vehicle or parts thereof in violation of section 12-78 or 12-79, the city shall have the right by its duly authorized agent to remove the vehicle or part thereof from any private property and dispose of it as it sees fit without any liability whatsoever.

(Code 1968, § 317.5; Ord No. 162-90, 12-10-90)

Sec. 12-82. Cost to be recovered.

(a) *Liability.* In addition to the fine provided for violation of this article, the person depositing or keeping such vehicle or parts thereof on the public highways, public places or private property shall be jointly and severally liable along with the owner of the private property to the city for the cost of removal thereof and shall pay the costs within thirty (30) days from the date of mailing of a bill assessing the costs of removal. For purposes of this article, there shall be a rebuttable presumption that the last owner of the vehicle deposited or kept the vehicle on the public way, public place or private property.

(b) *Collection.* The procedure for collecting assessments prescribed by section 1-16 of this Code shall apply to all assessments made under this article.

(c) *Lien.* Assessments for the costs of removal shall be enforceable by lien against the owner of private property upon which the junked vehicle was deposited, in the manner prescribed by section 1-16 of this Code.

(Code 1968, § 317.7; Ord No. 162-90, 12-10-90)

Sec. 12-83. Reserved.

Sec. 12-84. Reserved.

Sec. 12-85. Reserved.

Sec. 12-86. Reserved.

Sec. 12-87. Reserved.

Sec. 12-88. Reserved.

Sec. 12-89. Reserved.

- Sec. 12-90. Reserved.**
- Sec. 12-91. Reserved.**
- Sec. 12-92. Reserved.**
- Sec. 12-93. Reserved.**
- Sec. 12-94. Reserved.**
- Sec. 12-95. Reserved.**
- Sec. 12-96. Reserved.**
- Sec. 12-97. Reserved.**
- Sec. 12-98. Reserved.**
- Sec. 12-99. Reserved.**

ARTICLE VI. SOLID WASTE DISPOSAL*

***Editor's note**--Ord. No. 192A-93, adopted Jan. 25, 1993, amended this article in its entirety, in effect repealing former §§ 12-100--12-110, relative to solid waste disposal, and adding similar new provisions as §§ 12-100--12-109A, 12-110, 12-110A, and 12-111--12-113, which sections have been redesignated as §§ 12-100--12-115 at the discretion of the editor. Formerly, this article derived from Ord. No. 260-85, § 1, adopted Dec. 2, 1985; Ord. No. 449-86, adopted Mar. 24, 1986; Ord. No. 80-89, adopted Aug. 7, 1989; Ord. No. 183-89, §§ 1--10, adopted Dec. 18, 1989; and Ord. No. 336-91, adopted May 6, 1991.

Sec. 12-100. Purpose.

The purpose of this article is to protect the health, safety and general well-being of the citizens of Portland; to enhance and maintain the quality of the environment; to conserve natural resources and prevent water and air pollution, by providing for financing the construction, repair and maintenance of a comprehensive, rational and effective disposal and reclamation through the production of energy and otherwise of solid waste in the City of Portland.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-101. Definitions.

The following words and terms shall have the meanings ascribed thereto, unless the context otherwise indicates:

Acceptable waste shall mean ordinary household, municipal, institutional, commercial and industrial solid waste including, but not limited to, the following:

- (a) Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobile or

small vehicle tires, to the extent that Regional Waste Systems, Inc. (RWS) determines that the air emission criteria and standards applicable to and at the RWS disposal facility are not violated; and

- (b) Processable portions of commercial and industrial solid waste; and
- (c) Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4 1/2) feet long and eight (8) inches in diameter, and leaves, twigs, grass and plant cuttings, provided that the municipality shall not be obligated to deliver or cause to be delivered any items listed in this subpart (3) to the RWS disposal facility and further provided that such items may be delivered to the RWS disposal facility by or on behalf of the municipality on an irregular basis only and shall represent an insignificant portion of the total waste delivered to the RWS disposal facility by or on behalf of the municipality within any calendar year.

Notwithstanding any provisions to the contrary, unacceptable waste, including hazardous waste, shall not be "acceptable waste" and is explicitly excluded therefrom. Furthermore, any substances which, as of the date of a certain waste handling agreement between the municipality and Regional Waste Systems, Inc. (RWS), are included as "acceptable waste" but which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be "acceptable waste" under the terms of this article. However, any substances which, as of the date of such waste handling agreement, are not included within the definition of "acceptable waste" because they are considered harmful, toxic, dangerous or hazardous and which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall be considered "acceptable waste" unless a contrary decision has been or is made by any other governmental agency or unit having appropriate jurisdiction unless such substances are otherwise considered "unacceptable waste" or "hazardous waste."

Ashes shall mean that residue from the burning of wood, coal, coke or other combustible material.

Biomedical waste shall mean waste that may contain human pathogens of sufficient virulence and in sufficient concentrations that exposure to it by a susceptible human host could result in disease or that may contain cytotoxic chemicals

used in medical treatment.

City disposal facilities shall mean any land or structure or combinations of land area and structures owned or operated by, or under a contract with, the city, including the city construction and demolition debris disposal facility and also including a transfer station or similar facility used in connection with the disposal of acceptable waste, whether such facilities are constructed before or after the completion of the RWS disposal facilities.

City construction and demolition debris disposal facility shall mean the Riverside Land Reclamation Facility, also known as Hamlin's Pit.

Commercial refuse collector shall mean a person, firm, corporation or other entity that regularly collects and hauls the solid waste or recycled goods of another person, firm, corporation or other entity for a fee.

Construction and demolition debris shall mean:

- (a) Construction/demolition debris;
- (b) Inert fill;
- (c) Land-clearing debris; and
- (d) Wood waste;

all as defined in Chapter 400 of the Maine Department of Environmental Protection regulations as may be amended from time to time, but excluding acceptable waste and hazardous waste and such other solid waste which the board may by order or regulation exclude. The term "construction and demolition debris" also shall exclude such items as are listed in Appendix B to a certain Demolition Materials Handling Agreement between the municipality and RWS.

Demolition materials handling agreement shall mean the demolition materials handling agreement entered into between the city and RWS as of August 1, 1989.

Disposal shall mean the discharge, deposit, dumping, incineration, spilling, leaking or placing of any solid waste, sludge or septage into or on any land, air or water so that the solid waste, sludge or septage or any constituent thereof may enter the environment, be emitted into the air or be discharged into any waters.

Fiscal year means July 1 to June 30 or any other twelve-month period established as the city's fiscal year by the city council, except that in 1997, that term shall also apply to the period January 1, 1997, to June 30, 1997.

Hazardous waste shall mean a waste substance or material in any physical state, designated as hazardous by the terms of a certain waste handling agreement between the municipality and Regional Waste Systems, Inc., a copy of which is on file in the office of the director of finance.

Infectious waste shall include those wastes so defined by the solid waste management regulations promulgated by the Maine Department of Environmental Protection pursuant to Title 38 M.R.S.A. § 1304.

Person shall mean any natural person, corporation, partnership, sole proprietorship, association or other legal entity.

Portland waste shall mean solid waste generated by any entity within the City of Portland, except waste generated by the city government or school system, that is hauled by a commercial refuse collector or a refuse transporter.

Public solid waste disposal facility (disposal facility) shall mean any land or structure or combination of land area and structures, including dumps and transfer stations used for storing, salvaging, reducing, incinerating, reclaiming or disposing of solid wastes; this term shall include the RWS and city disposal facilities and RWS and city construction and demolition debris disposal facilities.

Public works authority shall mean the Department of Parks and Public Works* of the City of Portland.

Refuse transporter shall mean a person, firm, corporation or other entity, other than the city, that regularly collects and hauls the solid waste that it generates within the city.

Resource recovery shall mean the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purpose.

RWS construction and demolition debris disposal facility shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or

operated by or under a contract with RWS and/or any other site designated by RWS or its assignee, used for storing, salvaging, incinerating, reclaiming or disposing of construction and demolition debris pursuant to the demolition materials handling agreement and amendments thereto entered into between the city and RWS.

RWS disposal facility shall mean any land or structure or combination of land area and structures, including dumps and transfer stations owned or operated by or under a contract with RWS and/or any other site designated by RWS or its assignee used for storing, salvaging, reducing, incinerating, reclaiming or disposing of acceptable waste pursuant to the waste handling agreement and amendments thereto entered into between the city and RWS.

Regional Waste Systems, Inc. (RWS) shall mean Regional Waste Systems, Inc., a noncapital stock, nonprofit corporation created pursuant to Title 30, Chapter 203 and Title 13, Chapter 81 of the Maine Revised Statutes, or any successor thereto or assignee thereof.

Solid waste shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge nor agricultural, biomedical or hazardous wastes; it shall also include acceptable waste, unacceptable waste and construction and demolition debris as defined herein. The fact that a solid waste or constituent of the waste may have value or other use, or may be recycled, or may be sold or exchanged does not exclude it from this definition.

Unacceptable waste shall mean that portion of solid waste which is not acceptable waste and includes, but is not limited to, sewage and its derivatives, construction and demolition debris, agricultural waste, biomedical waste, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste.

(Ord. No. 192A-93, 1-25-93; Ord. No. 112-96, § 1, 11-4-96)

***Editor's Note-:** *Now Department of Public Works

Sec. 12-102. Designation of municipal solid waste disposal facility.

In accordance with the provisions of 38 M.R.S.A. Section

1305, the City of Portland hereby designates the Regional Waste Systems facility on Congress Street in Portland, Maine, and the city disposal facilities including the city construction and demolition disposal facility as its public solid waste disposal facilities for the purposes cited in this article. The city designates the Regional Waste Systems construction and demolition debris disposal facility as its public solid waste disposal facility for construction and demolition debris at such time as the city receives written notice from RWS that RWS is accepting construction and demolition debris pursuant to the terms of the demolition materials handling agreement.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-103. Solid waste delivery required.

(a) Within the city, the dumping, depositing or disposal by any person including, but not limited to, any licensed refuse collector or refuse transporter, at any place other than at the designated public solid waste disposal facility of any acceptable waste is prohibited.

(b) Effective upon thirty (30) days written notice from the public works authority, the dumping, depositing or disposal by any person at any place other than the RWS construction and demolition debris disposal facility of any construction and demolition debris generated within the City of Portland is prohibited. Until such notice is given, all construction and demolition debris generated within the city shall go to the city construction and demolition debris disposal facility.

(c) Notwithstanding the provisions of this section, the owner of any lot, or any other person with the permission of the lot owner, may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to state law and the provisions of article IV of this chapter.

(d) Unless excused by the public works authority in writing because the public solid waste disposal facility is not available for use, no person shall permanently dispose, upon any land within the corporate limits of the City of Portland other than at the designated disposal facility, of any solid waste generated within the corporate limits of the City of Portland; provided, however, this requirement and any requirements related to the disposal of construction and demolition debris that are not necessary to comply with the city's demolitions handling agreement with RWS shall not apply to the islands located in Casco Bay; and provided further, however, the owner of any lot, or any other person with permission of the lot owner, may deposit or dump inert substances such as earth, rocks, concrete or

similar material for fill purposes only, subject to state law and the provisions of article IV of this chapter.

(e) It shall be a violation of this article for a person disposing of solid waste at a public disposal facility to misrepresent to RWS that the solid waste is chargeable to the city.

(Ord. No. 192A-93, 1-25-93; Ord. No. 112-96, § 2, 11-4-96)

Sec. 12-104. Incineration of solid waste prohibited.

Except for licensed disposal of hazardous or infectious wastes, it shall be unlawful for any person to burn or incinerate any solid waste within the City of Portland. Provided, however, nothing in this section shall apply to the operation of a public solid waste disposal facility designated pursuant to section 12-102.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-105. Administration.

(a) The director of the public works authority shall establish rules and regulations governing the availability and use of city disposal facilities not inconsistent with applicable laws and ordinances including, but not limited to, the exclusion of materials from solid waste which may be deposited at a public solid waste disposal facility and any other rules or regulations that the director determines are needed to implement this article. These excluded materials may include junk automobile bodies and such other bulky waste as may require special processing prior to disposal; trees and tree trunks and limbs; burning materials or materials containing hot or live coals; hazardous wastes, and other materials which the public works authority deems necessary to exclude. Hazardous wastes shall be handled in accordance with Title 38 M.R.S.A. as amended.

(b) Before promulgating any rules or regulations or amendments to rules and regulations, except emergency rules or regulations or amendments, the public works authority shall publish a notice of rulemaking at least twice in a newspaper having a general circulation in the community. The notice shall state that the public works authority will be promulgating rules, the general subject matter covered by the rules, that a copy of the proposed rules may be obtained at the public works authority and that a public hearing will be held at a specified date, time and place. The second newspaper notice must be published at least seven (7) days before the public hearing. The director may enact the proposed rules and regulations immediately after the public hearing. Rules enacted by the director shall go into effect five (5) days after enactment unless enacted on an emergency basis.

(b.1) Emergency rules.

The director of public works may enact emergency rules when the director determines that such rules are necessary to address a situation that creates a threat of harm to the public health, welfare and safety, and the director's decision on the necessity for emergency rules shall be conclusive.

(2) Emergency rules shall be accompanied by a declaration of emergency, and the director may enact such rules without prior published notice or any public hearing.

(3) A notice describing the general subject matter of the rules shall be published in a newspaper of general circulation within five (5) days of enactment. Businesses affected by the emergency rules shall be given notice of the rules and a copy of them by mail sent to the business's last-known address within twenty-four (24) hours of the end of business on the date of promulgation.

(4) Emergency rules shall be in effect for a maximum of sixty (60) days.

Failure to give any notice required by this paragraph shall not invalidate any rule.

(c) The operation of any disposal facility shall conform to all pertinent provisions of this Code and applicable regulations or directives of all state or federal agencies which may have jurisdiction.

(d) Any rules and regulations promulgated by the director of the public works authority prior to the enactment of this section are hereby ratified and given the full effect of law.
(Ord. No. 192A-93, 1-25-93)

Sec. 12-106. Authorized disposal facility users.

As a means of user control, the public works authority may require the use of vehicle permits by authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit may result in denial of use of the city disposal facilities as well as constitute a violation of this chapter.
(Ord. No. 192A-93, 1-25-93)

Sec. 12-107. Resource recovery.

The public works authority may require solid waste to be

separated into such categories as may be established by rule pursuant to section 12-105 and disposed of only in such manner and at such sites and locations as designated.
(Ord. No. 192A-93, 1-25-93)

Sec. 12-108. Property rights.

Any solid waste deposited within the disposal facility shall become the property of the Regional Waste Systems, pursuant to the terms of such waste handling agreement. No person shall salvage, remove or carry off any such deposited solid waste without prior approval of the municipality. The property rights created by this section shall apply only to solid waste as defined in this article. The city assumes no ownership or liability for any other material or type of waste placed in a disposal container even if that material or waste is mixed with solid waste.
(Ord. No. 192A-93, 1-25-93)

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 Permitting and Inspections Department in all instances.

If a hauler chooses to execute an agreement with the City, that agreement shall be in the same form provided to haulers by the City on or about April 17, 2003 or any amended form mutually agreed to by all parties.
(Ord. No. 192A-93, 1-25-93; Ord. No. 112-96, § 3, 11-4-96; Ord. No. 140-02/03, 1-22-03; Ord. No. 219-02/03, 4-28-03; Ord. No. 165-15/16, 3-7-2016; Ord. 18-17/18, 8-21-2017)

Sec. 12-109.1. License fees.

(a) *Established.* The city council shall by order establish the following fees on commercial refuse collectors or refuse transporters:

- (1) A general license fee for every commercial refuse collector or refuse transporter;

- (2) A vehicle license fee on each vehicle used by a commercial refuse collector or a refuse transporter to collect or transport Portland waste within the city;
- (3) A fee on each container, capable of holding ten (10) or more cubic yards of construction and demolition waste or recyclables, used by a commercial refuse collector or a refuse transporter to hold Portland waste;
- (4) A tonnage fee on each ton of Portland waste collected or transported.

(b) *Calculation of tonnage fee.* The tonnage fee shall be a fee determined in a fiscal basis by multiplying the fee per ton times the number of tons of Portland waste that the public works authority estimates that a collector or transporter will collect or transport in the next fiscal year.

The public works authority is authorized but not required to rely upon tonnage reports produced by RWS in calculating the fees herein.

The minimum tonnage estimate for the period January 1, 1997, to June 30, 1997, shall be half of the tonnage figures supplied by RWS for the period July 1, 1995, to June 30, 1996, which is hereby established as the base year for the purpose of estimating the minimum tonnage for commercial refuse collectors or refuse transporters identified in the RWS figures. Any tonnage that is hauled by a commercial refuse collector but is attributed by RWS to a generator within the City of Portland shall be added to the tonnage for which the collector must pay the tonnage fee.

(c) *Payment of tonnage fee.* The tonnage fee shall be payable monthly to the public works authority in twelve (12) equal installments, except for the period January 1, 1997, to June 30, 1997, which shall be paid in six (6) equal installments. Each payment is due fifteen (15) days after the end of the month for which payment is being made.

(d) *Adjustment of tonnage fee.*

- (1) During a fiscal year the tonnage fee shall not be reduced unless a licensee files a written request with supporting documents with the public works authority that demonstrates that the number of tons used in the original estimate will be at least twenty (20) percent higher than the actual tonnage hauled due to a change in conditions that occurred after the original estimate

was made.

- (2) During a fiscal year the tonnage fee may be increased by the public works authority whenever it determines that an original estimate is too low due to a change that occurred after the original estimate was made. Thirty (30) days prior to increasing a tonnage fee, the public works authority shall send a written notice of its intent to increase the fee and the reasons for that increase, but the increase may be charged from the date the notice of increase is mailed or delivered.
- (3) After a fiscal year, the public works authority may award a credit for the next fiscal year to any commercial refuse collector or refuse transporter who filed written notice with supporting documents by certified mail return receipt requested during a fiscal year that demonstrates that the number of tons used in the original estimate was too high in relation to the number of tons actually hauled or transported. To be eligible for this credit, the hauler or transporter must have sent the written notice and documents within ten (10) days of the date upon which the hauler or transporter knew or should have known of the change in conditions.

(e) *Interest on unpaid tonnage fees.* Interest on unpaid fees shall begin on the sixteenth day after the end of the month for which payment is owed. The rate of interest shall be the rate established annually by the council on unpaid property taxes.

(f) *Additional fees.* An additional fee of three (3) times the cost of any required license or permit fee shall be charged for the issuance of any license or permit after expiration of the holder's prior license unless the application for renewal of the license was filed prior to such expiration.

(g) *Proration of fees.* The fee for a license which is issued after July first of each fiscal year shall be prorated for each full month the licensee will not have the use of the license only if the licensee provides verification that it is a business which was not in existence as of July first. In the event that the licensee is a new business, the license fee shall be reduced by ten (10) percent for each full month that the licensee shall not have use of the license, but in no case shall the license fee be reduced by more than fifty (50) percent.

(h) *Application of fees.* All fees established by this chapter shall be placed in a separate account. Funds from that

account may only be used to pay for the city's cost of solid waste disposal, which costs shall include but not be limited to the costs necessary for administration, inspection, enforcement, and to meet the city's financial obligation to RWS.
(Ord. No. 112-96, § 4, 11-4-96)

Sec. 12-109.2. Application process.

Licensed applicants who wish to be licensed for the next fiscal year must file their applications on or before March first with the documentation required by the public works authority, except that for the period of January 1, 1997, to June 30, 1997, the applications and documents must be filed by December 1, 1996.

The public works authority may require accurate lists containing such information as the public works authority deems necessary, including but not limited to size and location of waste containers used to collect or transport Portland waste, the frequency with which such containers are emptied, the amount of Portland waste tonnage collected or transported per haul during the preceding twelve (12) months, and the total Portland waste tonnage collected or transported by the collector or transporter during the preceding twelve (12) months, and the collector's or transporter's estimate of the amount of Portland waste tonnage that will be collected or hauled during the upcoming fiscal year.

If an applicant does not furnish the requested information, the applicant is barred from making a request to the public works authority to change the estimated tonnage, or from taking an appeal from the public works authority's tonnage estimate, but such written information and other information shall not be conclusive upon the public works authority.

Commencing in 2003, each license application shall be accompanied by evidence of a waste hauling agreement between the applicant and RWS for disposal of Portland waste collected or transported by the applicant from the date that the application is filed and throughout the upcoming license year.
(Ord. No. 112-96, § 5, 11-4-96; Ord. No. 140-02/03, 1-22-03)

Sec. 12-109.3. RWS notification and authorization.

A copy of each commercial refuse collector or refuse transporter license issued and of each application therefor shall be sent by the city to RWS. Upon issuing a commercial hauler or refuse transporter license hereunder, the city shall also issue to the commercial refuse collector or refuse transporter for each vehicle to be used by it a vehicle license which shall be a numbered sticker and shall inform RWS of the number on the sticker. A licensed commercial refuse collector or refuse

transporter shall affix this numbered sticker to each vehicle owned or operated by it as required by RWS or the city.

A licensed commercial refuse collector or refuse transporter shall comply with the terms of any agreement with RWS for disposal of waste collected or transported by such collector or transporter, and RWS is authorized and directed to notify the public works authority of any noncompliance with any terms of such agreement. RWS is authorized and directed to admit waste generated in the City of Portland for processing to its facilities only from Portland commercial collectors and refuse transporters who are licensed and whose vehicles are licensed as provided herein.

(Ord. No. 112-96, § 6, 11-4-96; Ord. No. 140-02/03, 1-22-03)

Sec. 12-109.4. Exemption for small collectors or transporters.

The license and fee requirements of this chapter shall not apply to collectors or transporters who collect or transport less than ten (10) tons of Portland waste per year.

(Ord. No. 112-96, § 7, 11-4-96; Ord. No. 303-97, § 1, 5-19-97)

Sec. 12-110. Licensing, identification and use of roll-on roll-off containers.

(a) This licensing requirement applies only to roll-on roll-off containers.

(b) No solid waste, construction and demolition debris or materials to be recycled, generated within the city, may be placed in a roll-on roll-off container unless the container is licensed with the department of public works to hold such waste. In addition to the general container license, a separate permit and appropriate display stickers shall be obtained each time a container is used to hold either construction and demolition debris or materials to be recycled. The office of building inspections shall issue the separate permit and stickers pursuant to section 12-111 of this article for construction and demolition debris for projects requiring a building or demolition permit. All other permits and stickers shall be issued by the public works authority.

(c) Every roll-on roll-off container used to transport solid waste, construction and demolition debris or materials to be recycled, generated within the city, shall be visibly marked as follows:

(1) On the two (2) largest sides:

Name of waste hauler company;

Company's address and telephone number; and

Size of container, stated in cubic yards.

(2) Lower left corner/driver side:

City of Portland container license;

Demolition disposal sticker, if appropriate;

Recycling sticker, if appropriate.

(d) A container may not have a demolition disposal sticker and a recycling sticker on it at the same time.

(e) A container may only contain one (1) type of waste at a time. Acceptable waste, construction and demolition debris and unacceptable waste may not be placed in the same container at the same time.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-111. Disposal of construction and demolition debris generated within the city.

(a) *Construction and demolition debris to go to city facility.* All construction and demolition debris generated within the city shall be disposed of at the city construction and demolition debris disposal facility until such time as the city receives written notification from Regional Waste Systems that RWS is accepting construction and demolition debris pursuant to the terms of the demolition materials handling agreement. After the city receives the notice and gives thirty (30) days prior notice to waste haulers, all construction and demolition debris shall be disposed of at the RWS construction and demolition debris disposal facility. Subparts (b), (c), (d) and (e) of this section 12-111 shall remain effective until thirty (30) days following receipt of notification to the haulers by the city that all construction and demolition debris shall be disposed of at the RWS construction and demolition debris disposal facility.

(b) *Permit required.* No person shall collect, recycle, haul or transport construction and demolition debris without first obtaining a construction and demolition debris disposal facility permit as described in this section.

(1) All persons who obtain a building or demolition permit from the city shall simultaneously obtain a construction and demolition debris disposal facility

permit from the office of building inspections. This requirement shall not apply to a residential homeowner whose project will create three (3) cubic yards or less of construction and demolition debris.

- (2) Prior to the issuance of a building or demolition permit, the city's building inspector or his designee shall inspect the premises for which the building or demolition permit is sought to determine whether hazardous or special wastes are present on the premises; if hazardous or special wastes are present on the premises, the parties seeking the building or demolition permit must furnish the city with evidence of lawful disposal of the hazardous or special wastes in order to receive the building or demolition permit and construction and demolition debris disposal facility permit.
- (3) In any case where the city issued a building or demolition permit before the effective date of paragraph (b)(1) above, the construction and demolition debris disposal facility permit must be purchased from the public works authority by the person transporting the waste or the waste generator.
- (4) The demolition debris disposal facility permit shall authorize the person to whom it is issued to dispose of construction and demolition debris from the premises for which the building or demolition permit is issued, at the city construction and demolition debris disposal facility.

(c) *Permit fee.* The fee for the initial construction and demolition debris disposal permit shall be calculated by the office of building inspections on a case-by-case basis. It shall depend on fees established by council order.

The fee shall be nonrefundable. The disposal permit shall authorize the permittee to dispose of a specified amount of waste at the city construction and demolition debris disposal facility and shall only be valid for the amount stated on the face of the permit.

If the amount of the original permit is too low, the permit holder shall purchase a subsequent permit or permits from the public works authority.

If the amount of disposal authorized by the original permit or subsequent permits is too high, the permit owner may obtain a

transferable credit from the public works authority for future disposal at the city construction and demolition disposal facility so long as the building inspector has issued a certificate of occupancy or completion and the owner applies within two (2) months of the date upon which the building inspector's certificate was issued. The maximum credit allowed will be fifty (50) percent of the total amount paid for construction and demolition debris permits for the project.

(d) *Sorting requirement.* At any site for which a building permit is issued, any person or entity that owns or controls the site must sort the waste generated by any construction project on the site in such a manner that acceptable solid waste, metal, and construction and demolition debris without metal, are distinct and can be separately moved. Under no circumstances may these types of waste be mixed in any type of disposal container or in any vehicle. All sorting must be done at the generation site.

The metal sorting requirement does not apply to nails and other fastening devices made out of metal.

Wood waste may be separated and recycled at the discretion of the generator if it is unacceptable waste.

Metal waste may be recycled at the discretion of the generator if it is unacceptable waste.

The city may allow clean inert fill to be disposed of at a location designated by the city without a fee providing that applicants receive prior written approval from the city's public works authority.

(e) *Rejected loads.* The city's public works authority is the only authority to designate a load of demolition debris as unacceptable for disposal at the city's construction and demolition debris disposal facility. If a load is rejected, the public works authority will retain the transporter's trip ticket or coupon and give the waste transporter a reasonable opportunity to bring the load into compliance. If the load is not brought into compliance, the ticket or coupon and the value that it represents shall be forfeited to the city, and the transporter shall be given permission to take the load out of the city.

(f) *Controlling provisions.* To the extent that any of the provisions in this article are inconsistent with the demolition materials handling agreement entered into between the city and RWS, the provisions of the agreement shall control, except that any provisions requiring disposal at the RWS construction and demolition debris disposal facility shall not control until RWS

is accepting construction and demolition debris at such facility pursuant to the terms of the demolition materials handling agreement.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-112. Disposal of recyclable materials.

Acceptable waste and construction and demolition debris may not be recycled except as provided pursuant to the waste handling agreement with RWS or the demolition materials handling agreement with RWS.

(Ord. No. 192A-93, 1-25-93)

Sec. 12-113. Violations.

(a) Violations of rules promulgated pursuant to this chapter, and violations of this chapter by any person, shall be subject to the penalty provisions of section 12-114 of this Code.

(b) Licenses, renewals of licenses, and permits issued under this chapter may be denied, revoked or suspended by the public works authority as follows:

- (1) The first violation by a licensed commercial refuse collector or refuse transporter of any provision or provisions of this article shall result, in addition to any penalty or relief the city may seek under section 12-114 of this Code, in a thirty-day suspension of that commercial refuse collector's or refuse transporter's license or, if on the date of the first violation such license will expire in less than thirty (30) days, the revocation of such license.

The first violation of the construction and demolition debris provisions of this chapter shall also result in the revocation of any construction and demolition debris disposal facility permits for the project that generated the waste.

- (2) The second violation, at any time, by a licensed commercial refuse collector or refuse transporter of any provision or provisions of this article shall result, in addition to any penalty or relief the city may seek under section 12-114 of this Code, in a six-month suspension of that commercial refuse collector's or refuse transporter's license or, if on the date of the second violation such license will expire in less than six (6) months, the revocation of such license.
- (3) The third violation, at any time, by a licensed

commercial refuse collector or refuse transporter of any provision or provisions of this article shall result, in addition to any penalty or relief the city may seek under section 12-114 of this Code, in revocation of that commercial refuse collector's or refuse transporter's license and in the denial of commercial refuse collector's or refuse transporter's licenses to that person for subsequent fiscal years unless and until the public works authority determines that the commercial refuse collector or refuse transporter may be allowed to apply for and receive a license under this article due to a change in the person's circumstances since the time of the third violation; provided, however, that any further violation shall result in the revocation of the commercial refuse collector's or refuse transporter's license and the barring of that commercial refuse collector or refuse transporter from applying for a license under this article in subsequent fiscal years.

- (4) No commercial refuse collector's or refuse transporter's license may be suspended or revoked unless there first has been a hearing before the public works authority, with seven (7) days' prior written notice to the commercial refuse collector or refuse transporter.

(c) *Appeals.* Decisions of the public works authority and the office of building inspections may be appealed to the city manager within ten (10) days after receipt of written notice of the public works authority's or the office of building inspection's decision. Seven (7) days' prior written notice of the time and place of the appeals hearing shall be given to the licensee or applicant. The appeals hearing must be held within ten (10) business days of the date upon which the notice of appeal is received by the city unless the licensee and the city agree to extend the hearing date.

Tonnage estimates by the public works authority shall be binding and final unless a collector or transporter files with its written appeal to the city manager verified documents demonstrating the inaccuracy of the public works authority's estimate. The appeal shall not be accepted for filing if such documents are not attached. If rejected for filing, it shall be returned to the collector or transporter personally or by certified mail, return receipt requested.

Seven (7) days' prior written notice of the time and place of the appeals hearing shall be given to the licensee or

applicant. The appeals hearing must be held within ten (10) business days of the date upon which the notice of appeal is received by the city unless the applicant and the city agree to extend the hearing date.

The taking of an appeal to the city manager shall not stay the public works authority's or the office of building inspection's decision or any denial, revocation or suspension of a commercial refuse collector's or refuse transporter's license or construction and demolition debris disposal facility permit ordered by the public works authority unless the city manager orders such a stay for good cause shown by the licensee.

(d) The city shall inform RWS immediately in writing whenever it denies, suspends or revokes a commercial refuse collector's or refuse transporter's license or demolition and construction debris disposal facility permit hereunder.
(Ord. No. 192A-93, 1-25-93; Ord. No. 112-96, § 8, 11-4-96)

Sec. 12-113.5. Rulemaking authority.

The director of the public works authority may promulgate any rules necessary to implement this article pursuant to the procedures established in section 12-105(b).
(Ord. No. 112-96, § 9, 11-4-96)

Sec. 12-114. Fines.

Whoever violates any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) per violation plus costs, which fine shall be recovered on complaint to the use of the city. Each day upon which any continuing violation of any provision of this article shall occur shall constitute a separate violation, and each incident of disposal of solid waste in violation of this article shall constitute a separate violation. In addition, the city may seek equitable relief including, but not limited to, injunctive relief. In any action in which the city prevails, it shall be entitled to indemnification of the city's liquidated damages to RWS, disposal revenue lost by the city, attorney's fees, and costs.
(Ord. No. 192A-93, 1-25-93)

Sec. 12-115. Right to inspect.

Any official, officer or employee of the city shall have the right to inspect the contents of a solid waste container, including a construction and demolition debris container, at any time.
(Ord. No. 192A-93, 1-25-93)

- Sec. 12-116. Reserved.**
- Sec. 12-117. Reserved.**
- Sec. 12-118. Reserved.**
- Sec. 12-119. Reserved.**

ARTICLE VII. RENDERING WASTES

DIVISION 1. GENERALLY

Sec. 12-120. Definitions.

Words used in this article shall have their common meanings, except that the definitions in chapter 15 or in this article shall apply, unless the context clearly indicates that a different meaning is intended.

Person means an individual, firm, association, organization, partnership, trust, company, corporation or other legal entity.

Rendering facility shall mean any facility that converts rendering wastes as that term is defined in this section, into fertilizer, fats, oils, meal or any other product(s) or by-product(s).

Rendering wastes shall mean any fish waste products, whether solid or liquid and whether in the form of raw product or finished product.

Street means a public way established by or maintained under public authority or a way dedicated to the use of the public and appearing on the official map of the city.
(Ord. No. 189-87, § 1, 12-7-87)

Sec. 12-121. General licensing provisions to apply.

Except to the extent that this article contains a contrary provision, all general licensing provisions of chapter 15 shall apply to this chapter, except that the city council shall be the licensing authority.
(Ord. No. 189-87, § 1, 12-7-87)

Sec. 12-122. Applicability to existing transporters and facilities.

Notwithstanding any other provision of law, it is the purpose and intention of this article to apply to:

- (a) Any and all persons, vehicles or trailers transporting rendering wastes in the city, regardless of the commencement date of such activities, including such persons, vehicles and trailers as are in operation as of the effective date of this article;
- (b) All rendering facilities, including those in operation on the effective date of this article; and
- (c) Any and all processing facilities that store rendering wastes in the city, including those in operation on the effective date of this article.

(Ord. No. 189-87, § 1, 12-7-87)

Sec. 12-123. Right of entry to inspect.

The building authority, upon proper identification, shall have the right to enter at any and all reasonable times into or upon any rendering facility's premises [to determine compliance] with the provisions of this article.

(Ord. No. 189-87 § 1, 12-7-87)

Sec. 12-124. Violations.

Violations of this article shall be subject to the penalty provisions of section 1-15 of this Code.

(Ord. No. 189-87, § 1, 12-7-87)

- Sec. 12-125. Reserved.**
- Sec. 12-126. Reserved.**
- Sec. 12-127. Reserved.**
- Sec. 12-128. Reserved.**
- Sec. 12-129. Reserved.**
- Sec. 12-130. Reserved.**
- Sec. 12-131. Reserved.**
- Sec. 12-132. Reserved.**
- Sec. 12-133. Reserved.**
- Sec. 12-134. Reserved.**
- Sec. 12-135. Reserved.**
- Sec. 12-136. Reserved.**
- Sec. 12-137. Reserved.**
- Sec. 12-138. Reserved.**
- Sec. 12-139. Reserved.**
- Sec. 12-140. Reserved.**
- Sec. 12-141. Reserved.**
- Sec. 12-142. Reserved.**
- Sec. 12-143. Reserved.**

Sec. 12-144. Reserved.
Sec. 12-145. Reserved.
Sec. 12-146. Reserved.
Sec. 12-147. Reserved.
Sec. 12-148. Reserved.
Sec. 12-149. Reserved.

DIVISION 2. WASTE TRANSPORTATION LICENSES

Sec. 12-150. Reserved.
Sec. 12-151. Reserved.
Sec. 12-152. Reserved.
Sec. 12-153. Reserved.
Sec. 12-154. Reserved.
Sec. 12-155. Reserved.
Sec. 12-156. Reserved.
Sec. 12-157. Reserved.
Sec. 12-158. Reserved.
Sec. 12-159. Reserved.
Sec. 12-160. Reserved.
Sec. 12-161. Reserved.
Sec. 12-162. Reserved.
Sec. 12-163. Reserved.
Sec. 12-164. Reserved.
Sec. 12-165. Reserved.
Sec. 12-166. Reserved.
Sec. 12-167. Reserved.
Sec. 12-168. Reserved.
Sec. 12-169. Reserved.
Sec. 12-170. Reserved.
Sec. 12-171. Reserved.
Sec. 12-172. Reserved.
Sec. 12-173. Reserved.
Sec. 12-174. Reserved.
Sec. 12-175. Reserved.
Sec. 12-176. Reserved.
Sec. 12-177. Reserved.
Sec. 12-178. Reserved.
Sec. 12-179. Reserved.
Sec. 12-180. Reserved.
Sec. 12-181. Reserved.
Sec. 12-182. Reserved.
Sec. 12-183. Reserved.
Sec. 12-184. Reserved.

Sec. 12-185. Reserved.
Sec. 12-186. Reserved.
Sec. 12-187. Reserved.
Sec. 12-188. Reserved.
Sec. 12-189. Reserved.
Sec. 12-190. Reserved.
Sec. 12-191. Reserved.
Sec. 12-192. Reserved.
Sec. 12-193. Reserved.
Sec. 12-194. Reserved.
Sec. 12-195. Reserved.
Sec. 12-196. Reserved.
Sec. 12-197. Reserved.
Sec. 12-198. Reserved.
Sec. 12-199. Reserved.

DIVISION 3. CONSTRUCTION AND OPERATION OF RENDERING FACILITIES

Sec. 12-200. License required.

No person shall construct or operate a rendering facility without having a valid license under this article therefor.
(Ord. No. 189-87, § 1, 12-7-87)

Sec. 12-201. Applications.

In addition to the general provisions of chapter 15 relating to the contents of applications, applications for licenses to construct or operate a rendering facility shall contain the following:

- (a) The residence and post office addresses of all of the applicant's principal officers, directors and general and limited partners;
- (b) The applicant's registered agent if any, for service of process;
- (c) A description of the property whereupon the applicant proposes to operate a rendering facility and the property's location;
- (d) The proposed capacity of the rendering facility;
- (e) A detailed statement, including detailed plans and references, of the applicant's proposed method for elimination of rendering facility odors;

- (f) The names, addresses and resumes of any officers, employees or consultants who will design the odor elimination plan referred to in subsection (5) above;
- (g) A report by acknowledged experts in rendering plants after investigation of rendering plants having the same technology as proposed by the applicant; and
- (h) A general statement of the applicant's proposed method for operation of the rendering facility.

(Ord. No. 189-87, § 1, 12-7-87)

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 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.

(Ord. No. 189-87, § 1, 12-7-87; Ord. No. 165-15/16, 3-7-2016; Ord. 18-17/18, 8-21-2017)

Sec. 12-203. Revocation.

In addition to the grounds for suspension or revocation of licenses set forth in chapter 15, the city council, after due notice and hearing, may suspend or revoke the license required by this article, upon a determination that the rendering facility is in violation of any provision of this article.

(Ord. No. 189-87, § 1, 12-7-87)

Sec. 12-204. Standards of construction and operation of rendering facilities.

No person shall construct or operate any rendering facility, unless the rendering facility and the operation thereof comply with each of the following conditions:

- (a) All processing of rendering wastes shall be carried out by means of processes which shall eliminate or prevent the escape of obnoxious and offensive odors or gases.
- (b) Each rendering facility shall have on its premises an

adequate supply of receiving and holding bins or compartments which shall be watertight, smooth and so designed as to be readily cleaned. Unless such bins or compartments are sealed and airtight, no rendering wastes shall be permitted to accumulate in such bins or compartments for more than one-half hour at a temperature not to exceed forty-five (45) degrees Fahrenheit.

- (c) Each rendering facility shall comply with the provisions of chapters 14 and 24.
- (d) There shall be no outside storage of processed or unprocessed product or rendering wastes.
- (e) There shall be no emissions of obnoxious and offensive odors or gases beyond the property lines of the rendering facility.
- (f) To the extent that vehicles used for the transport of rendering wastes or rendering facility equipment are cleaned outside the rendering facility, the water used in such cleaning shall be collected and disposed of with other rendering facility wastewater.

(Ord. No. 189-87, § 1, 12-7-87)

Sec. 12-205. Temporary and permanent closing of rendering facilities.

(a) No person shall close a rendering facility, on either a temporary (in excess of forty-eight (48) hours) basis or a permanent basis, unless the rendering facility's closing meets the following standards:

- (1) All of the rendering facility's buildings, storage or processing facilities, and related equipment and structures shall be reasonably clean and free of rendering wastes in order to prevent the emission of obnoxious and offensive odors or gases upon neighboring property;
- (2) All rendering wastes at the rendering facility shall be properly disposed of prior to the closure; and
- (3) The owner and operator of any such rendering facility shall certify, in writing to the building authority, compliance with the terms of this section and request an inspection by the building inspector. The owner and operator of the facility shall correct any reasonable

deficiencies noted by the building authority in his inspection within such time as the building authority requires.

(b) This subsection shall not apply to either the temporary or permanent closing of only a portion of a rendering facility which will otherwise remain in operation, provided:

- (1) Such a partial closing shall not create or contribute to the emission of obnoxious and offensive odors or gases beyond the property lines of the rendering facility; or
- (2) Such a partial closing is not intended to circumvent the purposes of this subsection.

(c) If a rendering facility is closed in violation of this section, the city may, after service of proper written notice to the owner and operator of the rendering facility and a reasonable time to cure any such deficiencies noted by the building authority, file a civil action seeking court approval to enter the premises, bring the premises into compliance with the terms of this section, and tax the reasonable costs and expenses of such cleanup against the owner of the rendering facility. The city may make a claim under the performance bond or other surety posted to cover said reasonable costs and expenses of such cleanup of the rendering facility; provided further, that if the bond or other surety posted is insufficient for such purposes, the city may file a civil action to seek money damages to cover its reasonable costs and expenses, including attorney's fees, which exceed the amount of the performance bond or other surety posted.

(Ord. No. 189-87, § 1, 12-7-87)

Sec. 12-206. Reserved.

Sec. 12-207. Reserved.

Sec. 12-207. Reserved.

Sec. 12-208. Reserved.

Sec. 12-209. Reserved.

ARTICLE VIII. POLYSTYRENE AND PLASTIC

DIVISION 1. POLYSTYRENE

Sec. 12-210. Findings; purposes.

The city council hereby finds as follows:

- (a) Polystyrene foam is a petroleum-based, lightweight plastic material sometimes used as food service ware by retail food vendors operating in the City of Portland.
 - (b) The City of Portland desires to protect the natural environment.
 - (c) There is no economically feasible means of recycling polystyrene foam locally.
 - (d) Disposable food containers made from polystyrene foam constitute a portion of the litter in Portland's streets, parks and public places that increases city maintenance costs.
 - (e) Polystyrene foam is a common pollutant that fragments into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them.
 - (f) The State of Maine has banned the service of food and beverages in polystyrene foam containers at facilities or functions of the State or its political subdivisions (38 M.R.S. §§ 1651-1654).
 - (g) The City's goal is to replace polystyrene foam food containers with reusable, recyclable or compostable alternatives.
 - (h) Such alternatives are readily available.
- (Ord. No. 261-13/14, Passage 6-16-2014, Effective 4-15-2015)

Sec. 12-211. Definitions.

As used in this Article the following terms have the following meanings:

Food Packager means any person located within the City of Portland who places meat, eggs, bakery products, or other food in packaging materials for the purpose of retail sale of those products;

Prepared food means food or beverages which are served at the food vendor's location having been previously prepared elsewhere or are prepared at the vendor's location by cooking, chopping, slicing, mixing, brewing, freezing or squeezing. "Prepared food" does not mean raw uncooked meat or eggs. Prepared food may be eaten either on or off premises.

Polystyrene foam means and includes blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam®, a Dow Chemical Company trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons. For the purposes of this chapter, the term "polystyrene" shall not include clear polystyrene known as "oriented polystyrene."

Retail Vendor means any person, restaurant, store, shop, sales outlet or other establishment, including without limitation, a grocery store, convenience store or a delicatessen located within the City of Portland which offers prepared food for retail sale.

(Ord. No. 261-13/14, Passage 6-16-2014, Effective 4-15-2015)

Sec. 12-212. Prohibitions.

- (a) No retail vendor in the City of Portland shall serve or sell prepared food and no food packager shall package meat, eggs, bakery products or other food in polystyrene foam containers.
- (b) No retail vendor in the City of Portland who sells tangible personal property at retail shall sell polystyrene foam food or beverage containers.
- (c) The City shall not use polystyrene foam food or beverage containers at any City facility or City-sponsored event.
- (d) No City department or facility shall purchase or acquire polystyrene foam food or beverage containers.
- (e) All parties who contract with the City shall be prohibited from using polystyrene foam food and beverage containers in City facilities or on City-funded projects within the City.

(Ord. No. 261-13/14, Passage 6-16-2014, Effective 4-15-2015)

Sec. 12-213. Exemptions.

- (a) The sale and packaging of raw seafood is exempt from the provisions of this Article.
- (b) Retail vendors and food packagers that are currently existing or are established in the city by the effective date of the ordinance will be exempted from the provision of this Article prohibiting the use of polystyrene foam for a period of time to be determined by the City Manager or his/her designee in writing on a case-by-case basis for undue hardship. Undue hardship includes, but is not limited to, situations unique to the food vendor not generally applicable to other persons in similar circumstances.
- (b) Retail vendors, food packagers, city departments, city facilities and contractors shall be exempt from the provisions of this Article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety.

(Ord. No. 261-13/14, Passage 6-16-2014, Effective 4-15-2015)

Sec. 12-214. Violations and enforcement.

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the City Manager or his/her designee(s) determine(s) that a violation of this Article has occurred, he/she shall issue a written warning notice to the food vendor that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

Violations of this Article shall be punishable by fines as follows:

- (a) A fine not exceeding \$250 for the first violation in a one-year period;
- (c) A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

(Ord. No. 261-13/14, Passage 6-16-2014, Effective 4-15-2015)

Sec. 12-215. Effective Date

- (a) This Article shall become effective on April 15, 2015.
- (b) This Article shall be null and void if and as long as there is developed and maintained an effective city-wide recycling program approved by the City's Director

of Public Works for polystyrene foam food and beverage containers.

- (d) The provisions of this Article shall be null and void on the day that statewide legislation or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent Maine or federal administrative agency issues and promulgates regulations, preempting such action.

(Ord. No. 261-13/14, Passage 6-16-2014, Effective 4-15-2015; Ord. 108-15/16, 11-16-2015)

Sec. 12-216. Severability.

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

(Ord. No. 261-13/14, Passage 6-16-2014, Effective 4-15-2015)

Sec. 12-217. Reserved.

Sec. 12-218. Reserved.

Sec. 12-219. Reserved.

DIVISION 2. PLASTIC

Sec. 12-220. Findings; purposes.

The City Council hereby finds as follows:

(a) The City of Portland is committed to environmental leadership; and

(b) The City Council desires to conserve resources and reduce greenhouse gas emissions, waste, litter, and pollution; and

(c) Discarded plastic beverage straws, stirrers, and splash sticks threaten wildlife and degrade and litter the beaches and water off Maine's coast, including areas within the City; and

(d) Reducing the distribution of plastic beverage straws, stirrers, and splash sticks provided to customers decreases the

amount of plastic that may end up in our environment through litter, windblown debris, and overflowing trash cans; and

(e) The City finds there are reasonable, environmentally friendly alternatives to plastic beverage straws, stirrers, and splash sticks; and

(f) The City Council recognizes the need to ensure that plastic beverage straws remain available to those who require them for consumption of hot and cold liquids and seeks to protect the privacy and dignity of those requesting a plastic beverage straw; and

(g) The City Council has determined that it is in the best interest of the residents of the City to promote the public health, safety, and general welfare by enacting procedures and prohibitions regarding the distribution of plastic beverage straws, stirrers, and splash sticks to reduce waste
(Ord. 61-19/20, 11/21/2019)

Sec. 12-221. Definitions.

As used in this Ordinance, the following words, terms, and phrases, including their respective derivatives have the following meanings:

Beverage means any liquid, including any slurry, frozen, semi-frozen, or other forms of liquids, intended for drinking.

Beverage Provider means any business, organization, entity, group, or individual located within the City that offers beverages to the public for consumption.

Food Provider means any person located within the City that is a retailer of prepared food or beverages for public consumption including, but not limited to, any store, supermarket, delicatessen, restaurant, shop, caterer or mobile food vendor.

On Request means any person located within the City seeking a beverage straw, stirrer, or splash stick must ask food and beverage providers for the items and not be able to access them on their own.

Non-Plastic Alternatives to Plastic Beverage Straws includes those made from paper, sugar cane, bamboo, pasta, metal, etc.

Non-Plastic Alternatives to Plastic Stirrers and Splash Sticks includes those made from paper, sugar cane, bamboo, pasta, metal, etc.

Person means an individual, business, event promoter, trust, firm, joint stock company, corporation, nonprofit, including a government corporation, partnership, or association.

Plastic Beverage Straw means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, for transferring a beverage from its container to the mouth of the drinker.

Plastic Beverage Stirrer means a device made predominantly or in part of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources that is designed solely to mix liquids that are intended for internal human consumption and are contained in a single-serving container.

Plastic Beverage Splash Stick means a device made predominantly or in part of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources that is designed to prevent heat and/or liquid from escaping a lidded cup.

Plastic Beverage Straw, Stirrer, and Splash Stick definitions include compostable and biodegradable petroleum or biologically based polymer straws, stirrers, and splash sticks but do not include straws, stirrers, or splash sticks that are made from non-plastic materials, such as paper, sugar cane, bamboo, pasta, metal, etc.

Special Event Permittee means a person who has obtained a Special Event Permit from the City pursuant to Section 32-702 of the City Code.

(Ord. 61-19/20, 11/21/2019)

Sec. 12-222. Prohibition on Distribution, Sale or Use of Plastic Beverage Straws, Stirrers, and Splash Sticks.

(a) Plastic beverage straws, stirrers, and splash sticks shall not be sold, or distributed within the City of Portland except as expressly permitted under Section 12-223 below.

(b) Nothing in this section precludes a food provider, beverage provider, special event permittee, or any person from using, providing, distributing, or selling non-plastic alternatives to plastic beverage straws, stirrers, or splash sticks available to customers on request.

(Ord. 61-19/20, 11/21/2019)

Sec. 12-223. Exceptions

(a) Exceptions. The prohibition outlined in this ordinance shall not apply to:

1. Pre-packaged drinks sold at commercial establishments;
2. Bulk packages of plastic straws sold by food or beverage providers;
3. Use by medical or dental facilities;
4. Use during a locally declared emergency; or
5. Use on request by individuals who require the use of a plastic straw for hot or cold beverages. For purposes of clarity, no beverage provider may inquire the reason for such use by the individual.

(Ord. 61-19/20, 11/21/2019)

Sec. 12-224. Violations and Enforcement.

(a) The City Manager or designee(s) shall have the primary responsibility for enforcement of this ordinance. If the City Manager or designee(s) determines that a violation of this ordinance has occurred, they shall issue a written warning notice to the person in violation notifying that person that a violation has occurred. Subsequent violations of the ordinance shall be subject to the penalties set forth below.

(b) Violations of this ordinance shall be punishable by fines as follows:

1. A fine not exceeding \$100 for the first violation in a one-year period;
2. A fine not exceeding \$200 for the second and each subsequent violation in a one-year period.

(Ord. 61-19/20, 11/21/2019)

Sec. 12-225. Severability.

Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

(Ord. 61-19/20, 11/21/2019)

Sec. 12-226. Effective Date.

The provisions of this ordinance shall become effective utilizing a phased approach. As of April 1, 2020, a food provider may only supply a plastic beverage straw, stirrer, or splash stick on request. As of January 1, 2021, distribution or provision of plastic beverage straws, stirrers, and splash sticks is prohibited except as otherwise permitted herein. Non-plastic alternatives to plastic beverage straws, stirrers and splash sticks may be provided on request.

(Ord. 61-19/20, 11/21/2019)

Sec. 12-227. Reserved.

Sec. 12-228. Reserved.

Sec. 12-229. Reserved.

ARTICLE IX. WASTE REDUCTION

Sec. 12-230. Findings; purposes.

The city council hereby finds as follows:

- (a) The City Council has a duty to protect the natural environment and the health of its citizens and visitors; and
- (b) The use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and
- (c) Despite recycling and voluntary solutions to control pollution from single-use carryout bags, very few single-use carryout bags are recycled; and
- (d) Numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife; and
- (e) The City of Portland's taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife; and
- (e) The City, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-

energy landfill)and supports efforts to achieve State recycle goals; and

- (g) From an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping; and
- (h) Whereas the City Council of the City of Portland aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and
- (i) Evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as those business are defined in this Ordinance; and
- (j) Studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags; and
- (k) The City Council of the City of Portland believes that residents and visitors should use reusable bags and that prohibiting the free distribution of single-use carryout bags by stores is appropriate and will incentivize the use of reusable bags; and
- (l) It is in the best interests of the health, safety and welfare of citizens and visitors of Portland to reduce the cost to the City of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Ordinance.

(Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

12-231. Definitions.

As used in this Ordinance the following terms have the following meanings:

Single-use carryout Bag. Single-use Carryout Bag means a bag other than a Reusable bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term Single-Use Carryout Bag includes compostable and biodegradable bags but does not include reusable

bags, produce bags, product bags or bags provided by pharmacists to contain prescription drugs.

Produce bag or Product bag. The terms *produce bag* or *product bag* mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from coming into direct contact with other purchased items.

Reusable Bag means a bag that is:

- (a) Designed and manufactured to withstand repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) That is at least 2.25 mil thick if made from plastic;
- (d) Has a minimum lifetime of 75 uses; and
- (e) Has the capability of carrying a minimum of 18 pounds.

Store. The term *Store* means any of the following retail establishments located within the City of Portland:

- (a) a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- (b) a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.

Store does not mean:

Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be "incidental" if such sales comprise no more than 2 percent of the business' gross sales in the City as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

(Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

12-232. Single-Use Carryout Bag

- (a) No Store shall provide a Single-Use Carryout Bag to a Customer at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this Section.
- (b) A Store may make available for sale to a Customer a Single-Use Carryout Bag for a minimum charge of five cents (\$0.05).
- (c) All monies collected by a Store for Single-Use Carryout Bags under this Chapter may be used by the Store for any lawful purpose.
- (d) All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout Bags.
- (e) Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout Bag unless the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.
- (f) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection (b).

(Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

12-233. Exemptions.

A Store shall be exempt from the provisions of this Article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public health or safety.

(Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

12-234. Record Keeping and Inspection.

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout Bag, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the City during regular business hours by any City employee authorized to enforce this Article. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store's address. The provision of false information including incomplete records or documents to the City shall be a violation of this Article.

(Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

12-235. Violations and enforcement.

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the City Manager or his/her designee(s) determines that a violation of this Article has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

Violations of this Article shall be punishable by fines as follows:

- (a) A fine not exceeding \$250 for the first violation in a one-year period;
 - (b) A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.
- (Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

12-236. Effective Date

The provisions of this ordinance shall become effective on April 15, 2015.
(Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

12-237. Severability.

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.
(Ord. No. 260-13/14, Passage 6-16-2014, Effective 4-15-2015)

ARTICLE X. ABANDONED BICYCLES

Sec. 12-238. Authority and Purpose.

The purpose of this Article is to make space available on the City's limited bicycle parking facilities, remove obstructions to the public right of way, and ensure recovered bicycles are put to productive uses for the community.
(Ord. No. 183-14/15, 4-6-2015)

Section 12-239. Definitions.

- (a) *Abandoned bicycle* means any bicycle that has remained in the same location within the public right of way for thirty (30) days or longer or that has remained in the

same location within the public right of way for fourteen (14) days or longer and meets two or more of the following criteria:

- (1) no tires or wheels;
 - (2) missing or warped wheels, handle bars, or seats;
 - (3) missing, rusted, or broken chain in a state that renders it inoperative; or
 - (4) visible layer of dust on the seat and/or handle bars.
- (b) Recovered bicycle means any bicycle tagged and removed as provided in this Article and as further detailed in the rules and regulations for said program established by the Department of Works.
- (c) Removal notice means a physical tag placed on a bicycle deemed to be abandoned pursuant to subsection (a), above, by the Department of Public Works and demanding its removal.
- (d) Non-profit partner means a local organization that specializes in refurbishing bicycles and that has expressed an interest and ability to put recovered bicycles back into productive uses for the community.

(Ord. No. 183-14/15, 4-6-2015; Ord. 108-15/16, 11-16-2015; Ord. 154-18/19, 2-20-2019)

Section 12-240. Identification & Removal Process

- (a) Where the Department of Public Works concludes that a bicycle meets the definition of an abandoned bicycle outlined in section 12-239(a), that bicycle may be tagged with a Removal Notice. The tag will list the date by which the bicycle must be removed, which will be within 72 hours (3 days) of being tagged.
- (b) Bicycles locked within the public right of way that are blocking the vehicular travel lane(s), the pedestrian way, a handicapped access ramp, or otherwise presenting a public safety hazard may be removed immediately without notice.
- (c) All bicycles tagged with a Removal Notice and remaining unclaimed after the 72-hour notice period will be removed and stored by the Department of Public Works for a minimum of 30 days.

- (d) If unclaimed after 30 days, the Department of Public Works may donate unclaimed bicycles to a local non-profit partner.

(Ord. No. 183-14/15, 4-6-2015; Ord. 108-15/16, 11-16-2015)

Section 12-241. Policy Implementation

This Article shall not alter the procedures or responsibilities of the Portland Police Department with respect to bicycles transferred to its possession and disposed of pursuant to 25 M.R.S. §§ 3501-3507. One (1) year after implementation, the Department of Public Works in conjunction with the Planning and Urban Development Department will evaluate the City's abandoned bicycle program and its current non-profit partner(s) to determine compliance with the purpose as stated in Section 12-238.

(Ord. No. 183-14/15, 4-6-2015; Ord. 108-15/16, 11-16-2015)