

Order 127-16/17

Passage: 8-0 (Mavodones absent) on 2/22/2017

Effective 3/24/2017

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**CITY OF PORTLAND  
IN THE CITY COUNCIL**

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**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 10 FIRE PREVENTION AND PROTECTION  
Re: Smoke Alarms, Reinspection Fees, Open Burning, False  
Alarms, and Inspections and Enforcement**

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

*1. That Chapter 10, Article I, Section 10-3 of the City of  
Portland Code is hereby amended to read as follows:*

**Sec. 10-3. Amendments.**

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

...

- (i) New smoke alarm installations must use photoelectric technology.

~~Further, in All new single and or multiple-station smoke alarm installations in buildings subject to NFPA 101, Chapter 31, the primary power source must be the building's electrical service and the smoke alarms must be provided with a secondary (standby) power source. shall comply with section 9.6.2.10 without exception. New detectors shall not use ionization detection technology.~~ Therefore, the following sections shall be deleted:

~~Section 24.3.4.3~~

~~Section 31.3.4.5.2~~

~~Section 31.3.4.5.4~~

...

- (n) Inspections. The authority having jurisdiction, ~~whenever any governmental agency having jurisdiction over a particular premises should request it to do so,~~ upon proper identification, shall have the right to

enter at any and all reasonable times ~~into or upon any premises subject to this Code~~ for the purpose of inspecting ~~the premises~~ in order to determine compliance with the provision of this Code into or upon any of the following premises: any rental unit subject to registration under section 6-151; any premises subject to this Article, with the exception of premises subject to Chapter 24 of NFPA 101; any premises when any governmental agency having jurisdiction over a particular premises should request it to do so; or any premises in response to a complaint regarding conditions governed by this Chapter. It shall be a violation of this article for any person either to interfere with or to prevent such inspection.

2. That Chapter 10, Article III, Sections 10-25 and 10-25.9 of the City of Portland Code are hereby amended to read as follows:

**Sec. 10-25. Violations.**

The authority having jurisdiction is authorized to institute, or cause to be instituted by the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of Chapter 10.~~The provisions of Chapter 10 may be enforced by the authority having jurisdiction through the Uniform Summons and Complaint process or M.R.Civ.P. Rule 80K.~~

- (a) Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who shall violate any of the provisions of Chapter 10, including the codes adopted under this Chapter, ~~the Fire Code and/or the Life Safety Code hereby adopted~~ or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively pay a penalty as provided in section 1-15 of the city code and/or as

provided under state law. The imposition of any penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

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#### **Sec. 10-25.9. Reinspection.**

Following the issuance of a notice of violation and an order to correct violations, the authority having jurisdiction will reinspect once for no fee in order to determine whether the violations have been corrected in compliance with this chapter. If the violations have not been corrected in compliance with this chapter, the violator shall be assessed a fee of ~~seventy-five~~ one hundred and fifty dollars (\$~~75~~150.00) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property and the assessment and lien shall be collected and enforced pursuant to §1-16.

3. That Chapter 10, Article VII, Sections 10-92, 10-94 and 10-95 of the City of Portland Code are hereby amended to read as follows:

#### **Sec. 10-92. ~~Recreational Campfires~~ in the City of Portland ~~islands~~**

~~Recreational Camp~~ fires are ~~may be~~ permitted ~~on islands~~ within the City of Portland with a valid burning permit. All such ~~recreational camp~~ fires shall ~~be kindled below the mean high tide line and~~ comply with all State laws, this Chapter, and all rules and regulations promulgated pursuant to this Chapter ~~and rules~~ for open burning recreational outdoor fires. Any such burning permit may be cancelled for cause.

...

#### **Sec. 10-94. Violations.**

~~A violation of any provision of this article shall be punishable as provided in section 1-15 of this code.~~

In addition to the process established by section 10-25, this article may also be enforced by the fire chief or his or her designee, or by the police chief, or his or her designee through the Uniform Summons and Complaint process or M.R. Civ. P. Rule 80k.

#### **Sec. 10-95. Outdoor fireplaces.**

(a) No permit shall be required to burn in a fixed outdoor fireplaces shall be permitted when that has been installed and is operated in accordance with Section 10-16 of the City Code this Chapter, all rules and regulations promulgated pursuant to this Chapter, and National Fire Protection Association (NFPA) 211 (2010); Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

(b) Setback of an outdoor fire place from adjacent property lines shall be five (5) feet. No permit shall be required to burn in a recreational fire appliance that is operated in accordance with this Chapter, all rules and regulations promulgated pursuant to this Chapter, and the manufacturer's instructions. This paragraph shall not apply to the use of an open fire ring.

(c) All outdoor fireplaces and recreational fire appliances allowed under this section must be set back at least fifteen (15) feet from all structures, combustible material, and adjacent property lines.

4. *That Chapter 10, Article VIII, Sections 10-100, 10-104 and 10-107 of the City of Portland Code are hereby amended to read as follows:*

#### **Sec. 10-100. Purpose; definitions.**

(a) Purpose. In order to protect public safety and welfare and ensure fully operational signaling systems for the protection of life and property, it is necessary to ensure that such systems are correctly designed, installed and maintained.

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

*Alarm number* means any number assigned by the fire chief to a building which is connected by a fire alarm system to an

approved private central station.

*Alarm user* means an owner of any building, or part thereof, that has a master box alarm system y person whose building is connected to either the Dispatch Center of the City of Portland fire department or an approved private central station, or an agent of the owner who is responsible for the building.

*Approved private central station* means any privately operated message monitoring service which is approved by Underwriters' Laboratories, Incorporated, and approved by the authority having jurisdiction.

*Dispatch Center* (also known as the public safety answering point "PSAP") means any place utilized by the City of Portland for the receipt, monitoring or dispatching of alarms.

*False alarm* means any signal emitted from an approved private central station or master box alarm system that ~~which~~ is not in response to heat, smoke or fire requiring an immediate response by the fire department. "False alarm" includes any signals emitted by a negligently activated alarm system, or by an alarm system deliberately activated when an immediate response by the fire department is not required, or by a malfunctioning alarm system. However, "false alarm" does not include any signals emitted by an alarm system activated by unusually severe weather conditions, or other cause beyond the control of the alarm user. In case of any dispute, it shall be the burden of the alarm user to demonstrate to the satisfaction of the fire chief that an alarm signal was not a "false alarm."

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**Sec. 10-104. False alarm penalties.**

(a) *Third response.* Once a third ~~response to a~~ false alarm at a building within any ~~calendar year~~ twelve-month period has been identified by the fire chief or his/her designee, the fire chief shall give written notice of the false alarm to the alarm user within ten (10) business days, and the alarm user shall file a written report with the chief within five (5) days thereafter stating the cause of the false alarm, if known, and describing corrective action taken, if any.

(b) *Fourth, fifth and sixth responses.* For the fourth, fifth and sixth ~~responses to a false alarms at a building by the fire department~~ within any ~~calendar yeartwelve-month period~~, the alarm user shall, upon demand, pay a penalty of two hundred dollars (\$200.00) per instance and shall, in the case of any equipment failure, file with the fire chief within three (3) days of notice to do so a signed statement by a qualified private alarm agent that the alarm system has been inspected and is in proper working order. In the case of human error or other cause, the alarm user shall file a written report with the fire chief describing corrective action taken, if any.

(c) *Seventh and subsequent responses.* For the seventh and subsequent ~~responses false alarms at a building by the fire department to a false alarm~~ within any ~~calendar yeartwelve-month period~~, the alarm user shall, upon demand, pay a penalty of three hundred and fifty dollars (\$350.00).

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#### **Sec. 10-107. Violations.**

~~A violation of any provision of this article, including the failure to pay any false alarm penalty, shall be punishable as provided in section 1-15 of this Code.~~

~~This article may be enforced by the fire chief or his or her designee through the Uniform Summons and Complaint process or through M.R. Civ. P. 80k.~~

In addition to the process set forth ~~above~~ in section 10-25, when the chief of the fire department, in his or her sole discretion, determines that the property owner has failed to take action to correct a faulty fire alarm system within four (4) hours of being notified of its deficiency, the chief shall have the authority, in person or through agents, to enter onto any property to have fire protection equipment repaired. The fire chief shall cause the condition to be corrected and shall send a notice of any action taken to correct an unsafe condition and the charges for the work done to the owner or the owner's authorized representative. The charges shall be payable to the city within thirty (30) days of the date of the notice. Any unpaid charges assessed under this section shall be enforceable by lien for the benefit of the city and shall be collected pursuant to section 1-16 of this Code.