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## Question A

### An Act To Increase the Minimum Wage in Portland

An act to Increase the Minimum Wage in Portland will increase the minimum wage in Portland to \$15.00 an hour over three years: It increases the minimum that tipped employees must be paid by their employer to 50% of the minimum wage, although employers must make up the difference if tipped employees do not earn at least minimum wage when their tips are added in. It moves the effective date of annual cost-of-living increases to the minimum wage from July 1 to Jan. 1 to maintain consistency with state law. It also requires that employees be paid 1.5 times the minimum wage rate for any work performed during an emergency declared by the state or the municipality if that emergency applies to the employee's geographical workplace. For instance, if the minimum wage were \$12/hr, and the State of Maine or the City of Portland issued emergency proclamations such as the emergency orders declared during the COVID-19 pandemic, work performed during that emergency would be paid at 1.5 times the minimum wage, or \$18/hr. This higher rate of pay would not apply to employees being allowed to work from home.

1. That Chapter 33, Section 33.7 of the Portland City Code is hereby amended to read as follows:

#### Section 33.7. Minimum Wage.

...

(b) *Minimum Wage rate:*

(i) Beginning on January 1, ~~2022~~<sup>2016</sup>, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to ~~\$13.00~~<sup>\$14.10</sup> per hour;

(ii) Beginning on January 1, ~~2023~~<sup>2017</sup>, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to ~~\$14.00~~<sup>\$10.68</sup> per hour; and

(iii) ~~Beginning on January 1, 2024, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to \$15.00 per hour; and Beginning on every first day of July following January 1, 2018, and every first day of July thereafter, the Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be increased according to the Consumer Price Index—All Urban Consumers (CPI-U) percentage increase from the prior year, unless the Minimum Wage equals the State Minimum Wage as set forth below. If there is no increase, the Minimum Wage will be unchanged. The percentage increase in the annual CPI-U for the previous calendar year from the annual CPI-U for the calendar year preceding that shall be the percentage by which the Minimum Wage is increased on the first day of July 2018 and every July 1 thereafter.~~

(iv) ~~On January 1, 2025 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. The increase in the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for All Urban Consumers, CPI-U, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢. If the state minimum wage established by 26 M.R.S. § 664 is increased in excess of the minimum wage in effect under this ordinance, the minimum wage under this ordinance is increased to the same amount, effective on the same date as the increase in the state minimum wage, and must be increased in accordance with this ordinance thereafter. If the State Minimum Wage established by 26 M.R.S. § 664 is equal to or greater than the Minimum Wage established herein, the Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to equal the State Minimum Wage.~~

...

(c) *Tip Credit:*

(i) An Employer may consider tips as part of the wages of a Service Employee toward satisfaction of the Minimum Wage established by this ordinance, in accordance with 26 M.R.S. §664(2) and until such time as the tip credit is eliminated under state law. Such a tip credit shall be no greater than half the Minimum Wage rate established by this ordinance ~~the amount necessary to reduce the direct wages paid to a Service Employee to an amount equal to the minimum direct wages required to be paid to Service Employees pursuant to 26 M.R.S. §664(2). Minimum direct wages pursuant to 26 M.R.S. §664(2) is the amount required by state law to be paid to a Service Employee after an Employer reduces the state minimum wage by the maximum allowable tip credit as provided in 26 M.R.S. §664(2).~~

...

(g) Effect of Emergency Proclamation. For work performed during a declared emergency, the effective Minimum Wage rate established by this ordinance shall be calculated as 1.5 times the regular minimum wage rate under subsection (b) above. A declared emergency under this ordinance shall include the period of time during which:

(i) A proclamation issued pursuant to Chapter 2, Sec. 2-406, of this code declares an emergency to exist, if such emergency proclamation is geographically applicable to the Employee's workplace; or

(ii) A proclamation issued pursuant to 37-B M.R.S. § 742 declares an emergency to exist, if such emergency proclamation is geographically applicable to the Employee's workplace.

A declared emergency under this ordinance shall not apply to work performed under a teleworking arrangement, as defined under 5. U.S.C. § 6501,

allowing the Employee to work from home.

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Question B

An Act To Ban Facial Surveillance by Public Officials in Portland

An Act to Ban Facial Surveillance by Public Officials in Portland will ban the city of Portland and its departments and officials from using or authorizing the use of any facial surveillance software on any groups or members of the public, and provides a right to members of the public to sue if facial surveillance data is illegally gathered and/or used.

- 1. That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 17, Article XI, which said article reads as follows:

ARTICLE XI. FACIAL SURVEILLANCE TECHNOLOGY

Sec. 17-129. Purpose.

The purpose of this Article is to protect the privacy and civil liberties of the residents of Portland.

Sec. 17-130. Definitions.

For the purposes of this Article, the following terms have the following meanings:

Face surveillance means an automated or semi-automated process that assists in identifying or verifying an individual, or captures information about them, based on the physical characteristics of their face.

Face surveillance system means any computer software or application that performs face surveillance.

City of Portland means any department, agency, bureau, and/or subordinate division of the City of Portland.

City of Portland official means any person or entity acting on behalf of the City of Portland, including any officer, employee, agent, contractor, subcontractor, or vendor.

Sec. 17-131. Facial Surveillance Technology Prohibition.

It shall be unlawful for the City of Portland or any City of Portland official to:

- (a) Obtain, retain, store, possess, access, use, or collect:

- 1. any face surveillance system; or
2. any data or information derived from a face surveillance system or other use of face surveillance;

- (b) Enter into a contract or other agreement with any third party for the purpose of obtaining, retaining, storing, possessing, accessing, using, or collecting, by or on behalf of the City of Portland or any City of Portland official:

- 1. any face surveillance system; or
2. any data or information derived from a face surveillance system or other use of face surveillance;

- (c) Issue any permit or enter into a contract or other agreement that authorizes any third party to obtain, retain, store, possess, access, use, or collect:

- 1. any face surveillance system; or
2. any data or information derived from a face surveillance system or other use of face surveillance.

Sec. 17-132. Enforcement.

(a) Suppression. No data or information that is obtained, retained, stored, possessed, accessed, used, collected, or derived from any face surveillance system or other use of face surveillance in violation of this article, and no evidence derived therefrom, may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority. Any data or information that is obtained, retained, stored, possessed, accessed, used, collected, or derived in violation of this article shall be considered unlawfully obtained, and shall be deleted upon discovery.

- (b) Private cause of action.

1. Any violation of this article constitutes an injury and any person so injured may institute proceedings in the Maine Superior Court in a civil action seeking injunctive relief, declaratory relief, damages, and attorney's fees. Any action instituted under this paragraph shall be brought against the City of Portland. If applicable, such action may also be brought against any third party with whom the City of Portland contracted or entered into an agreement, or to whom the city of Portland issued a permit, in violation of subsections (b) or (c) of Section 17-131 of this article.

2. Any person who has instituted proceedings under the previous paragraph and is found to have been subjected to face surveillance in violation of this article, or about whom data or information is found to have been obtained, retained, stored, possessed, accessed, used, or collected in violation of this article, shall be entitled to recover actual damages not less than the greater of:

- a. \$100 for each violation of this article; or
b. \$1,000.

3. Any prevailing plaintiff in any action brought under this subsection shall be entitled to the award of costs and reasonable attorney's fees.

(c) Violation of this ordinance by any official or employee of the city of Portland is grounds for suspension or termination. The violator may also be required to participate in retraining.

**Sec. 17-132. Exceptions and Safe Harbors**

Nothing in this article shall be construed to:

- (a) limit any individual's rights under state or federal law;
- (b) prohibit the use of an automated or semiautomated process for the purpose of redacting a recording for release or disclosure to protect the privacy of a subject depicted in the recording;
- (c) prohibit the use of facial recognition or similar biometric technique on privately owned consumer devices for personal use or security, or for commercial use or security; or
- (d) prohibit the use of facial recognition or similar biometric technique in managing secure entry or access to restricted buildings, rooms, or other secure spaces, devices, or things, provided that:
  - 1. any data or information derived from such a system is only obtained, retained, stored, possessed, accessed, used, or collected with the knowledge and consent of any person authorized for such entry or access; and
  - 2. no data or information derived from such a system about any persons not authorized for such entry or access may be obtained, retained, stored, possessed, accessed, used, or collected.

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Question C

**An Act To Implement a Green New Deal for Portland**

An Act to Implement a Green New Deal for Portland requires that all building projects receiving \$50,000 or more in public funds through grants by the City, Community Development Block Grants loans, HOME loans, Neighborhood Stabilization loans, tax increment financing, or other gifts, resources, property or things of value from the City, are built using up-to date environmental standards, with solar-ready or living roofs, and that workers on these projects receive additional worker pay and training. It requires that 25% of the units in new building developments of 10 units or more be affordable to people making 80 % of the area median income, and increases the fee developers must pay to opt out of this requirement from \$100,000 to \$150,000 per unit. It also requires the City to annually publish and present a report detailing the city's use of and reliance on fossil fuels including the following information:1) a survey of all new buildings built in Portland without fossil fuel based infrastructure; 2) a survey of green building technologies that have been implemented as alternatives to fossil fuels; 3) an assessment of the benefits of adopting this policy; 4) a survey of relevant legislation enacted at the state and local level; and 5) proposal for further changes to the City code to reduce the use of fossil fuels.

1. That Chapter 2, Section 2-302 of the Portland City Code is hereby amended to read as follows:

**Sec. 2-302. Contracts; purchases.**

...

(b) Supplies, materials and/or services procurement. The City Manager shall have the authority to award any bid and to execute any contract or approve any purchase for and in behalf of the City for supplies and/or materials to be furnished and/or services to be performed for the city, including without limitation professional consulting services, provided that:

- (1) The Finance Director certifies that funds are available for such procurement; ~~and~~
- (2) The bid is awarded and the contract or purchase executed as the result of a competitive process, which shall mean either by competitive bidding or request for proposals; and
- (3) Any firm awarded a city funded contract or contracts aggregating \$50,000 or more, for the construction of any buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, demolition, waterworks, airports, public schools, or any other structures upon which construction may be let to contract by the City, the awardee, including all sub-contractors, must:
  - a. compensate all employees on the project at no less than the wage rates and benefits determined pursuant to 26 M.R.S.A. §1306 or Portland City Ordinance Ch. 33, §33-1 to 33-12, whichever is greater;
  - b. require all workers employed on the project in construction work to complete, at a minimum, a time-paid 10-hour training course for safety established and/or approved by the United States Department of Labor, Occupational Safety and Health Administration prior to work on the project, where "construction work" has the same meaning as in 29 C.F.R. § 1926.32(g); and
  - c. employ on the project the following minimum number of apprentices, to the extent qualified apprentices are determined to be available in accordance with applicable rules adopted by the Maine Department of Labor as provided by Apprenticeship in Energy Facility Construction, 26 M.R.S. § 3501, where "apprentice" has the same meaning as in 26 M.R.S. § 3501, subsection 1:
    - i. for any contract awarded on or after January 1, 2021 and before January 1, 2023, a number equal to at least 10% of all persons employed on the project;
    - ii. for any contract awarded on or after January 1, 2023 and before January 1, 2025, a number equal to at least 17.5% of all persons employed on the project;
    - iii. for any contract awarded on or after January 1, 2025, a number equal to at least 25% of all persons employed on the project.

...

(e) Exceptions to required competitive process. The requirement of a competitive process set forth in subsection (b) above may be waived by the City Manager, in his or her discretion, if one (1) or more of the following conditions are met, provided that all other provisions set forth in subsection (b) above are met, and the Finance Director has certified that funds are available for such procurement:

...

2. That Chapter 6, Sections 6-98, 6-165, 6-166, 6-167, 6-168, 6-169, 6-170, 6-173, 6-174, 6-175, 6-176 and 6-177 of the Portland City Code are hereby amended to read as follows:

**Sec. 6-98. Adoption of standardized codes.**

(a) The City hereby adopts the following codes by reference, pursuant to 30-A M.R.S. § 3003:

1. The Maine Uniform Building and Energy Code ("MUBEC"), as required by 10 M.R.S. § 9724; ~~and~~

2. The appendix to the Maine Uniform Building and Energy Code ("MUBEC") containing optional energy conservation and efficiency requirements, as provided by 10 M.R.S. §9722, sub-§6, ¶O; and

~~23.~~ The National Electric Code (2014) ("NEC").

(b) MUBEC and the appendix to MUBEC containing optional energy conservation and efficiency requirements shall be enforced by the building authority, which shall be accomplished through inspections performed by the City building official and code enforcement officers, pursuant to 25 M.R.S. § 2373.

(c) To the extent that any standard or provision of MUBEC conflicts with any standard or provisions from the appendix to MUBEC containing optional energy conservation and efficiency requirements, the standard or provision contained in the appendix shall control and be enforced by the building authority, as provided above.

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

...

**Sec. 6-165. Purpose.**

The purpose of this article is to establish the energy performance and roofing requirements for constructing and renovating city buildings and certain publicly-funded building projects with the goal of planning, designing, constructing, and managing to maximize energy performance, minimize adverse environmental impacts, provide healthy work places, conserve natural resources, and promote sustainable development in Portland.

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**Sec. 6-166. Definitions.**

...

Funded in whole or in part: (a) Receipt of tax increment financing in an amount greater than ~~two hundred fifty thousand dollars (\$200,000)~~ two hundred fifty thousand dollars (\$200,000-00\$50,000); or (b) receipt of grants by the City, HOME loans, Community Development Block Grant loans or Neighborhood Stabilization Program loans, the sum of which is greater than ~~two hundred fifty thousand dollars (\$200,000-00\$50,000)~~; or receipt of other funds, gifts, resources, property, or other thing or things of value from or by the city of Portland, to promote, allow for, contribute to, or otherwise facilitate the new construction or renovation project, the aggregate dollar value of which, net remuneration to the city of Portland, is greater than fifty thousand dollars (\$50,000).

Hardship: Some verifiable level of difficulty or adversity arising from factors identified in Sec. 6-170 ~~or other circumstances beyond the control of the applicant~~, by which the applicant cannot reasonably comply with the requirements of this ordinance.

Infeasible: The existence of verifiable obstacles arising from the factors identified in Sec. 6-170 ~~or other circumstances beyond the control of the applicant~~ which render the applicant incapable of complying with the requirements of this ordinance.

Leadership in Energy and Environmental Design (LEED) Standards: A third-party rating system developed by the United States Green Building Council (USGBC) where credits are earned for satisfying specified green building criteria.

Living roof: The media for growing plants, as well as the set of related components installed exterior to a facility's roofing membrane for the purpose of increasing renewable energy resources, aiding stormwater management, and promoting biodiversity. Living roofs may include roof gardens, green roofs, landscaped roofs, and other rooftop areas designed to achieve such purposes.

Qualified professional: A person (a) engaged or employed in fields of architecture, building design, construction, energy efficiency, engineering, or related specialty or consultancy; and (b) holding relevant professional licensure or "green building" professional certification, including but not limited to Professional Engineer licensure, LEED Accredited Professional (AP), Well AP, Certified Passive House Consultant (CPHC) or Certified Passive House Designer (CPHD), Green Globes Professional, or similar credential.

Renovation:

(a) At the time of the application, the total construction cost is greater than or equal to the market value of the property as determined by the city's tax assessor; or

(b) A conversion from non-conditioned to conditioned space; or

(c) An addition of building gross square footage greater than or equal to the gross square footage of the existing building; or

(d) Any change to the use category of a structure or property, as defined in chapter 14 of this code.

Solar zone: An allocated space on a new construction or renovation project that is unshaded and free of obstructions, serving as a suitable place where solar panels can be installed at a future date. The solar zone can be located at any of the following locations:

(a) Roof of the building.

(b) Overhang of the building.

(c) Roof of another structure located within 250 feet of the primary building.

(d) Overhang of another structure within 250 feet of the primary building.

(e) Covered parking installed with the building project.

(f) Other structures including, but not limited to, trellises, arbors, patio covers, carports, gazebos, and similar accessory structures.

...

#### **Sec. 6-167. Standards for new buildings and renovation projects.**

All new construction and renovation projects to be owned, or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 2,000 square feet in floor area or greater shall be certified ~~test or above~~ the most recently published and applicable LEED Silver Standard using appropriate LEED Rating System, and shall be certified by a licensed engineer or qualified professional as compliant with the Better Roof Requirements contained in Section 6-175 below, particularly those listed below thereof and whole thereof:

~~(a) LEED 2009 for Commercial Interiors.~~

~~(b) LEED 2009 for Existing Buildings, Operations, and Maintenance.~~

~~(c) LEED 2009 for Healthcare.~~

~~(d) LEED 2009 for New Construction and Major Renovations.~~

~~(e) LEED 2009 for Schools.~~

All new construction and renovation projects to be owned or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 495,000 square feet in floor area or greater shall demonstrate, under any third-party certification and quality assurance system (e.g. LEED, Passive House, Living Building, or Green Globes) or energy model signed by a licensed engineer or qualified professional, a certain percentage improvement in the proposed energy performance of the building compared to the minimum baseline performance rating per ASHRAE Standard 90.1, being particularly the ~~2010~~ most recently published version thereof and the whole thereof, or equivalent standard if the ASHRAE Standard 90.1 is not applicable to the project. Such percentage improvement shall be or exceed thirty percent (30%) for new construction, twenty-five percent (25%) for existing buildings, and twenty percent (20%) for historic buildings. All such new construction and renovation projects to be owned or occupied by the city of Portland, or to be funded in whole or in part by the City of Portland, that are of 5,000 square feet in floor area or greater shall be certified by a licensed engineer or qualified professional as compliant with the Better Roof Requirements contained in Section 6-175 below.

Copies of the most recently published LEED Rating Systems and ASHRAE Standard 90.1 shall be maintained by and kept ~~are~~ on file with the City Clerk.

...

#### **Sec. 6-168. Submissions.**

Upon submission of an application for a building permit for new construction or renovation projects that are required to meet the standards set forth in section 6-167, the applicant shall also submit the following, as applicable:

(a) One of the following:

\_\_\_\_\_ 1. A LEED checklist, and a LEED application number (or other proof of LEED applications status); or

\_\_\_\_\_ 2. ~~(b)~~ A third-party certification system document of verification from a qualified professional; or

\_\_\_\_\_ 3. ~~(c)~~ A preliminary energy model, along with a statement of certification from a licensed engineer or qualified professional that the project meets the standard(s); and

~~(d)~~ A written explanation of how the building will obtain the applicable standards using design plans to demonstrate compliance where applicable (example: LEED submittal templates or Passive House Pre-Certification report); and

(c) Plans and documentation prepared by a qualified professional demonstrating compliance with the Better Roof Requirements contained in Section 6-175 below, including:

\_\_\_\_\_ 1. Documentation of the as-designed structural loads and plans for interconnecting a photovoltaic (PV) system to the electrical system of the building; or

\_\_\_\_\_ 2. Documentation of the as-designed structural loads and layout plans for the Living Roof system of the building.

...

#### **Sec. 6-169. Certificate of Occupancy.**

A copy of the final submission of LEED documentation to the USGBC or final LEED certification decision, or a statement of final certification from a licensed engineer or qualified professional indicating that the project meets the standards along with any amendment to the preliminary energy model shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy for new construction or renovation projects that are required to meet the standards set forth in section 6-167. A temporary certificate of occupancy may be issued by the city if necessary prior to the submission of final LEED documentation to the USGBC. Equivalent documentation from a licensed engineer or qualified professional is required if compliance is met with other third-party certification and quality assurance systems.

...

#### **Sec. 6-170. Partial exemption and exceptions.**

1. If it is a hardship or infeasible for an applicant to meet the standards set forth in section 6-167, the applicant may request a partial exemption from regulation. The burden is on the applicant to show hardship or infeasibility. Factors to consider in determining whether hardship or infeasibility exists ~~include, but are not~~ shall be limited to:

- ~~(a) Availability of green building materials and technologies; or~~
- ~~(ab) Compatibility~~ A conflict of green building requirements with other government requirements and building standards; or
- ~~(be)~~ Required alterations to an historic building that would compromise its historic character as determined by the Historic Preservation Board; or
- ~~(cd)~~ Specific circumstances that would defeat the purpose of the standards.

2. Any request for a partial exemption must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. In order for a partial exemption to be granted, the applicant must demonstrate all possible effort to maximize building performance according to the standards set forth in section 6-167 and shall indicate the maximum level of standards which are reasonably achievable for the building as follows:

- (a) In the case of a LEED standard requirement, the applicant will list the number of credits reasonably achievable and verified by each applicable licensed professionals or qualified professional.
- (b) In the case of ASHRAE 90.1 or equivalent standard requirement, the applicant will document the percentage above the standard that is reasonably achievable with a statement of certification from a licensed engineer.
- (c) In the case of other third-party "green building" certification and quality assurance systems (example: Passive House), the applicant will submit project performance documentation meeting or exceeding the standards of the certification system prepared by a qualified professional.

If the partial exemption is granted, the applicant shall be required to comply with this ordinance in all other respects. A copy of the final submission of LEED documentation to the USGBC or a statement of final certification from each applicable licensed professionals or licensed engineer indicating that the project meets the level of standard presented at the time of application along with any amendment shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

3. Any request for an exception to the LEED Certification requirement must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. If an applicant submits standardized third-party certification or documentation signed by a qualified professional, an exception to the LEED Certification requirement may be granted provided that such third-party certification or documentation demonstrates that it meets or exceeds at least one of the following:

- (a) LEED Platinum Certification by the USGBC; or
- (b) Passive House Certification or EnerPHIT Certification by International Passive House Institute (PHI) or PHIUS+ Certification by the Passive House Institute US (PHIUS); or
- (c) Living Building Challenge or Living Community Challenge, Petal Recognition or Net Zero Energy Certification from International Living Future Institute (IFLI); or
- (d) Well v2 or current most stringent standard by International WELL Being Institute; or
- (e) Green Globes Certification by Green Building Initiative; or
- (f) Other equivalent "green building" standards that include published verification and quality assurance procedures when approved on a case-by-case basis by planning director and sustainability director.

Any applicant granted an exception to the LEED Certification requirement as provided above shall be required to comply with the ordinance in all other respects. A copy of any and all papers or documents submitted to the third-party certifying body (example: DOE, PHIUS, IFLI, or PHI) or qualified professional, including any amendment made thereto, and a statement of final certification signed by each applicable qualified professional, licensed engineer, or third-party certifying body shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

4. Any request for an exception to the Better Roof Requirement under Section 6-175 below must be made at the time of application as specified in section 6-168 and approved by the director of planning and urban development. An exception to the Better Roof Requirement may be granted provided that an applicant submits certification or documentation signed by a qualified professional demonstrating all possible effort to comply with the Better Roof Requirements contained in Section 6-175, and the applicability of at least one of the following specific reasons for an exception:

- (a) A new construction or renovation project other than single-family residential buildings may be granted an exception to the Better Roof Requirement if a solar PV system with a power rating of no less than 1 watt per square foot of roof area is permanently installed at the time of construction.
- (b) A single-family residential building may be granted an exception to the Better Roof Requirement if a solar PV system rated at 1000 watts or greater is permanently installed at the time of construction.
- (c) A new construction or renovation project may be granted an exception to the Better Roof Requirement if the roof is designed as a helicopter landing zone.
- (d) A renovation project may be granted an exception to the Better Roof Requirement unless the total roof area is increased by at least 2,000 square feet over the total roof area of the existing building.
- (e) A new construction or renovation project may be granted an exception to the Better Roof Requirement reducing the required total area of solar zone by up to 50 percent if the roof is shaded by objects that are not part of the building and are permanent. These objects shall only be adjacent buildings or trees evaluated as healthy by an arborist and documentation must be submitted by a qualified professional.
- (f) If the building has a gross floor area of 2,000 square feet or more, and has 10 or fewer occupied floors, a new construction or renovation project may be granted an exception to the Better Roof Requirement to substitute some or all of the required total area of solar zone with area of living roof, such that each square foot of living roof shall count as 0.5 square foot towards the required total area of solar zone, provided that applicants submit such a living roof design for review and approval upon submission of an application for a building permit.

Any applicant granted an exception to the Better Roof Requirement as provided above shall be required to comply with the ordinance in all other respects. A copy of any and all papers or documents submitted to each applicable qualified professional, including any amendment made thereto, and a statement of final certification signed by each applicable qualified professional shall be submitted to the city's department of planning and urban development prior to the issuance of a certificate of occupancy.

5. The director of planning and urban development shall annually, on or before July 1, submit a report to the City Council, containing at a minimum a list of each applicant and project granted a partial exemption or exception under this section during the previous twelve months, and for each partial exemption or exception granted the reason(s) why it was so was granted.

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**Sec. 6-173. ~~Reserved~~Conditional Expansion of Applicability.**

Under the following limited circumstances, Sec. 6-167 and Sec. 6-168 shall apply to all new construction and renovation projects in the City of Portland, regardless of ownership, occupation, or sources of funding:

(a) The Maine Uniform Building and Energy Code, 10 M.R.S. § 9721 et seq., is repealed or amended such that a municipality may, through its municipal home rule authority, enact or enforce codes or standards separate from or exceeding those adopted by the Technical Building Codes and Standards Board pursuant to the Maine Uniform Building and Energy Code; or

(b) The rules, codes, and standards adopted by the Technical Building Codes and Standards Board pursuant the Maine Uniform Building and Energy Code, 10 M.R.S. § 9721 et seq., as the Maine Uniform Building and Energy Code, 16-642 C.M.R. ch. 1-6, are repealed or amended such that a municipality may, through its municipal home rule authority, enact or enforce codes or standards separate from or exceeding such rules, codes, or standards; or

(c) This ordinance, or substantially similar rules, codes, or standards are approved by the Technical Building Codes and Standards Board as amendments to the Maine Uniform Building and Energy Code, 16-642 C.M.R. ch. 1-6, or as amendments to the appendix to the Maine Uniform Building and Energy Code containing optional energy conservation and efficiency requirements, after submission of such proposed amendments under Sec. 174 below; or

(d) The application of this ordinance to all new construction and renovation projects in the city of Portland, through the city's home rule authority is otherwise not prohibited or subject to preemption under state law.

**Sec. 6-174. ~~Reserved~~Submission of Amendments to the MUBEC.**

The Sustainability Office, Permitting and Inspections Department, or other appropriate Office or Department of the city of Portland, on behalf of the city of Portland and to address the health, safety, and welfare needs of the inhabitants of the city of Portland, until such amendments are approved and adopted must annually by May 30 submit proposed amendments to the Maine Uniform Building and Energy Code, or to the appendix to the Maine Uniform Building and Energy Code containing optional energy conservation and efficiency requirements, as provided for under 16-642 C.M.R. ch. 1, § 13, and the amendment process created pursuant to that section, that would apply, or allow to be applied, the standards and requirements of this ordinance, or substantially similar rules, codes, or standards, to all new construction and renovation projects in the city of Portland.

**Sec. 6-175. ~~Reserved~~Better Roof Requirements.**

Except as provided under Sec. 6-170 above, to be certified by a qualified professional as compliant with the Better Roof Requirements of this section, a new construction or renovation project must demonstrate all of the following:

(a) The project contains a total area of solar zone that is no less than 15 percent of the total roof area after subtracting any area of the roof that is covered by a skylight; and

(b) The total area of solar zone shall be free from any shading or obstruction such as vents, chimneys, architectural features, or roof-mounted equipment, not including any obstructions located north of all points of the solar zone; and

(c) If the solar zone is located on a roof that has ratio of rise to run of greater than 2:12, then the roof must be oriented between 110 degrees and 270 degrees of true north (not magnetic north), in order to ensure a reasonable solar exposure if a solar energy system is installed in the future; and

(d) The main electrical service shall be provided such that capacity is adequate for future solar electric and such reserved space shall be permanently marked in main electrical service panel "For Future Solar Electric".

The total area of the solar zone may be composed of multiple subareas. No dimension of a subarea can be less than 5 feet. If the total roof area is equal to or less than 10,000 square feet, each subarea must be at least 80 square feet. If the total roof area is greater than 10,000 square feet, each subarea must be at least 160 square feet. The solar zone design must comply with other applicable codes and regulations.

**Sec. 6-176. ~~Reserved~~Reporting on Fossil Fuel Infrastructure.**

The policy of the city of Portland shall be to endeavor by all reasonable and permissible means to reduce reliance upon fossil fuels, and to reduce and discourage the use of natural gas, heating oil, or other fossil fuel based infrastructure both in new construction and renovation projects, and in existing buildings, including but not limited to such projects and buildings to be owned, occupied, or funded in whole or in part by the city of Portland. In furtherance of this policy, the city manager, or their designee, shall annually, on or before July 1st, publish and present to the city council a report concerning benefits of such policy, and such annual report will, at a minimum, include:

(a) The total number of new buildings built in Portland without fossil fuel-based infrastructure;

(b) A survey of the green building technologies that have been implemented as alternatives to oil or natural gas power, such as solar roofs, green roofs, or sustainable building design and construction consistent with certifications and guidelines such as LEED, PassiveHouse, Living Building or others;

(c) Assessment of the benefits to the City of Portland of the adoption of this policy, including the impact on carbon emissions and increased energy efficiency of public buildings;

(d) A survey of legislation enacted at the municipal and state level to develop a coordinated regional plan to stop the use of fossil fuels to power buildings;

(e) Proposals for any changes to the city code that might further achieve reduction in use of fossil fuels or fossil fuel-based infrastructure in the city of Portland.

**Sec. 6-177. Reserved Severability.**

If any provision of this Article shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

...

3. That Chapter 14, Sections 14-485 and 14-487 of the Portland City Code are hereby amended to read as follows:

**Sec. 14-485. Definitions**

...

Workforce housing unit for rent means a dwelling unit for which:

- (a) The rent is affordable to a household earning ~~400%~~ 80% or less than of AMI; and
- (b) The unit is rented to a household earning ~~400%~~ 80% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

Workforce housing unit for sale means a dwelling unit for which:

- (a) The purchase price is affordable to a household earning ~~420%~~ 80% or less of AMI; and
- (b) The unit is sold to a household earning ~~420%~~ 80% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

...

**Sec. 14-487. Ensuring Workforce Housing.**

...

(d) Workforce Housing Minimum. At least ~~ten percent (10%)~~ twenty five percent (25%) of the units in the project shall meet the definition of workforce housing unit for sale or for rent. The project shall have the option of paying a partial fee-in-lieu as per (e)4 below for any fractional value or providing an additional unit on site.

(e) Standards

...

2. Workforce units ~~must are encouraged to~~ be integrated with the rest of the development, ~~must should~~ use a common entrance and ~~must should~~ provide no indications from common areas that these units are workforce housing units.

...

4. As an alternative to providing workforce housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund as defined in Sec. 14-489. The fee for affordable units not provided shall be ~~\$406,000~~ \$150,000 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

...

7. The term of affordability for the required ~~40-25~~ percent workforce units provided shall be defined as follows:

Percentage of Workforce Units Provided	Minimum Term of Affordability for Required Workforce Units
40%	<del>Longest term permitted under federal, state and local laws and ordinances</del>
25%	30 years
50%	20 years
100%	10 years

+++++

Question D

**An Act To Protect Tenants**

**An Act to Protect Tenants will cap most annual rent increases to the rate of inflation, incentivize landlords to provide 90-day notice to tenants they are asking to vacate, and create a tenant/landlord board to permit additional rent increases when individual building circumstances warrant, such as major capital improvements. Several types of rental units in the City are exempted from this Act, including: units operated by municipal housing authorities, accessory dwelling units as defined in the City Code, rental units in multi-unit buildings in which there are four (4) or fewer units and the owner of the building occupies one of the units, and accommodations provided in a hospital or religious facility.**

1. That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 6, Article XII, which said article reads as follows:

## ARTICLE XII. RENT CONTROL AND TENANT PROTECTIONS

### Sec. 6-230. Purpose.

The purpose of this Article is to address increasing rental costs within the City of Portland; to promote neighborhood and community stability; to protect the City's tenant population; to limit arbitrary evictions; and to stabilize and make more predictable future rent increases, all while remaining in conformance with Maine law, and ensuring that Landlords within the City receive a fair return on investment.

### Sec. 6-231. Applicability.

This Article shall apply to Rental Units in the City limits of Portland, exempting the following:

- (a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;
- (b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;
- (c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;
- (d) Rental Units within a building containing only two (2), three (3) or four (4) dwelling units, one of which the Landlord currently occupies as his or her principal residence;
- (e) Accommodations where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency; and
- (f) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code.

### Sec. 6-232. Definitions.

Allowable increase percentage means the amount that the rent of a Covered Unit may be raised within a Rental Year, unless a Landlord is entitled to additional increases as laid out in Section 6-233 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2021, and shall be equal to 100 percent of the change in the Consumer Price Index for Greater Boston Metro Area, as published by the United States Bureau of Labor Statistics or its designee.

Base rent means the initial amount of rent that a Landlord charges for a Covered Unit, as more specifically defined in Section 6-233 of this Article.

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not charged to a Tenant during a particular Rental Year.

Constructed means a Rental Unit that has received its final certificate of occupancy from the City's Permitting and Inspections Department, or its designee.

Covered unit means a Rental Unit within the City of Portland that does not fall within a category exempted from this Article by Section 6-231.

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2021.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2021 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

Landlord means an owner, manager, managing agent, sublessor, or other person having the right to rent or sell or manage any housing unit or rental property or any agent of these individuals or entities.

Qualified family member means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage, or adoption.

Rent means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in consideration with, the use or occupancy of rental units and housing services. Such consideration includes, but is not limited to, monies and fair value of goods and services rendered to or for the benefit of the Landlord under the Rental Agreement, or in exchange for a Rental Unit, or housing services of any kind.

Rent board means the set of appointed individuals responsible for the administration of this Article, in accordance with the terms set forth below.

Rent stabilization allowances means collectively the Allowable Increase Percentage, the Tax Rate Rent Adjustment, and any additional rent increase exemptions approved by the Rent Board under Section 6-234 of this Article.

Rent stabilization ordinance means Chapter 6, Article XII of the Code of Ordinances, City of Portland, Maine, as amended.

Rental agreement means a written legal contract between a Landlord and a Tenant for the use and/or occupancy of a Rental Unit.

Rental unit means any dwelling unit that is rented or otherwise made available for rent for residential use or occupancy, together with all additional rights, privileges, or services connected with use or occupancy of such a unit, including but not limited to vehicle parking spaces, storage, and commons areas and/or recreational facilities held out for use by the Tenant.

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2021, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tax rate rent adjustment means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City changes the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit.

Tenancy means the right or entitlement of a Tenant to use or occupy a rental unit.

Tenant-Based Rental Assistance means any and all forms of tenant-based rental assistance and vouchers, including but not limited to:

- (a) Tenant-based rental assistance through the Section 8 Housing Choice Voucher Program, 42 U.S.C § 1437f (o)

- (b) Tenant-based rental assistance through the HOME Investment Partnerships Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C § 12701 et seq.;
- (c) Tenant-based rental assistance under the HOD-Veterans Affairs Supportive Housing (HUD-VASH), authorized by § 8 (o) (19) of the United States Housing Act of 1937, 42 U.S.C. § 1437f (o) (19);
- (d) Tenant-based rental assistance through the Shelter Plus Care Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11403-11407b, as amended;
- (e) Tenant-based rental assistance through the Supportive Housing Program authorized by title IV, subtitle F, of the Stewart B McKinney Homeless Assistance Act, 42 U.S.C. §§ 11381-11389, as amended;
- (f) Tenant-based rental assistance through the Section 8 Disaster Voucher Program (DVP);
- (g) Tenant-based rental assistance through the Housing Opportunities for Persons with AIDS (HOPWA) Program, 42 U.S.C. § 12901 -12912 as amended;
- (h) Tenant-based rental assistance through the Community Block Grant Program, 42 U.S.C. § 5301 et seq. as amended;
- (i) Tenant-based rental assistance through the Continuum of Care Program authorized by subtitle C of title IV of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11381-11389;
- (j) Tenant-based rental assistance through the Rural Development Voucher Program authorized through § 542 of the Housing Act of 1949, as amended. See 78 Fed. Reg. 49374 (Aug. 14, 2013) (proposed rule);
- (k) Tenant-based rental assistance through the Maine Bridging Rental Assistance Program, authorized by M.R.S. Title 34-B § 3011;
- (l) Tenant-based rental assistance through the Maine State Housing Authority Home To Stay Program, M.R.S. Title 30-A § 4771;
- (m) Tenant-based rental assistance through the Maine State Housing Authority Stability Through Engagement Program, M.R.S. Title 30-A § 4771;
- (n) Tenant-based rental assistance through the City of Portland's Tenant Based Rental Assistance Program, M.R.S. Title 30-A § 4771;
- (o) Tenant-based rental assistance through the City of Portland's General Assistance Program, authorized by M.R.S. Title 22 § 4301 et seq.; and
- (p) Such other Tenant-based rental assistance or rental vouchers or rental coupons as may be authorized under any federal, state, or local program.

### **Sec. 6-233. Establishment of base rent.**

(a) Base Rent for Current Covered Units. Beginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151(c). Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance.

#### (b) Base rent for Discontinued Covered Units.

- (i) If a Covered Unit is not registered with the City as of January 1, 2021, but is registered with the City after such date, the Base Rent shall be set by the Landlord.
- (ii) If a Covered Unit is registered with the City as of January 1, 2021, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the Rental Year in which the Covered Unit was removed from the rental housing market.
- (iii) If a Covered Unit is registered with the City as of January 1, 2021, but is subsequently removed from the rental housing market for a period of five (5) or more Rental Years, the Base Rent for such a Covered Unit upon reentry into the rental housing market shall be set by the Landlord.

(c) Base rent following renovation or reconfiguration of Covered Units. Upon the renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the appropriate increase in rent. When determining the appropriate increase in rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, and any other factor determined relevant in the opinion of the Rent Board.

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit.

### **Sec. 6-234. Rent increase limitations.**

(a) Beginning on September 1, 2021, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage and the Tax Rate Rent Adjustment for the following calendar year.

(b) A Landlord may only increase the rent charged for a Covered Unit once within a Rental Year, by an amount that conforms to the following specifications:

- (i) Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.
- (ii) Tax Rate Rent Adjustment. If the mill rate within the City of Portland is altered for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.
- (iii) New Tenancy. A landlord may increase the rent on a Covered Unit by five percent (5%) of the base rent in addition to any other allowable increases when a new tenant occupies a unit. This increase may be applied at most once per year, regardless of the number of new tenancies.
- (iv) Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.
- (v) Additional Rent Board Approved Increases. In addition to the above rent adjustments, the Rent Board may approve additional rent increases properly demonstrated by the Landlord, attributable to:
  - i. Capital improvement costs, including financing costs;
  - ii. Uninsured repair costs;
  - iii. Increased housing service costs; and
  - iv. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.

(c) Under no circumstances may a Landlord raise the rent of a Covered Unit by more than ten (10) percent within a Rental Year. Any rent increases available to a Landlord in excess of ten (10) percent must be banked for use in a subsequent Rental Year.

(d) Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than seventy-five (75) days before the effective date of the rent increase. This document must include the date on which the Tenancy began, the date on which the rent will be increased, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above. Failure to provide such documentation shall be considered a violation of this Article.

(e) A Tenant who receives notice of a rent increase that they believe does not conform with this Section may file an appeal of said rent increase with the Rent Board. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. If such an increase is more than is allowed by this Article, the Board may impose such fines as are allowed by this Article.

**Sec. 6-235. Process of banking rent increases.**

If a Landlord chooses to not impose any rent increases to which they are entitled pursuant to Section 6-234 above, these increases may be banked, in whole or in part. Banked increases may be used to raise the rent of Covered Units in subsequent Rental Years in addition to the Rent Stabilization Allowances established for that year by the Rent Board, provided that the total increase of such rent shall not exceed ten (10) percent within a single Rental Year.

**Sec. 6-236. Termination of Tenancies-At-Will**

- (1) In order to be terminated by a Landlord, tenancies-at-will must be terminated by providing a minimum of 90 days' written notice to Tenant except as provided below:
  - a. "For Cause" tenancies terminable on 7 days' notice pursuant to 14 M.R.S. § 6002(1) may be terminated in accordance with Section 6002(1);
  - b. Short-term rentals with a term of fewer than 30 days' are exempt from the 90-day notice period outlined herein;
  - c. Holdover tenancies are exempt from the 90 day notice period outlined herein;
  - d. Where a Landlord provides \$500.00 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will may be terminated by notice to the Tenant of sixty (60) to eighty-nine (89) days;
  - e. Where a Landlord provides \$1000 reimbursement to Tenant for the inconvenience of termination, tenancies-at-will may be terminated by notice to the Tenant of thirty (30) to fifty-nine (59) days.
- (2) Reimbursement amounts outlined in subsections (c) and (d) above are lump-sum amounts payable in a single installment for the collective benefit of all tenants of a unit. Tenants are responsible for allocating the reimbursement amount among themselves.

**Sec. 6-237. Discrimination prohibited in sale or rental of housing units.**

- (a) A tenant shall have the right to secure a rental housing unit without being refused that right on the basis of discrimination because of race, color, sex, sexual orientation, physical or mental disability, ancestry, national origin, or family status, pursuant to 5 M.R.S. Section 4581-A, et. seq., as amended from time to time.
- (b) A landlord shall not refuse to rent or impose terms of tenancy on any tenant who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual's status as a recipient as described in 5 M.R.S. §4581-A(4), as amended from time to time.
- (c) It shall be prohibited for a landlord to refuse to rent or negotiate for the rental of, or otherwise make unavailable or deny a dwelling to any tenant because of the tenant's source of income or because of the requirements of any program providing the source of income;
- (d) It shall be prohibited for or a landlord to refuse to participate in or comply with any federal, state, or local requirements of a tenant-based rental assistance program, including, but not limited to the following:
  1. Refusing to allow inspections of a dwelling by the public housing authority or other entity administering a tenant-based rental assistance program;
  2. Refusing to make reasonable repairs necessary for the dwelling to meet the housing quality standards of the tenant-based rental assistance program; such repairs will be considered reasonable if they do not substantially alter or change the housing unit or do not require repairs substantially different from those that would be required to bring the rental unit into compliance with the Maine Warranty of Habitability Act or local building or housing codes applicable for new construction.
  3. Refusing to complete any necessary paperwork, including but not limited to such documents as the Request for Tenancy Approval form, the Housing Assistance Payments Contract, and the Tenancy Addendum or applicable General Assistance forms; and,
  4. Refusing to provide information required by the public housing authority or other entity administering the source of income or tenant-based rental assistance program.

**Sec. 6-238. Notice of ordinance to tenants.**

(a) The Planning Department or its designee shall create and make available on the City's publicly accessible web site a plain language document that explains the rights, responsibilities, and protections created by this Ordinance.

(b) The document referenced above shall be provided by Landlords to all Tenants in Covered Units at the commencement of the rental of the Covered Unit and shall be provided again upon any update to the document made by the City.

(c) An acknowledgement of receipt of the document described above must be signed by all Tenants, and a copy of the acknowledgement kept on file by the Landlord for at least three (3) years and made available for inspection at the request of the City of Portland.

(d) Landlords of buildings shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

**Sec. 6-239. Non-waiver of rights.**

No provision of, or right conferred by, this Article may be waived by a Tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage, or induce a Tenant to waive any provision hereof, or right hereby, shall be a violation of this Article. Nothing herein shall be construed to void any term of a Rental Agreement that offers greater rights than those conferred hereby.

**Sec. 6-240. Enforcement and remedies.**

Any violation of this Article is considered a civil infraction and shall be enforced pursuant to the Portland City Code Chapter 1, §1-15.

**Sec. 6-241. Limitation of Liabilities**

(a) Nothing in this Article shall be interpreted to contravene the general laws of the State of Maine; and

(b) Nothing in this Article shall be construed to create additional liabilities greater than those already existing under law or to create new private causes of action.

**Sec. 6-242. Severability.**

\_\_\_\_\_ The provisions of this Article are severable. If any of its provisions are held invalid by act of a court of competent jurisdiction, all other provisions of this Article shall continue in full force and effect.

**Sec. 6-243. – Sec. 6-249. Reserved.**

**2.** *That the Code of Ordinances, City of Portland, Maine, is hereby amended by adding a section to be numbered Chapter 6, Article XIII, which said Article reads as follows:*

**ARTICLE XIII. RENT BOARD**

**Sec. 6-250. Creation; composition.**

\_\_\_\_\_ There shall be a Rent Board of seven (7) members. Members of the Rent Board shall be residents of the city and shall not be officers or employees of the city or any of its agencies or departments.

\_\_\_\_\_ Two (2) members shall be appointed to fill at-large seats, and may reside in any part of the city. The remaining five (5) members shall be comprised of one member from each of the five (5) city council wards. Should the number or location of said city council wards be changed, the districts and number of Rent Board members shall change to mirror such changes.

\_\_\_\_\_ The City shall take reasonable steps, but is not required, to appoint to the Rent Board with no more than three (3) landlords and at least three (3) tenants.

**Sec. 6-251. Appointment; terms.**

\_\_\_\_\_ The members of the Rent Board shall be appointed by the City Council for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three (3) members shall expire in any calendar year.

**Sec. 6-252. Vacancies.**

\_\_\_\_\_ Permanent vacancies on the Rent Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

**Sec. 6-253. Removal of members.**

\_\_\_\_\_ Any member of the Rent Board may be removed for cause by the City Council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.

**Sec. 6-254. Compensation.**

\_\_\_\_\_ Members of the Rent Board shall serve without compensation.

**Sec. 6-255. Chair and vice-chair.**

\_\_\_\_\_ (a) The members of the Rent Board shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their number as vice-chair. The chair may administer oaths. The chair shall have the right, upon request, to designate any person or organization as a specially interested party for purposes of offering evidence and conducting cross-examination at hearings.

\_\_\_\_\_ (b) In the absence of the chair, the vice-chair shall act as chair and shall have all the powers of the chair. The vice-chair shall have such other powers and duties as may from time to time be provided by the rules of the Rent Board.

**Sec. 6-256. Staff secretary; minutes, public records.**

\_\_\_\_\_ The Housing Safety Office shall designate a member of its staff to serve as staff secretary of the Rent Board and attend all its proceedings. The staff secretary shall keep the minutes of the proceedings of the Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

**Sec. 6-257. Quorum and necessary vote.**

\_\_\_\_\_ As to any matter requiring a hearing, no business shall be transacted by the Rent Board without a quorum, consisting of four (4) members being present. The concurring vote of at least four (4) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three (3) weeks at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

**Sec. 6-258. Meetings, hearings, and procedures.**

\_\_\_\_\_ (a) Regular meetings of the Rent Board shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any three (3) members of the Board or at the request of the city council. All meetings and hearings of the board shall be open to the public.

\_\_\_\_\_ (b) The Rent Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the staff secretary and with the city clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.

**Sec. 6-259. Public hearings.**

\_\_\_\_\_ Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Rent Board and shall be conducted in accordance with relevant state law, this code, and the rules of the board.

**Sec. 6-260. Record and decisions.**

(a) The minutes of the staff secretary, and the transcript if one (1) is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Rent Board, and the decision of the Board shall constitute the records.

(b) Every final decision of the Rent Board shall include written findings of fact, and shall specify the reason or reasons for such decision.

(c) The staff secretary shall mail notice of any decision of the Rent Board to the applicant and any designated interested parties within five (5) days of such decision.

**Sec. 6-261. Conflicts.**

No member of the Rent Board shall participate in the hearing or disposition of any matter in which they have an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended.

**Sec. 6-262. Appeals to Superior Court.**

An appeal from any final decision of the Rent Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

**Sec. 6-263. Jurisdiction and authority.**

In addition to the jurisdiction conferred on it by other ordinances of the City and in accordance therewith, the Rent Board shall have the following jurisdiction and authority:

(a) To hear, review, and approve or deny Landlord applications for rent increases greater than those allowed by the Rent Stabilization Ordinance;

(b) To hear, review, and approve or deny Landlord applications for increases in Base Rent due to the renovation or reconfiguration of existing Covered Units, as provided for in Section 6-234 above.

(c) To hear, review, and grant or deny appeals from Tenants regarding allegations violations of Maine statute regarding the habitability of residential units.

(d) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed.

(e) To hear, review, and decide the appropriate outcome of all disputes arising between Landlords and Tenants on matters falling within the scope of Article XII of this Chapter, if both parties consent to such mediation and resolution by submitting the landlord/tenant dispute form, as maintained and edited by the Housing Safety Office, signed by both Landlord and Tenant no later than fourteen (14) days before the date on which such a hearing shall be scheduled.

(f) To impose such fines as are necessary and allowed for violations of the provisions of the Rent Stabilization Ordinance.

(g) To prepare and recommend to the City Council changes and amendments to the City's Rent Stabilization Ordinance.

(h) To prepare an annual report on the state of the City's rental unit availability, which shall be presented to the City Council as part of a regularly-scheduled public hearing. This report shall include a summary of rents within each of the five (5) council wards. Such reporting may or may not be done in conjunction with similar reporting required of the City's Rental Housing Advisory Committee, as established by this Chapter.

(i) To initiate changes and amendments to this Article, as well as to the city's Rent Stabilization Ordinance.

3. That Chapter 6, Section 151, of the Code of Ordinances, City of Portland, Maine, is hereby amended as follows:

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

...  
(c) Additional Information Required for Covered Units. A Covered Unit, as defined by Section 6-232 of this Chapter, shall not be considered registered unless and until the registrant has submitted the following additional information:

1. The current rent charged at the time of registration;
2. The increase in rent (if any) when compared to the previous Rental Year's rent;
3. Whether the increase (if any) is attributable to: (1) the Allowable Increase Percentage and Tax Rate Rent Adjustment, as defined in Section 6-232; or (2) also includes Banked Rent, as defined in Section 6-232;
4. The amount of Banked Rent, if any, accumulated in the previous Rental Year;
5. The amount of security deposits or other payments demanded in addition to rent for each Covered Unit; and
6. The number of bedrooms, number of bathrooms, and the presence or absence of a kitchen from each Covered Unit.

(d) Registration data made available. The City's Permitting and Inspections Department or its designee is required to make anonymized data from the registration of Covered Units available to the Rent Board at the Board's request. Such data shall not include the names, or street and unit numbers of any reported units.

4. That Chapter 6, Section 152, of the Code of Ordinances City of Portland, Maine, is hereby amended as follows:

**Sec. 6-152. Registration Fees.**

...  
(b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay fifty dollars (\$50.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars (\$30) from each registration fee shall be appropriated to Housing Safety Office to cover the administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

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Question E

**An Act To Restrict Short Term Rentals in Portland**

**An Act to Restrict Short Term Rentals (STRs) in Portland will restrict all mainland STRs to only those that are owner-occupied. It increases the annual fee for all STR's to \$1,000 for each mainland STR and \$400 for each island STR. The initiative also increases penalties for violations, requires the Department of Permitting and Inspections to maintain a log of complaints against STRs, and allows the city to revoke STR licenses for any violations.**

1. That Chapter 6, Sections 6-150.1, 6-151, 6-152, 6-153, 6-154, 6-156, 6-157 and 6-158 of the Portland City Code are hereby amended to read as follows:

**Sec. 6-150.1. Definitions.**

*Island Short Term Rental* shall mean a short term rental located on one of the following islands in the City of Portland: Peaks Island, Great Diamond Island, Cushing Island, Little Diamond Island, House Island, and/or Cliff Island. For the purposes of this ordinance, any short term rental located on any of these islands shall be considered an Island Short Term Rental, and not an Owner-Occupied Short Term Rental.

*Owner-Occupied* shall mean a rental unit owned and occupied by the registrant as all or part of the registrant's his or her primary residence. Accessory dwelling units as defined in Chapter 14 of this Code, are not considered owner-occupied units for purposes of short term rental registration and regulation.

*Primary Residence* ~~shall mean the dwelling in which a person resides as his or her legal residence for more than one half of a year and registers as his or her address for tax and government identification purposes.~~ shall have the same meaning as "Permanent residence" as defined in the Maine Resident Homestead Property Tax Exemption, 36 M.R.S. § 681 et seq.

*Registrant* shall mean the owner of a rental unit, ~~or a tenant, with permission from the owner,~~ seeking to register a rental unit.

*Tenant-Occupied* shall mean a rental unit in which the registrant is not the record owner of the rental unit, but lawfully occupies the rental unit as his or her primary residence.

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

(c) *Additional Information Required for Short Term Rentals.* A short term rental shall not be considered registered unless and until the registrant has submitted a complete application together with all information required by this article, paid the fee required by Sec. 6-152, and a registration number has been issued.

In addition to all of the information required in Section 6-154 subsection (b) above, a Short-Term Rental registrant must provide at a minimum the following information and any other information requested by the City's Permitting and Inspections Department or their designee:

1. A short term rental application;
2. Whether the rental unit is owner-occupied or is an island short term rental, tenant-occupied, or non-owner-occupied;

~~b. For Short Term Rental units that are tenant occupied, the tenant must provide a notarized primary residence affidavit, and a notarized statement of permission by his/her landlord, both on forms supplied by the City. The tenant must also produce for review one of the following demonstrating residency at the tenant occupied unit:~~

- ~~i. Valid driver's license or other state-issued identification;~~
- ~~ii. Valid motor vehicle registration; or~~
- ~~iii. Other documentation proving primary residence to the satisfaction of the City's Permitting and Inspections Department.~~

**Sec. 6-152. Registration Fees.**

(c) *Short Term Rental Registration Fee Structure.* ~~The registrant of a short term rental shall pay the fee specified in the chart below. All fees will be cumulative and will increase based on the number of total units registered by the owner. The fee total will accumulate first by counting any owner-occupied, tenant-occupied, first, and then fees will be attributed at the higher rate for any non-owner-occupied mainland units.~~

~~Owners and tenants may register more than one owner-occupied or tenant-occupied unit (bedrooms, separate spaces, etc.) within their primary residence.~~

Owner-Occupied Units, Tenant-Occupied Units, Island Short Term Rentals	1st Unit - \$100 2nd Unit - \$250 3rd Unit - \$500 4th Unit - \$1,000 5th Unit - \$2,000
Non-Owner-Occupied Mainland Units	1st Unit - \$200 2nd Unit - \$500 3rd Unit - \$1,000 4th Unit - \$2,000 5th Unit - \$4,000

~~1. For any Island Short Term Rental, the registrant shall pay a fee of four hundred dollars (\$400) to the city each year at the time of registration or renewal. Subject to the limitations in Sec. 6-153, below, the registrant may register more than one Island Short Term Rental, but for each additional Island Short Term Rental, the registrant must pay an additional fee of four hundred dollars (\$400).~~

~~2. For any Owner-Occupied Mainland Short Term Rental, the registrant shall pay a fee of one thousand dollars (\$1,000) to the city each year at the time of registration or renewal. Subject to the limitations in Sec. 6-153, below, the registrant may register more than one Owner-Occupied Mainland Short Term Rental within their primary residence, including but not limited to additional bedrooms and separate spaces, but for each additional Owner-Occupied Mainland Short Term Rental, the registrant must pay an additional fee of one thousand dollars (\$1,000).~~

**Sec. 6-153. Limitations on Short Term Rental Units.**

(a) *Occupancy Limit.* Overnight short term rental guest occupancy in each rental unit will be limited to two (2) guests per bedroom plus no more than two (2) additional guests.

(b) Limitation on Total Number of Short Term Rentals. No more than 400 non-owner occupied mainland short term rental units shall be registered in any one calendar year.

Any mainland short term rental unit in an owner-occupied multi-unit, where the unit is not the primary residence of the owner, shall not be counted considered as ~~an~~ owner-occupied unit for the purposes of this ordinance, nor shall such unit be eligible for short term rental.

(c) Limitations on number of Short Term Rentals an Individual or Entity May Register. ~~Any~~ No individual or entity may only register up to more than five (5) short term rental units in the City, including owner-occupied, ~~non-owner occupied~~, and island short term rental units, in any one (1) calendar year. For purposes of this section, short term rental units registered by an entity in which the registrant has an ownership interest shall be counted towards this limit.

(d) No individual or entity may register a short term rental in ~~any single family home unless it is owner-occupied; tenant-occupied with permission of the owner; or located on an Island.~~

(e) ~~The number of short term rental units that may be operated in a multi-unit building are as follows:~~

Total # of Units in a Building	# of Short Term Rental Units Allowed in a Building	
	Owner Occupied	Non-Owner Occupied
2	4	4
3	2	2
4	3	2
5	4	2
6-9	5	4
10+	5	5

~~1. Tenant-occupied units, where the tenant is the registrant, shall be counted towards these limits.~~

~~2. Owner-occupied units shall be counted towards these limits.~~

~~(f) Notwithstanding the requirements of subsections (c) and (e), Subject to the limitations contained in this section, owners may register up to five (5) owner-occupied units (bedrooms, separate spaces, etc.) within their primary residence, provided that the number of rental units does not exceed the number of bedrooms.~~

...

#### **Sec. 6-154. Allocation of Short Term Rentals.**

~~(a) Non-owner occupied mainland short term rental units, which are limited by section 6-153(b), shall be allocated on a first come, first registered basis. Once the total number of units identified in section 6-153(b) has been reached, a waitlist will be formed to help gauge market demand.~~

~~(b) Notwithstanding Subject to the limitations in section 6-153, current registrations of short term rentals may be renewed each year upon application and payment of the registration fee, so long as the renewal is complete by January 1 of that year.~~

~~4. (b) Failure to renew by January 1 shall result in the forfeiture of the right to renew the registration, and any subsequent application shall be treated as a new application for registration.~~

~~2. The renewal date for 2019 only shall be February 1, 2019.~~

(c) No registration under this Article shall be transferrable or assignable.

...

#### **Sec. 6-156. Short Term Rental Violations and Penalties.**

Notwithstanding the provisions of sections 6-1, 6-155, or 6-157, short term rentals operating in violation of this article shall also be subject to fines set forth below. For the purposes of this section, each day of operating a short term rental in violation of this article shall constitute a separate violation.

(a) For the violation of operating a short term rental without a valid registration, the violator shall be penalized with a fine of \$1,000 per day for the first offense and an additional fine of \$1,500 per day for each additional offense, to be recovered upon complaint to Maine District or Superior Court in Portland, for use of the City.

(b) For any other violation of this Article pertaining to a short term rental, notwithstanding an otherwise valid short term rental registration, the violator shall be penalized with a fine of \$1,000 per day for each such violation, to be recovered upon complaint to Maine District or Superior Court in Portland, for use of the City.

Any such fines may be in addition to any suspension or revocation imposed in accordance with the provisions of section 6-157 of this Article. In any court action, the City may seek injunctive relief in addition to penalties. The City shall be entitled to recover its costs of enforcement, including its reasonable attorney's fees.

#### **Sec. 6-1567. Enforcement.**

(a) The building authority as defined in section 6-1 or his or her designee is authorized to institute or cause to be instituted by and through the office of the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

(b) No certificate of occupancy shall be issued for property that is subject to the registration requirements of this article, but is not registered in accordance with this article.

(c) The Permitting and Inspections Department shall decline to grant registration or renewal to any dwelling unit upon failure of the registrant to meet all of the requirements of this chapter.

(d) Complaints.

1. Any member of the public, including persons and organizations, may file complaints regarding any short term rentals operating in violation of this Article with the Permitting and Inspections Department. Public complaints, or copies thereof, regarding any such violation received by any City Department shall immediately be transmitted to and received as filed properly by the Permitting and Inspections Department.

2. The Permitting and Inspections Department shall establish and maintain a log of all complaints received under this subsection for each short-term rental, and shall annually, on or before July 1, publish and present to the City Council a report containing the entire log of complaints from the previous 12 months.

3. The Permitting and Inspections Department shall investigate all complaints as appropriate, and request voluntary correction by the owner and/or registrant responsible for the cause of any substantiated complaint.

4. If the owner and/or registrant fails to remedy the cause for any substantiated complaint within seven days after such a request, the Permitting and Inspections Department shall pursue appropriate enforcement action under this section, including referral to the building authority for enforcement under subsection (a) above.

5. Nothing in this subsection shall be construed to alter, apply to, or restrict the activities, policies, or procedures of the Portland Police Department, nor to prohibit or restrict any otherwise appropriate response by the Portland Police Department or any of its Officers, provided that copies of all complaints received by the Portland Police Department regarding any short term rentals operating in violation of this Article shall be transmitted to the Permitting and Inspections Department as provided in paragraph 1, above.

(e) Any registration under this article may be revoked or suspended for violation of any of the provisions of this Chapter. If a violation is found to exist by the Permitting and Inspections Department, in addition to the suspension or revocation of the then-current registration, the Permitting and Inspections Department may also prohibit the Owner not only from registering that unit under this Article, but also from registering any other dwelling unit under this Article, for 12 months following the current registration expiration date.

(ef) Any short term rental at a property that is designated by the City as a disorderly house and fails to remedy the disorderly house as required by section 6-202, shall, ~~at the discretion of the City Manager or his or her designee,~~ have its registration revoked and be ineligible for registration for a period of twelve (12) months. Any registration after revocation shall be considered a new registration and not a renewal. Upon the second designation of the short term rental

property as a disorderly house, the City shall, ~~at the discretion of the City Manager or his or her designee,~~ prohibit the registered owner from operating the property as a short term rental or post the property against occupancy pursuant to section 6-201.

(eg) Fines ~~may~~ shall be attributed to Property Management firms found operating short term rental units in violation of this article. These fines ~~may~~ shall be in addition to fines levied against owners of property.

(fh) Violations of the provisions of this article shall be grounds to deny an application or renewal application for a short term rental registration.

**...Sec. 6-157g. Revenue Allocation.**

**~~Sec. 6-158. Reserved.~~**

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Question F

EXHIBIT A:

**City of Portland  
Citizen Initiative to Chapter 35 the Portland City Code  
re: No Cannabis Cap Campaign**

1. That Section 35-14(f) of Chapter 35 of the Portland City Code is amended to read as follows:

**35-14. Licensing Procedure.**

Retail licenses shall be considered as follows:

...

(f)(4) Applicants with the highest point totals shall be chosen first for tentative approval for a license.

Where two or more applicants ~~have the same number of points, some or all of the applicants~~ cannot be awarded tentative approval due to either the ~~250'~~ 100' dispersal requirement, ~~the cap imposed by Sec. 35-43,~~ or other limitations in this ordinance, tentative approval will be awarded, as between those two or more applicants, based on a lottery.

2. That Section 35-43(h) of Chapter 35 of the Portland City Code is amended to read as follows:

**35-43. Additional Retail Store and Dispensary Requirements.**

Retail stores and dispensaries licensed pursuant to this Article must also meet the following performance standards:

...

h. Dispersal requirement. A marijuana retail facility or dispensary may not be located within ~~250'~~ 100' of any other marijuana retail facility or marijuana dispensary, as measured along or across public ways, in a straight line, from any entrance that is accessible to the public.

This distance restriction shall not apply to one adult use and one medical marijuana retail facility or dispensary that 1) share the same or immediately adjoining space; 2) have common ownership; 3) have consistent naming and branding; and 4) are permitted by the state to share such space.

The distance restriction shall also not apply to an existing dispensary or medical marijuana retail store operating with a City business license, a change of use permit, certificate of occupancy, and/or a site plan approval prior to September 1, 2019, so long as that dispensary or medical marijuana retail store does not apply to convert to an adult use retail store, that qualifies pursuant to Sec. 35-43(i)(1).

3. That Section 35-43(i) of Chapter 35 of the Portland City Code is hereby repealed.

**SUMMARY**

This initiative proposes to modify Chapter 35 of the Portland City Code, Governing the Regulation of Marijuana Businesses, in two ways: (1) a reduction from 250' to 100' in the required distance between marijuana retail facilities and dispensaries; and (2) removing the cap on the number of marijuana retail stores and dispensaries in the City.