

Order 298-14/15  
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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 6, (BUILDINGS AND BUILDING REGULATIONS),  
AND CHAPTER 10, (FIRE PREVENTION AND PROTECTION)  
Re: Inspection of Rental Units**

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

1. *That Chapter 6, Sections 6-1, 6-2, 6-106, 6-116 to 6-125, 6-127, 6-129, 6-130, 6-150 to 6-153 and Chapter 10, Sections 10-2, 10-3 and 10-17 of the Portland City Code are hereby amended as follows:*

**ARTICLE I. IN GENERAL**

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

Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the provisions set forth in Chapter 6 is liable for the penalties set forth in this section.

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

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9. In addition to the other penalties in this section, the building authority or a housing safety official designated by the city manager may suspend a contractor's, owner's, or developer's right to obtain building permits or work on any project in the city if the building authority or a housing safety official designated by the city manager determines that a contractor's, owner's, or developer's violation or violations of any provision in articles II,

III, or IV of this chapter create such a threat to life or safety that a structure must be posted against occupancy or that the violation or violations render a structure uninhabitable. The suspension authorized by this subparagraph 8 shall be lifted when the building authority or a housing safety official designated by the city manager determines that the violation or violations have been fixed.

- (b) *Proceedings brought for benefit of municipality.* All fines resulting from these proceedings shall be paid to the city.

**Sec. 6-2. Fees for reinspections.**

Following the issuance of a notice of violation and an order to correct violations, the enforcement authority or a housing safety official designated by the city manager will reinspect once for no fee in order to determine whether the violations have been fixed in compliance with this chapter. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a fee as set forth in section 6-17 for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.

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**ARTICLE V. HOUSING CODE**

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

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

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

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

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

*Dwelling unit* shall mean one (1) or more rooms forming a single unit including food preparation, living, sanitary and sleeping facilities used or intended to be used by two (2) or more persons living in common or by a person living alone.

*Enforcement authority* means and includes the building authority, a housing safety official designated by the city manager, the health authority, and the director of planning and urban development.

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

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

- (a) No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing, storing or producing flammable liquids, toxic gas vapors or fibrous materials, such as asbestos, which may endanger the lives or safety of the occupants.
- (b) Every dwelling unit and every rooming unit shall have safe, unobstructed means of egress leading to safe and open spaces at ground level in accordance with applicable statutes, regulations and ordinances.
- (c) Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.
- (d) Storage rooms and storage lockers shall not be used for storage of refuse, rubbish or waste.
- (e) Every dwelling, dwelling unit, rooming house and rooming unit shall comply with the applicable provisions of the most current edition of the National Fire Protection Association Life Safety Code, and with

all other applicable state statutes and regulations. ~~The enforcement authority's inspection obligation under this subsection shall be limited to notify and cite the owner or any designated responsible party for violations relating to fire/smoke detectors and fire alarms systems.~~

- (f) When the health or building authority or a housing safety official designated by the city manager determines that a dwelling contains friable asbestos material in an amount and/or location which presents an unacceptable health hazard to the occupants and/or the general public, the owner of the dwelling, upon notification from the health or building authority or a housing safety official designated by the city manager, shall remove that material or encapsulate it. Removal or encapsulation shall be conducted in accordance with all applicable federal, state and local laws and regulations.

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

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

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

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

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

After the expiration of the time for correction of a violation, the health or building authority or a housing safety

official designated by the city manager shall make a reinspection of the premises, and if the violation has not been corrected and no appeal is pending as hereinafter provided, such authority may make such further order as he deems advisable or he may proceed to take legal action against the person liable for such violation.

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

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

- (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested in such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;

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

The building authority or a housing safety official designated by the city manager shall give notice in writing to the property owner or operator of such condemnation and posting, and in the event such property is occupied, he or she shall give like notice to the occupant, which shall also include a reasonable time limit within which such property shall be vacated.

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

No property which has been condemned and posted against occupancy shall again be used for the purpose of habitation until the building authority or a housing safety official designated by the city manager shall in writing approve of its use and shall likewise authorize the removal of the posted notice.

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

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

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

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

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

An appeal from any final decision of the building authority or a housing safety official designated by the city manager, if available by statute or otherwise by law, under the provisions of this article may be taken by an aggrieved party to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

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

The building authority or a housing safety official designated by the city manager may permit the use of buildings located on the islands for dwelling purposes which do not meet the minimum standards set forth in this article when he or she finds that it is not feasible or practicable to provide such minimum standards and the health, safety or general welfare of the occupants or the public will not be adversely affected.

**Sec. 6-130. Violations.**

Any person violating any of the provisions of this article or failing or neglecting or refusing to obey any order or notice of the building authority or a housing safety official designated by the city manager issued hereunder shall be subject to a penalty as provided in section 6-1.

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**ARTICLE VI. DISCLOSURE OF BUILDING OWNERSHIP**

**Sec. 6-150. Purpose.**

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of ~~multiunit~~—residential rental properties, sometimes managed through unresponsive property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. This article is intended to require the disclosure of the ownership of such property and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises, and to ensure that owners and tenants comply with chapters 6 and 10 of the City Code.

**Sec. 6-151. Registration required.**

(a) For purposes of this Article, a rental unit is a portion of any residential structure that is rented or available for rent to any individual or individuals for any length of time. A Single-Family Home, Condominium, or Apartment that is occupied

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

(b) Registration of ownership. The owner or owners of all buildings containing one (1) or more rental units~~three (3) or more dwelling units, rooming units, or any combination thereof~~ within the city shall register their ownership interest, address,~~and~~ telephone number,~~and~~ e-mail address, as well as~~and~~ the name, address and telephone number of the person or entity responsible for managing the property,~~or cause such interest to be registered,~~ with a housing safety official designated by the city manager~~the building authority~~ as provided in section 6-152 by January 1, 2016~~within ninety (90) days of the effective date of this article~~ or within thirty (30) days of purchase of the property and/or building, whichever occurs later.

~~The registration required hereunder shall be updated or withdrawn within thirty (30) days of transfer of ownership, change in management or change in registered agent as provided in section 6-152. Each and every owner of the property shall be responsible for the filing of the registration and for updating prior filings as required.~~

(c) Fee for Registration. The owner or owners shall pay to a housing safety official designated by the city manager a fee of \$35 per rental unit at the time of registration. Failure to pay this fee by January 1, 2016 shall constitute a violation pursuant to section 6-153.

(d) Annual Renewal and Fee. The owner or owners shall renew their registration annually by updating the information provided in their initial registration and by payment to the City through a housing safety official designated by the City Manager of a fee of \$35 per rental unit. Failure to update information or pay the annual renewal fee by January 1 shall constitute a violation pursuant to section 6-153.

(e) Registration of management companies. Any individual, firm, corporation or purchaser under a land installment contract pursuant to Title 13 M.R.S.A. § 481 et seq. as may be amended from time to time, managing property subject to the registration

requirements of subsection (a) shall register with the building authority its management responsibility ~~within thirty (30) days of the effective date of this article by January 1, 2016~~ or within thirty (30) days of assuming management responsibility. Any filing shall be updated, at least annually, if there are any changes whatsoever with regard to the information supplied. Failure to register management responsibility or update the information supplied regarding such management responsibility shall constitute a violation pursuant to section 6-153.

**Sec. 6-152. Registration form; information.**

A housing safety official designated by the city manager~~The building authority~~ shall provide forms to be completed by the owners and managers of properties subject to registration under this article and shall maintain a file containing all registrations made under this article.

- (a) The registration form for owners shall include, at a minimum, the following:
1. The street address of the building;
  2. The assessor's chart, block and lot of the property on which the building is located;
  3. The names, addresses, ~~and~~ telephone numbers, and e-mail addresses of all individual persons having any ownership interest in the property including, without limitation, all partners, all officers or trustees of any real estate trusts; and including the residential street address, e-mail address and home phone number of at least one (1) such individual person;
  4. The name, address and telephone number of the manager of the property or the person or persons responsible for its regular maintenance or repair;
  5. The name, ~~and~~ address, and e-mail address of a person designated as the agent of the owner or owners for the service of notices and civil process by the city. Service of notice and process upon the person so designated shall be deemed conclusive service upon the owner or

owners designating that person in any litigation pertaining to the premises.

(b) The registration form for managers of property shall include, at a minimum, the following:

1. The name, address, e-mail address and local telephone number of the management company and of at least one (1) such individual, including the residential street address, e-mail address and home telephone number of that individual; and
2. A list of all buildings for which the person or firm is responsible, including the street address and chart, block and lot description of the property and the name of the owner of that building.

#### Sec. 6-153. Violations.

(a) Any person ~~business entity or other organization~~ failing to timely file the required registration or failing to timely pay, in full, the registration fee or annual renewal fee, or failing to timely file any required update to the registration shall be in violation of this Article for which a fine of \$100.00 per day each day the violation continues shall be assessed. ~~or filing a false statement on any registration shall be guilty of an offense. It~~

(b) Any person providing false information with respect to registration shall be in violation of this article for which a fine of \$1,000.00 shall be assessed.

(c) It shall ~~shall also~~ be a violation of this article for which a fine of \$100.00 per day each day the violation continues shall be assessed for any owner or manager to rent any apartment or other portion of any building subject to registration, not registered under this article, or to permit the occupancy of such premises.

~~(a) (d)~~—No certificate of occupancy shall be issued for property subject to the registration requirements which is not registered in accordance with this article. ~~Each day's continuing failure to file such a registration, to update such registration or permitting the continued occupancy of such premises~~

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## Chapter 10 FIRE PREVENTION AND PROTECTION\*

### ARTICLE I. LIFE SAFETY CODE

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#### Sec. 10-2. Definitions.

Wherever the words "authority having jurisdiction" are used in the Life Safety Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.

Wherever the word "municipality" or "city" is used in the Life Safety Code, it shall be held to mean the City of Portland.

*Special hazard dwelling unit* shall mean any structure containing twelve (12) or more dwelling units.

#### Sec. 10-3. Amendments.

The NFPA 101: Life Safety Code adopted by section 10-1 is amended, modified and deleted in the following respects:

- (a) Section 3.3.32.8 shall be amended to read as follows:

*Historic Building:* A building designated a Landmark or Contributing Building within a local or National Register historic district, pursuant to Article IX of the Portland City Code.

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- (m) The provisions of the Life Safety Code shall ~~not~~ apply to all rental units as that phrase is defined in Portland City Code Chapter 6, §6-151~~one and two-family occupancies existing prior to the adoption of this ordinance, unless such structures are being used for a purpose which requires a state or municipal license,~~

~~including, but not limited to, daycare facilities, or are rented in their entirety and are the subject of a complaint to the City's Office of Building Inspections and Code Enforcement.~~

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**Sec. 10-17. Definitions.**

(a) Wherever the word "municipality" or "city" is used in the Fire Prevention Code, it shall be held to mean the City of Portland.

(b) Wherever the words "authority having jurisdiction" are used in the Fire Prevention Code, they shall be held to mean the chief of the fire department of the City of Portland, or his or her duly authorized representative or a housing safety official designated by the city manager.