

Chapter 6 BUILDINGS AND BUILDING REGULATIONS*

*Cross reference(s)--Alarm systems, Ch. 2.5; fire prevention and protection, Ch. 10; land use, Ch. 14; rodent and vermin control, Ch. 22; sewers, Ch. 24; streets, sidewalks and other public places, Ch. 25; moving of structures, § 25-191 et seq.; swimming pools, Ch. 26.

- Art. I. In General, §§ 6-1--6-15**
- Art. II. Building Code, §§ 6-16--6-31**
- Art. III. Electrical Code, §§ 6-32--6-85**
 - Div. 1. Generally, §§ 6-32--6-50
 - Div. 2. Permits, §§ 6-51--6-65
 - Div. 3. Inspection and Enforcement, §§ 6-66--6-85
- Art. IV. Mechanical Code, §§ 6-86--6-105**
- Art. V. Housing Code, §§ 6-106--6-149**
- Art. VI. Disclosure of Building Ownership, §§ 6-150--6-153**
- Art. VII. Green Building Code, §§ 6-165 - - 6-172**

ARTICLE I. IN GENERAL

Sec. 6-1. Penalties.

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

- (a) *Penalties.* Except for paragraph g., monetary penalties shall be assessed on a per-day basis for each day on which a violation exists:
 - 1. The minimum penalty for starting construction or undertaking a land use activity without a required permit is one hundred dollars (\$100.00) per day, and the maximum penalty is two thousand five hundred dollars (\$2,500.00) per day.
 - 2. The minimum penalty for a specific violation is two hundred dollars (\$200.00) per day, and the maximum penalty is two thousand five hundred dollars (\$2,500.00) per day. The minimum penalty for failure to correct such significant code violation after written notice by the city to do so is five

hundred (\$500.00) per day, and the maximum penalty is five thousand dollars (\$5,000.00) per day. The minimum penalty for failure to correct such significant code violation after a second written notice by the city is one thousand five hundred dollars (\$1,500.00) per day, and the maximum penalty is ten thousand dollars (\$10,000.00) per day. As used in this section, "significant code violation" means any of the following:

- a. Inadequate or blocked ingress or egress;
- b. Overcrowded conditions as described in section 6-110;
- c. Unsanitary conditions as described in section 6-109, including but not limited to vermin infestation;
- d. Inadequate or defective smoke or fire detection systems;
- e. Inadequate or defective plumbing or electrical systems;
- f. Substantially damaged or defective structural elements; and
- g. Intentional denial of heat or electricity to the legal occupant of a dwelling unit by the owner of the dwelling unit.

As used in this section, the terms "occupant", "dwelling unit" and "owner" have the same meanings as provided in section 6-106.

3. The minimum penalty for a specific violation other than a violation described in paragraph 2 is one hundred dollars (\$100.00) per day, and the maximum penalty is two thousand five hundred dollars (\$2,500.00) per day.
4. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:

- a. A threat or hazard to public health or safety;
- b. Substantial environmental damage; or
- c. A substantial injustice.

Notwithstanding paragraph 4, for violations of this chapter that occur in a shoreland area as defined in section 14-447, the violator shall be ordered to correct or mitigate the violation unless the correction or mitigation results in:

- a. A threat or hazard to public health or safety;
 - b. Substantial environmental damage; or
 - c. A substantial injustice.
5. If the city is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.
 6. In setting a penalty, the court shall consider, but is not limited to, the following:
 - a. Prior violations by the same party;
 - b. The degree of environmental damage that cannot be abated or corrected;
 - c. The extent to which the violation continued following a city order to stop; and
 - d. The extent to which the city contributed to the violation by providing the violator with incorrect information or by failing to take timely action.
 7. The maximum penalty may exceed the limits described in paragraphs 1, 2 and 3, but may not exceed twenty-five thousand dollars (\$25,000.00) per day, when it is shown that there has been a previous judgment against the same party within the past two (2) years for a violation of the same law or

ordinance.

8. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum penalties may be increased. The maximum penalty under this paragraph may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.
9. In addition to the other penalties in this section, the building authority may suspend a contractor's, owner's, or developer's right to obtain building permits or work on any project in the city if the building authority determines that a contractor's, owner's, or developer's violation or violations of any provision in articles II, III, or IV of this chapter create such a threat to life or safety that a structure must be posted against occupancy or that the violation or violations render a structure uninhabitable. The suspension authorized by this subparagraph 8 shall be lifted when the building authority determines that the violation or violations have been fixed.

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

(Ord. No. 120-97, § 1, 10-20-97; Ord. No. 240-98, § 1, 4-6-98; Ord. No. 60-06/07, 10-16-06)

Sec. 6-2. Fees for reinspections.

Following the issuance of a notice of violation and an order to correct violations, the enforcement authority will reinspect once for no fee in order to determine whether the violations have been fixed in compliance with this chapter. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a fee of seventy-five dollars (\$75.00) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.

(Ord. No. 120-97, § 2, 10-20-97)

- Sec. 6-3. Reserved.
- Sec. 6-4. Reserved.
- Sec. 6-5. Reserved.
- Sec. 6-6. Reserved.
- Sec. 6-7. Reserved.
- Sec. 6-8. Reserved.
- Sec. 6-9. Reserved.
- Sec. 6-10. Reserved.
- Sec. 6-11. Reserved.
- Sec. 6-12. Reserved.
- Sec. 6-13. Reserved.
- Sec. 6-14. Reserved.
- Sec. 6-15. Reserved.

ARTICLE II. BUILDING CODE

Sec. 6-16. Adoption of ICC Building Code and ICC Residential Code.

There is hereby adopted for the purpose of regulating the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures, the following certain codes recommended by the International Code Council: (i) the International Building Code 2003 and (ii) the International Residential Code 2003, and the whole thereof, except for such portions as are deleted, modified or amended in this article.

(Code 1968, § 301.1; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81; Ord. No. 290-84, § 1, 11-19-84; Ord. No. 540-87, § 1, 6-3-87; Ord. No. 109-90, 10-1-90; Ord. No. 170-93, § 1, 12-20-93; Ord. No. 40-96, § 1, 7-1-96; Ord. No. 137, §1, 1-19-00; Ord. No. 32-04/05, 9-8-04)

State law reference(s)--Authority to adopt codes by reference, 30-A M.R.S.A. § 3003.

Sec. 6-17. Definitions.

The International Building Code and the International Residential Code shall be construed as follows:

- (a) *Name of jurisdiction*: Wherever the phrase "name of jurisdiction" appears in the code, "the City of Portland" shall be substituted.
- (b) *Name of state*: Wherever the phrase "name of the state" appears in the code, "the State of Maine" shall be

substituted.

- (c) *Building authority*: The division of inspection services within the department of planning and urban development.
- (d) *Building official*: Wherever the term "building official" appears in the code, it shall mean the building authority or his authorized representative.
- (e) *Electrical Code*: Wherever the term "ICC Electrical Code" appears in the code, it shall mean the National Electrical Code as adopted by the City of Portland.
- (f) *Fire Code*: Wherever the term "International Fire Prevention Code" appears in the code, it shall mean the NFPA Code as adopted by the City of Portland.
- (g) *Fire chief*: Wherever the "fire chief" appears in the code, it shall mean the chief of the City of Portland fire department or his or her designee.
- (h) *Gas code*: Wherever the term "International Fuel Gas Code" appears in the code, it shall mean the NFPA Code as adopted by the City of Portland.
- (i) *Plumbing code*: Wherever the "International Plumbing Code" appears in the code, it shall mean the State of Maine Plumbing Code.
- (j) *Other regulations*: Wherever the codes refers to "other regulations," "all pertinent laws," or "other provisions of law," such reference shall include, at a minimum, the Maine Revised Statutes Annotated, the Private and Special Laws of the State of Maine, regulations of administrative agencies of the State of Maine, other provisions of the code except those deleted, and all other ordinances of the city.

(Code 1968, § 301.2; Ord. No. 211-79, 10-22-79; Ord. No. 354-81; Ord. No. 290-84, § 2, 11-19-84; Ord. No. 540-87, § 2, 6-3-87; Ord. No. 240-98, § 2, 4-6-98; Ord. No. 32-04/05, 9-8-04)

Cross reference(s)--Definitions and rules of construction generally, 1-2.

***Editor's Note**— Order 32-04/05 adopted 9-8-04, repealed Section 6-18 Amendments in its entirety and replaced it with Section 6-18(A) and (B) Amendments to International Building Code

Sec. 6-18(A). Amendments to International Building Code.

The ICC International Building Code (2003) is amended as follows:

Section 101.4 Referenced codes, is amended by adding the following language after the words "each such reference"; "any reference to the ICC Electrical Code, International Fuel Gas Code, International Plumbing Code and International Fire Prevention Code, found in any and all locations in this code, shall be stricken and replaced with the referenced standards described in sections 101.4.1 through and including 101.4.6."

Section 101.4.1 Electrical, is amended by deleting the words "ICC Electrical Code" and adding the words "the National Electrical Code as adopted by the City of Portland."

Section 101.4.2 Gas, is amended by deleting the words "International Fuel Gas Code" and adding the words "the NFPA Code is adopted by the City of Portland."

Section 101.4.4 Plumbing, is amended by deleting the words "International Plumbing Code", and adding the words "the State of Maine Plumbing Code"; and striking the words "the International Private Sewage Disposal Code" and adding the words "Maine Subsurface Waste Water Disposal Rules."

Section 101.4.5 Property maintenance, is deleted in its entirety.

Section 101.4.6 Fire prevention, is amended by deleting the words "International Fire Prevention Code" and adding the words "the NFPA Code as adopted by the City of Portland."

Section 102.4 Referenced codes and standards, is amended by deleting the words "of this Code shall apply" in the last sentence and adding the words "the more restrictive codes shall apply."

Section 102.6 Existing structures, is amended by deleting the words "the International Property Maintenance Code or the International Fire Code" and adding the words "the Minimum Standards for Housing and the NFPA Code as adopted by the City of Portland."; and by adding the words "and/or the Fire Chief" after the words "building official."

Section 103 Department of Building Safety, is deleted in its entirety.

Section 104.1 General, is amended by adding the following sentence at the end thereof:

"Nothing in this ordinance is intended to preempt the Chief of the Fire Department from exercising the enforcement of City Codes set forth in Chapter 10 of the City of Portland Code of Ordinance.

Sections 105.1.1 and 105.1.2 Annual permits, is deleted in its entirety.

Section 105.2(1), is amended by adding the following at the end of the section "Building permits are required for storage sheds that do not exceed 120 sq. ft. These structures are exempt for building code standards but must be reviewed for zoning compliance."

Section 105.2(2), is amended by deleting the words "not over 6 feet (1829mm) high."

Section 105.2(6), is amended by deleting the words "not more than 30 inches (762 mm) above grade and not over any basement or story below grade and which is not part of an accessible route."

Section 105.2 Electrical, gas and plumbing (work exempt from permits), is deleted in its entirety.

Section 107.3 Temporary power, is amended by deleting the words "ICC Electrical Code" and substituting therefore "the National Electrical Code as adopted by the City of Portland."

Section 108.2 Fee schedule, is deleted in its entirety and replaced with the following:

"FEE SCHEDULE

The applicant submits cost of work. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees.

"I. Construction work:

"A. Cost of work fees:

Up to \$1,000.00 \$30.00
\$1,000.00 or more \$30.00 + \$10.00 per
\$1,000.00 above \$1,000.00

"B. Belated fees:

Below \$30.00 permit fee . . \$50.00 additional
Above \$30.00 permit fee . . \$100.00 additional

"C. Amendments to application:

Up to \$1,000.00 \$30.00
\$1,000.00 or more \$30.00 + \$10.00 per
\$1,000.00 above \$1,000.00

"II. Fees for specific items (additional to cost of work fees above):

"A. Air conditioning and ventilation systems \$30.00
+ \$10.00 per \$1,000.00 cost

"B. Change of use permit \$30.00 + \$10.00 per
\$1,000.00 cost

"C. Demolitions:

Structures \$30.00 + \$10.00 per
\$1,000.00 cost

"D. Heating systems-All types . \$30.00 + \$10.00 per
\$1,000.00 cost

"E. Oil and gas burner replacement \$30.00 + \$10.00 per
\$1,000.00 cost

"F. Stop work order removal . . \$100.00

"G. Certificate of Occupancy . \$75.00 for each inspection

"H. Home occupation \$150.00 plus cost of work

"I. Re-inspections \$75.00 for each

"III. Fees in lieu of cost of work:

- "A. Signs \$30.00 + \$2.00/sq.ft.
- "B. Tanks: propane gas, gasoline and fuel oil:
 - Under 300 gals \$30.00
 - 300 gallons or more \$35.00
 - Removal \$30.00
- "C. Tent Use \$30.00
- "D. Parking lots \$100.00
- "E. Minor site plan review . . \$400.00
 - After-the-fact minor
site plan review. \$1,000.00 over applicable
minor site plan fee
 - Plan amendments \$100.00
- "F. Major site plan review
 - a. Under 50,00 sq. ft. \$500.00
 - b. 50,00-100,00 sq. ft. \$1,000.00
 - c. Parking lots over 100 spaces . . \$1,000.00
 - d. 100,000 - 200,000 sq. ft. . . . \$2,000.00
 - e. 200,000 - 300,000 sq. ft. . . . \$3,000.00
 - f. Over 300,000 sq. ft. \$5,000.00
 - After-the-fact major
site plan review \$1,000.00 over
applicable major
site plan fee
 - Plan Amendments:
 - a. Planning Board review \$500.00
 - b. Planning Staff review \$250.00
- "G. Subdivision fee \$500.00 base fee plus
\$25.00 per lot or dwelling
unit
- "H. Section 14-403 reviews . . \$400.00 base fee plus
\$25.00 per lot

- "I. Minor Single Family Site Review . . . \$300.00
- "J. Hoods, commercial cooking . . . \$30.00 + \$10.00 per
\$1,000.00 cost
- "K. Commercial cooking appliances . . . \$30.00 + \$10.00 per
\$1,000.00 cost
- "L. Fire alarm and sprinkler systems . \$30.00 + \$10.00 per
\$1,000.00 cost
- "M. Moving building \$30.00 + \$10.00 per
\$1,000.00 cost
- "N. Metalbestos chimney \$30.00 + \$10.00 per
\$1,000.00 cost
- "O. Site Location of Development \$3,000.00 except
for residential projects, which shall be \$200.00 per lot
- "P. Traffic Movement Permit \$1,000.00
- "Q. Stormwater Quality Permit \$\$250.00
- "R. Street vacation \$2,000.00

"Except as otherwise provided herein, permit fee shall be based upon the estimated or the actual cost of the work for which the permit is required, whichever is greater, including towers, permanent swimming pools and any other structures altered, constructed or demolished. Ten (10) percent of any fee, or ten dollars (\$10.00), whichever is greater, shall be nonrefundable to cover the administrative costs.

Section 110.0 Certificate of occupancy, is amended by addition of a new subsection (5):

"*Section 110.5 Issuance of certificate*: No certificate of occupancy nor temporary certificate of occupancy shall be issued under the provisions of this code where any condition of the building or the property is not in compliance with any other section of the Portland City Code."

Section 112.0 Board of Appeals, is hereby repealed and replaced with the following language:

"Section 112.0 Waiver and Appeals

"112.1 *Waivers:* The building official may review and approve a waiver of any of the provisions of this code upon written application by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of this code which create an undue hardship, provided that such waiver is not inconsistent with the purpose of this code. The recommendation and the reasons therefore shall be entered upon the records of the department.

"112.2 *Rulings:* The building official may issue interpretative rulings on the meanings or applicability of this code, and any such ruling may be appealed as in the case of the denial of a permit.

"112.3 *Application to use new methods, materials or equipment:* To afford opportunity for development and use of materials, units, systems, equipment and methods not covered in the text of this code, a written application for permission to use such materials, methods or equipment may be submitted to the building official. Such applications should be accompanied by evidence of properly authenticated tests, investigations or practical use that shows the quality and adaptability of the material, method or equipment.

"112.4 *Granting of permission:* When evidence has established that such a material, method or equipment is equivalent to that for which it would be substituted, the building official may allow its use, with or without conditions which are deemed necessary to protect the public interest.

"112.5 *Appeals:* Whenever the building official shall disapprove an application or refuse to grant a permit applied for under this code or when it is claimed that the provisions of this code do not apply, or the true intent and meaning of this code have been misconstrued or wrongly interpreted, any person aggrieved thereby may appeal from the decision of the building official to the board of Appeals within ten (10) days from the action of the building official. The Board of Appeals may reverse an incorrect decision of the building official and may permit exceptions to or variances from the specific provisions of this code where it is established that strict application of the provisions of this code will result in undue hardship, and where the purpose of this code, in promoting the public health, safety and welfare, is not adversely affected thereby."

Section 113.4 Violation penalties is deleted and replaced with the following:

"113.4 Violation penalties: Any person, firm or corporation who violates any of the provisions of this code or fails to comply with the standards for performance set forth herein, or who violates or fails to comply with any lawful order made pursuant hereto, or who builds inconsistently with any statement of specifications or plans submitted and approved hereunder or in violation of any certificate or permit in force hereunder, shall be punished, jointly and severally, for each and every violation by a penalty, as provided in section 6-1 of the Code of Ordinances of the City of Portland. The imposition of one (1) penalty for any violation shall not excuse the violation nor permit it to continue, and all such persons, firms, or corporations shall correct or remedy such violations within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

Section 114.3 Unlawful continuance, is hereby amended by deleting the words "shall be subject to penalties as prescribed by law"; and by adding the following language at the end of the subsection "shall be subject to action pursuant to Section 113.3 and penalties pursuant to Section 113.4."

Section 310.1 R-3, is amended by deleting the word "five" following the phrase "accommodations for" and substituting therefore the word "twelve (12)."

Section 1004.0 Occupant load, is amended by adding the following sections:

"Section 1004.10 Occupant load limits: The building authority shall have the authority to determine the maximum acceptable occupant load for each place of assembly. Such limit shall either be contained on the certificate of occupancy for the assembly use or on a separate certificate. The certificate containing the maximum acceptable occupant load shall be permanently posted in a conspicuous place in the place of assembly near the entrance.

"Section 1004.10.1 Exceeding occupant load limits: Any establishment that is determined by the building authority or the Fire Chief or his/her designee to have exceeded the posted occupant limit shall be considered to be in violation of this

section. Notwithstanding Sections 6-21, or 1-15, or any other section of the Portland City Code, upon written notice to the owner or the manger of the establishment by the building authority or the Fire Chief or his/her designee, the following penalties shall be due and payable to the City by the owner of the establishment:

"First violation: Two hundred-fifty dollars (\$250.00)

"Second violation within twelve (12) months of prior violation: Five hundred dollars (\$500.00).

"Third violation and/or any subsequent violation within twelve (12) months of a prior violation: One thousand dollars (\$1,000.00).

"Determination of violations under this section shall be appealable to the City Manager or his/her designee.

"Section 1004-10.2 Stopping of performance by Building Authority or Fire Chief or his/her designee: The Building Authority, or the Fire Chief or his/her designee, upon finding any establishment to have exceeding its maximum occupancy load limit, shall order any performance, presentation, spectacle or entertainment to be stopped until the condition is corrected."

Table 1505.1(a)(b) Minimum Roof Covering Classification, shall be amended by deleting footnotes "b" and "c".

The following chapters of the ICC International Building Code (2003 edition) will be deleted in their entirety:

"Chapter 11 - Accessibility

"Chapter 27 - Electric Wiring, Equipment and Systems

"Chapter 29 - Plumbing Systems"

Section 3108 Radio and Television Towers, is hereby amended by adding the following subsection:

"3108.6 Existing Towers: Existing towers shall be maintained and inspected in accordance with TIA/EIA-222 Annex E and F. The Building Official may request inspection reports to be filed in accordance with inspections performed pursuant to this standard. Required periodic inspections shall be performed by a registered design professional."

Section 3303 Demolition, is hereby amended by adding the

following subsections:

"3303.7 *Dust prevention*: The person to whom a permit is issued shall dampen or cause to be dampened all debris resulting from the demolition operation to the extent necessary to prevent dust therefrom circulating in the surrounding area.

"3303.8 *Expiration of permit*: A permit to demolish or remove a structure shall expire thirty(30) days after the date of its issuance, provided that, for good cause, the Building Official may extend the permit for periods of not more than fifteen (15) days.

"3303.9 *Removal and disposal of asbestos*: Before a permit to demolish or remove a structure is issued, the Building Authority shall inspect the premises for the presence of friable asbestos material. For the purposes of this subsection, "friable asbestos material" means any material that contains more than one (1) percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry by hand pressure. No permit shall be issued until the applicant has removed and disposed of all such material in accordance with applicable state and federal regulations.

"3303.10 *Demolition of certain structures*: Except as provided in the Historic Preservation Ordinance (§§14-601, et seq.) of the Portland City Code, no permit shall be issued for the demolition of any structure subject to the provisions of that Article.

"3303.11 *Removal and disposal of demolition debris*: Before a permit either to demolish or remove a structure or a part thereof or to remove or dispose of existing demolition debris, as defined herein, is issued, the applicant will satisfy the building official that:

- "a. All such debris on the island will be removed therefrom and transported to the mainland for disposal prior to the expiration of the permit.
- "b. Debris will be removed to the Regional Waste System Construction and Demolition Debris Disposal Facility, as required by Section 12-103 of the Portland City Code.
- "c. The disposal of the debris at such facility will be in accordance with all applicable federal and state rules, requirements and regulations relating

to the transportation and disposition of such material.

"3303.12 *Demolition debris*: Demolition debris includes, but is not limited to, materials which are created by site preparation, clearing land, or erection of a structure. It also includes, but is not limited to, brush, tree limbs, stumpage, building materials, and the waste products of building activity, such as: clay, brick, masonry, concrete, plaster, glass, wood and wood products, asphalt, rubber, metal; and plumbing, electrical and heating fixtures, appurtenances thereto and parts thereof.

"3303.13 *Storage of demolition debris*: No demolition debris shall either be disposed of or stored on any of the islands."

Sec.6-18(B). Amendments to the International Residential Code.

The International Residential Code (2003 Edition) is amended as follows:

Section (EB)R102.7 Existing structures, is amended by deleting the words "the International Property Maintenance Code or the International Fire Code" and inserting "the Minimum Standards for Housing and the NFPA Code as adopted by the City of Portland", and adding the words "or the Fire Chief" after the words "Building Official."

Section R103 Department of Building Safety is deleted in its entirety.

Section R105.2(1) is amended by adding the following at the end of the section "Building permits are required for storage sheds that do not exceed 120 sq. ft. These structures are exempt for building code standards but must be reviewed for zoning compliance."

Section R105.2(6) is amended by deleting the language "not more than 30 inches (762 mm) above grade and not over any story below grade and which is not part of an accessible route."

Section R105.2 Electrical, plumbing and Gas is deleted in its entirety.

Section R105.3.1.1 Substantially improved or substantially damaged existing structures in areas prone to flooding, is deleted in its entirety.

Section R106.1 Information for construction in areas prone to flooding, is deleted in its entirety.

Section R108.0 Fees, is hereby repealed and replaced with the following language:

"Permit fees shall be assessed in accordance with Section 108 of the ICC International Building Code (2003 edition) adopted by the City of Portland."

Section R109.1.1 Footing/Building Location and Foundation Inspection, is amended by adding the following language before the words "Inspection of the foundation":

"Inspection for the building location, relative to the approved site or plot plan, shall be made after the construction area is excavated and any required forms are erected and any required reinforcing steel is in place, and prior to the placing of concrete. All property lines shall be identified for the purpose of determining zoning district setback compliance."

Section R112.0 Board of Appeals, is hereby repealed and replaced with the following language:

"Appeals shall be conducted in accordance with Section 112 of the ICC *International Building Code* (2003 edition) as adopted for use by the City of Portland."

Section 113.4 Violation penalties is repealed and replaced with the following:

"*113.4 Violation penalties*: Any person, firm or corporation who violates any of the provisions of this code or fails to comply with the standards for performance set forth herein, or who violates or fails to comply with any lawful order made pursuant hereto, or who builds inconsistently with any statement of specifications or plans submitted and approved hereunder or in violation of any certificate or permit in force hereunder, shall be punished, jointly and severally, for each and every violation by a penalty as provided in section 6-1 of the Code of Ordinances of the City of Portland. The imposition of one (1) penalty for any violation shall not excuse the violation nor permit it to continue, and all such persons, firms, or corporations shall correct or remedy such violations within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense."

Section R114.2 Unlawful Continuance, is hereby amended by deleting the words: "shall be subject to penalties as prescribed by law," and adding the following language "shall be subject to action pursuant to Section R113.3 and penalties pursuant to Section R113.4."

Section R309.2 Separation required, is amended by adding the phrase: "All penetrations shall be protected in accordance with Section 317.3.1.2 of the *International Residential Code*."

Section R310.1.1 Minimum opening area, is amended by deleting the following exception: "Exception: Grade floor openings shall have a minimum not clear opening of 5 square feet (0.465 m²)."

Section R311.4.3 Landing at doors, is amended by adding the following exception: "Exception: A landing is not required at the top of a flight of stairs, provided the door does not swing over the stairs."

Section R323 Flood Resistant Construction, is deleted in its entirety.

The following chapters are deleted in their entirety:

"Chapter 33, through and including Chapter 42 Electric Systems.

"Chapter 25 ,through and including 32 Plumbing Systems.

"Chapter 24 Fuel Gas."

Appendix G Swimming Pools, Spas and Hot tubs, is adopted in its entirety as set forth below:

SWIMMING POOLS, SPAS AND HOT TUBS

SECTION AG101 GENERAL

AG101.1 General.

The provisions of this appendix shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a one- and two-family dwelling.

SECTION AG102 DEFINITIONS

AG102.1 General.

For the purposes of these requirements, the terms used shall

be defined as follows and as set forth in Chapter 2.

"*Above-Ground/On-Ground Pool*" - See "Swimming pool."

"*Barrier*" - A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

"*Hot Tub*" - See "Swimming pool."

"*In-Ground Pool*" - See "Swimming pool."

"*Residential*" - That which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories in height.

"*Spa, Nonportable*" - See "Swimming pool."

"*Spa, Portable*" - A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

"*Swimming Pool*" - Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

"*Swimming Pool - Indoor*" - A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.

"*Swimming Pool - Outdoor*" - Any swimming pool which is not an indoor pool.

SECTION AG103 SWIMMING POOLS

AG103.1 In-ground pools.

In-ground pools shall be designed and constructed in conformance with ANSI/NSPI-5 as listed in Section AG107.

AG103.2 Above-ground and on-ground pools.

Aboveground and on-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Section AG107.

SECTION AG104 SPAS AND HOT TUBS

AG104.1 Permanently installed spas and hot tubs.

Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3 as listed in Section AG107.

AG104.2 Portable spas and hot tubs.

Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in Section AG107.

SECTION AG105 BARRIER REQUIREMENTS

AG105.1 Application.

The provisions of this chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

AG105.2 Outdoor swimming pool.

An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:

1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

2. Openings in the barrier shall not allow passage of

a 4-inch-diameter (102 mm) sphere.

3. Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.

6. Maximum mesh size for chain link fences shall be a 2.25-inch (57 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).

7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).

8. Access gates shall comply with the requirements of Section AG105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and

8.2. The gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.

9. Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:

9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or

9.2. All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal house-hold activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or

9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.

10. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:

10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access, or

10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section

AG105.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.

AG105.3 Indoor swimming pool.

All walls surrounding an indoor swimming pool shall comply with Section AG105.2, Item 9.

AG105.4 Prohibited locations.

Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

AG105.5 Barrier exceptions.

Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in Section AG107, shall be exempt from the provisions of this appendix.

SECTION AG106 ENTRAPMENT PROTECTION FOR SWIMMING POOL AND SPA SUCTION OUTLETS

AG106.1 General.

Suction outlets shall be designed to produce circulation throughout the pool or spa. Single outlet systems, such as automatic vacuum cleaner systems, or other such multiple suction outlets whether isolated by valves or otherwise shall be protected against user entrapment.

AG106.2 Suction fittings.

All Pool and Spa suction outlets shall be provided with a cover that conforms with ANSI/ASME A112.19.8M, or a 12" x 12" drain grate or larger, or an approved channel drain system.

Exception: Surface skimmers

AG106.3 Atmospheric vacuum relief system required.

All pool and spa single or multiple outlet circulation systems shall be equipped with atmospheric vacuum relief should grate covers located therein become missing or

broken. Such vacuum relief systems shall include at least one approved or engineered method of the type specified herein, as follows:

1. Safety vacuum release system conforming to ASME A112.19.17, or
2. An approved gravity drainage system

AG106.4 Dual drain separation.

Single or multiple pump circulation systems shall be provided with a minimum of two (2) suction outlets of the approved type. A minimum horizontal or vertical distance of three (3) feet shall separate such outlets. These suction outlets shall be piped so that water is drawn through them simultaneously through a vacuum relief-protected line to the pump or pumps.

AG106.5 Pool cleaner fittings.

Where provided, vacuum or pressure cleaner fitting(s) shall be located in an accessible position(s) at least (6) inches and not greater than twelve (12) inches below the minimum operational water level or as an attachment to the skimmer(s).

SECTION AG107 ABBREVIATIONS

AG107.1 General.

ANSI—American National Standards Institute 11 West 42nd Street, New York, NY 10036

ASTM—American Society for Testing and Materials 1916 Race Street, Philadelphia, PA 19103

NSPI—National Spa and Pool Institute 2111 Eisenhower Avenue, Alexandria, VA 22314

SECTION AG108 STANDARDS

AG108.1 General.

ANSI/NSPI

ANSI/NSPI-3-99 Standard for Permanently Installed Residential Spas AG104.1

ANSI/NSPI-4-99 Standard for Above-ground/On-ground Residential Swimming Pools AG103.2

ANSI/NSPI-5-99 Standard for Residential In-ground Swimming

Pools AG103.1

ANSI/NSPI-6-99 Standard for Residential Portable Spas
AG104.2

ANSI/ASME A112.19.8M-1987 Suction Fittings for Use in
Swimming Pools, Wading Pools, Spas, Hot Tubs and Whirlpool
ASTM

ASTM F 1346-91 (1996) Performance Specification for Safety
Covers and Labeling Requirements for All Covers for Swimming
Pools, Spas and Hot Tubs AG105.2, AG105.5 ASME

ASME A112.19.17 Manufacturers Safety Vacuum Release Systems
(SVRS) for Residential and Commercial Swimming Pool, Spa, Hot
Tub and Wading Pool AG106.3ol Bathing Appliances AG106.2

(Ord. No. 211-79, 10-22-79; 698-81, 5-18-81; 354-81, 12-21-81; 355-83 § 1, 1-3-83; Ord. No. 54-83, 7-18-83; Ord. No. 276-83, 11-7-83; Ord. No. 194-84 § 1, 9-24-84; Ord. No. 249-84, 11-5-84; Or. No. 290-84 § 3, 11-19-84; Ord. No. 555-85 § 1, 5-14-85; Ord. No. 540-87 § 3, 6-3-87; Ord. No. 285-88, 3-23-88; Ord. No. 34-88, 7-18-88, Ord. No. 237-90, 2-26-90; Ord. No. 289-90, 4-18-90; Ord. No. 109-90, 10-1-90; Ord. No. 248-93, 3-22-93; Ord. No. 106-93, 9-20-93; Ord. No. 251-02/03, 5-19-03; Ord. No. 32-04/05, 9-8-04; Ord. No. 243-05/06, 5-15-06)

Sec. 6-19. Standards mandatory.

Except as otherwise expressly provided, all general provisions of this article and the codes incorporated herein are mandatory. Exceptions to general prohibitions or requirements shall be narrowly construed and narrowly applied. Any person asserting that failure to comply with a general prohibition or requirement is authorized by an exception to such general prohibition or requirement shall bear the burden of proof as to such exception. (Code 1968, § 301.2.5; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81; Ord. No. 32-04/05, 9-8-04)

Sec. 6-20. Other code and statutory provisions.

Where any other provisions of this Code contain more stringent requirements, compliance with the more stringent requirements shall be required. Where approval of the fire chief, environmental health director or any other specified city official is required by any provision of this Code as to the subject matter of the permit application, such approval shall be a condition precedent to issuance of the permit under this article. Whenever there is an application for a permit for any structure, other than a single or two-family dwelling, such permit shall not be issued without the written certificate of the fire chief or his authorized representative that the work described is in compliance with other requirement of this Code or of state law as to fire prevention or exiting.

(Code 1968, § 301.2.6; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81)

Sec. 6-21. Violations.

Violations of the applicable provisions of either the ICC Building or the ICC Residential Code shall be subject to the penalty provisions of section 6-1.

(Ord. No. 109-90, 10-1-90; Ord. No. 120-97, § 3, 10-20-97; Ord. No. 32-04/05, 9-8-04)

Sec. 6-22. Municipal plumbing inspection and permit fees.

In addition to all other fees hereunder or under any state law, the city shall charge a ten-dollar (\$10.00) base fee for plumbing inspections and the following fees for plumbing permits:

(a) *Internal plumbing code fees:*

Fixture fee:

1-3 Fixtures:	\$24.00
Each additional:	\$6.00

Reinspection fee: Twenty dollars (\$20.00). A reinspection fee shall be charged when a reinspection is required as a result of improper or incomplete work.

(b) *Septic system fee:*

1. Complete system:

- a. Non-engineered system: One Hundred dollars (\$100.00).
- b. Primitive disposal system (includes one alternative toilet): One hundred dollars (\$100.00).
- c. Engineered system (includes one disposal area): Two hundred dollars (\$200.00).
- d. Separate laundry disposal field: Thirty-five dollars (\$35.00).
- e. Seasonal conversion permit: Fifty dollars (\$50.00).
- f. Variance: Twenty dollars (\$20.00).

2. Individual components:
 - a. Treatment tank:
 - i. Non-engineered system: Eighty dollars (\$80.00).
 - ii. Engineered system: One hundred dollars (\$100.00).
 - b. Holding tank: Twenty dollars (\$20.00).
 - c. Alternative toilet (only): Fifty dollars (\$50.00).
 - d. Disposal field:
 - i. Non-Engineered system: Seventy-five dollars (\$75.00).
 - ii. Engineered system: One hundred fifty dollars (\$150.00).
 - e. Variance: Twenty dollars (\$20.00).
 - f. Other system components (e.g. pump station, etc.): Twenty dollars (\$20.00).

(c) Late fee for work done without a permit (internal or septic): Double fee.
(Ord. No. 389-92, 5-18-92; Ord. No. 105-93, 9-20-93; Ord. No. 226-00, 5-15-00)

- Sec. 6-23. Reserved.
- Sec. 6-24. Reserved.
- Sec. 6-25. Reserved.
- Sec. 6-26. Reserved.
- Sec. 6-27. Reserved.
- Sec. 6-28. Reserved.
- Sec. 6-29. Reserved.
- Sec. 6-30. Reserved.
- Sec. 6-31. Reserved.

ARTICLE III. ELECTRICAL CODE*

*State law reference(s)--Electrical installations, 30-A M.R.S.A. § 4151 et

DIVISION 1. GENERALLY

Sec. 6-32. Adoption of the National Electrical Code.

There is hereby adopted for the purpose of regulating the construction, installation, alteration, repair, maintenance and removal of electric conductors and equipment installed within or on public and private buildings or other structures including mobile homes and recreational vehicles and other premises such as yards, carnival parking and other lots and industrial substations; for the purpose of regulating the connection of such installations to a supply of electricity and for the purpose of regulating any other outside conductors on the premises, the National Electrical Code, 1999 edition (as recommended by the National Fire Protection Association), which is adopted and approved and made a part of this Code as fully as if every word were printed herein; provided, however, that where there is a conflict between the rules and requirements of the National Electrical Code, 1999 edition, and the laws of this state or the ordinances of this city, such laws or ordinances shall control. One (1) copy of the code has been and is now on file in the office of the city clerk available for public use, inspection and examination during normal working hours.

(Code 1968, § 304.1; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 635-77, § 1, 10-17-77; Ord. No. 464-81, 1-19-81; Ord. No. 438-84, § 1, 2-22-84; Ord. No. 542-87, § 1, 6-3-87; Ord. No. 111-90, 10-1-90; Ord. No. 171-93, § 1, 12-20-93; Ord. No. 186-95, § 1, 3-6-95; Ord. No. 302-97, § 1, 5-19-97; Ord. No. 138-00, §1, 1-19-00)

State law reference(s)--Authority to adopt codes by reference, 30-A M.R.S.A. § 3003.

Sec. 6-32.5. Additional definitions.

Noncombustible construction: That type of construction in which a degree of fire safety is obtained by the use of noncombustible material for structural members and other building assemblies. Other building assemblies as defined for electrical shall mean metallic systems.

(Ord. No. 186-95, § 2, 3-6-95)

Sec. 6-33. Connections.

(a) Wires in the interior of buildings, or on private premises, shall not be connected with an outside circuit which crosses or runs along or under any street or way of the city

without written or oral permission therefor having been first obtained from the electrical inspector.

(b) In any connection involving an aluminum conductor, an antioxidant chemical or compound approved by the electrical inspector shall be utilized.

(Code 1968, § 304.17; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 542-87, § 2, 6-3-87)

Sec. 6-34. Services.

(a) All new and upgraded services shall be one hundred (100) ampere minimum. There shall be illumination installed in the vicinity of the main service so that the occupant may safely attend to fuses or breakers.

(b) All main switches shall be grounded to the water system on the street side of the water meter using the appropriate section of the National Electrical Code as incorporated herein to determine grounding electrode conductor size. Where exceptionally long and difficult runs are encountered, it is permissible (if cleared with the inspector) to ground to the nearest cold water pipe and install a bonding jumper around water meter and shut off. If a driven rod is used, it shall be five-eighths-inch copper, not less than eight (8) feet long, and in addition there shall be a ground made to the next cold water pipe in accordance with the appropriate section of the National Electrical Code as incorporated herein.

(c) Temporary services installed for building and constructions shall have a service of one hundred (100) ampere minimum in a waterproof metal box and padlocked when not in use. Approved ground rod shall be used. All fifteen (15), twenty (20), or thirty (30) ampere working circuits shall be protected by ground fault circuit interrupters.

(d) All service connections by Central Maine Power Company must be authorized by the electrical inspector after the electrical inspector has made certain that the installation is safe and installed in accordance with the National Electrical Code as incorporated herein.

(e) Thin-wall tubing (EMT) shall not be used on the exterior of a building for a service or any other electrical installation whatsoever.

(f) Services installed on brick, masonry metal or block buildings shall be in rigid conduit. No "service entrance cable" shall be allowed.

(g) All service panels or branch panels must be labeled to show circuits controlled. There shall be no panel installed in a bathroom or closet. All branch panels shall have an approved terminal bar for equipment grounding conductors, in accordance with the appropriate section of the National Electrical Code as incorporated herein. No grouping of wires into a lug will be allowed.

(h) All direct burial service conductors installed from the utility company transformer pads and/or poles to supply residential occupancies shall be installed in schedule forty (40) PVC conduit, minimum size two and one-half (2 1/2) inches.

(i) Service boxes or equipment shall be installed in a location satisfactory to the building authority and to the utility company and shall be:

- (1) Readily accessible.
- (2) Not located in clothes closets, bathrooms, stairways or rooms where the temperature normally exceeds thirty (30) degrees centigrade or eighty-six (86) degrees Fahrenheit.
- (3) Located away from areas where easily ignitable materials are present.

(j) Services located on the exterior of residential and all other structures shall not be located where subject to physical damage, except where the service is installed using materials that have been approved as not subject to physical damage or where the building authority has granted permission for such installation. (Code 1968, § 304.20; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 635-77, § 6, 10-17-77; Ord. No. 111-90, 10-1-90; Ord. No. 171-93, § 2, 12-20-93)

Sec. 6-35. Removal of current-carrying devices attached to buildings.

No person except a licensed electrician shall remove, adjust, relocate, disconnect or disturb in any way any electrical conduit, cables, wiring, fixtures, cable or conduit supports, meters or enclosures, or any current-carrying device attached to a building. Such electrician shall also be responsible for replacement and/or reinstallation of the above-listed items and for the proper installation or replacement of equipment on buildings as noted herein.

(Code 1968, § 304.21; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 635-77, § 7, 10-17-77)

Sec. 6-36. Bypassing service.

It shall be unlawful to breach, jump or bypass in any way any service to a building without first getting permission from Central Maine Power Company or the electrical inspector(except in case of emergency, storms, ice, wind, etc.).

(Code 1968, § 304.22; Ord. No.226-75, § 1, 4-23-75)

Sec. 6-37. Burners.

Any person who is in the business of installing or servicing oil burner equipment must have a license therefor from the state oil burner licensing board. Any alterations, installations, addition of controls, etc. of oil burners must be done by a person having such a license and in addition a permit from the building authority.

(Code 1968, § 304.23; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-38. Reserved.

Editor's note--Ord. No. 171-93, § 3, adopted Dec. 20, 1993, repealed § 6-38, which pertained to fuses and derived from § 304.24 of the city's 1968 Code as amended by Ord. No. 226-75, § 1, adopted Apr. 23, 1975.

Sec. 6-39. Cables/nonmetallic conduit.

Where cables or nonmetallic conduit are connected back into a service panel, or on new runs of cables or nonmetallic conduit, anti-shorts shall be installed.

(a) Nonmetallic sheathed cable shall not be used in buildings built of noncombustible material.

(b) Rigid PVC shall not be used in buildings built of noncombustible materials.

(Code 1968, § 304.25; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 111-90, 10-1-90; Ord. No. 171-93, § 4, 12-20-93)

Sec. 6-40. Mechanical grounds.

Mechanical grounds shall be connected by the use of a crimp pressure connector or by "wire nuts" or "scotch-locs" inside the wall case and pigtailed to the wall case by a grounding screw and to the green grounding screw on the receptacle.

(Code 1968, § 304.27; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-41. Fire alarms.

Fire alarm systems, except home alarms, will be of the electrically supervised battery back-up, with zone indicators and test switch. Alarm controls and all component parts must be Underwriter's Laboratory approved. A permit must be obtained from the building authority before installation is started. Upon completion, tests must be made with the building authority and other authorized persons present. Operating instructions must be posted close by the control panel and zone listed.

(Code 1968, § 304.28; Ord. No. 226-75, § 1, 4-23-75)

Cross reference(s)--Alarm systems, Ch. 2.5; fire prevention and protection, Ch. 10.

Sec. 6-42. Liability.

This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electrical wiring, devices or equipment for damages to persons or property caused by any defect therein, nor shall the city or its electrical inspectors be held as assuming any such liability by reason of the examinations or inspections authorized or required herein.

(Code 1968, § 304.29; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-43. Fire protection.

(a) Electrical installations shall be made so as to reduce to a minimum the likelihood of the spread of fire through fire-stopped partitions, floors, hollow spaces, fire walls, fire partitions, vertical shafts, ventilation shafts or air-conditioning ducts.

(b) Where a fire separation is pierced by a raceway or cable, any opening around the raceway or cable shall be closed. Such closing shall be approved by the building authority.

(Ord. No. 186-95, § 3, 3-6-95)

Editor's note--Ord. No. 186-95, § 3, adopted Mar. 6, 1995, amended this division by adding provisions to be included as § 6-43. Inasmuch as other provisions were previously codified as § 6-43, violations, such former section has been renumbered as § 6-44.

Sec. 6-44. Violations.

Any person found in violation of any of the provisions set forth in this article, including the National Electrical Code, shall be subject to a penalty as provided in section 6-1.

(Code 1968, § 304.31; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 186-95, § 3, 3-6-95; Ord. No. 120-97, § 4, 10-20-97)

Note--See the editor's note following § 6-43.

- Sec. 6-45. Reserved.**
- Sec. 6-46. Reserved.**
- Sec. 6-47. Reserved.**
- Sec. 6-48. Reserved.**
- Sec. 6-49. Reserved.**
- Sec. 6-50. Reserved.**

DIVISION 2. PERMITS

Sec. 6-51. Required.

(a) A permit must be procured from the electrical division of the building authority before commencing work upon the installation of wires for the purpose of conducting electric current for power, heating, illuminating or signaling purposes, or for electrical appliances and apparatus in or upon public or private buildings, structures or premises, either new or existing.

(b) A permit must be procured also from the division before commencing work upon the alteration or the addition to, or both, of wires already installed and approved by the electrical inspector. (Code 1968, § 304.2; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 635-77, § 7, 10-17-77)

Sec. 6-52. Exceptions.

(a) Permits required by the preceding section shall not be required under the following conditions: for replacement of lamps, portable devices to existing receptacles, telephone or telegraph transmission, municipal signal and fire alarm or radio companies, public utility work and maintenance, and work by municipal employees on municipal property.

(b) A home owner may do wiring on a single family residence which he or she owns and in which he or she is a resident under the following restrictions:

- (1) The owner must obtain a permit and have all work inspected.
- (2) The owner shall not connect wires into any service panel. (This must be done by a licensed electrician.)

- (3) The owner shall not install, relocate, disconnect or disturb in any way the main service entrance to a home. (This must be done by a licensed electrician under a permit obtained by a master electrician or an electrician holding a limited license for one- and two-family dwellings.

(Code 1968, §§ 304.6, 304.7; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-53. Application.

(a) An application for a permit under this division, describing the work to be done, must be made in writing on standard forms provided by the building authority by the person performing the work. The application shall state the name of the person and the address where the installation is to be made, the nature of all work to be done and the name of the person performing same. Where blueprints are required, these will be submitted before the permit is issued (other than for temporary power). The permit, when issued, shall be for such installation as described on same and no deviations shall be made from the permit without the approval of the electrical inspector.

(b) Plans and specifications must be submitted as part of the application for the following types of work, and no such work shall be commenced prior to the issuance of all required permits:

- (1) Wiring installations of public buildings, industrial establishments, or factories;
- (2) Large light and power installations; or
- (3) Other installations as determined by the building authority to be of such size or complexity as to require such submissions.

A copy of all plans and specifications required under this section shall be kept on file in the office of the building authority.

(Code 1968, § 304.3; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 186-95, § 4, 3-6-95)

Sec. 6-54. Qualifications.

No permit as required in this division shall be issued unless the applicant holds a current master electrician's license, or a limited or special license for the particular work to be installed, issued by the state electricians' examining board pursuant to Title 32 M.R.S.A. § 1101 et seq. as amended.

(Code 1968, § 304.4; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-55. Use; term.

(a) Permits are required under this division before installation is started except with the permission of the electrical inspector. No permits, once issued, are transferable. Any person, after having been issued a permit, shall correct any defective work within forty-eight (48) hours after notification by the electrical inspector. If such corrective work is not accomplished within such time period, no other permits shall be issued to the applicant until same has been accomplished.

(b) Every permit issued by the electrical division shall expire and become null and void if work authorized by such permit is not substantially commenced within ninety (90) days from date of issue of the permit; or if the work authorized by such permit is suspended or abandoned, at any time after work is commenced, for a period of one hundred twenty (120) days. Before such work can be recommenced, a new permit shall be issued.

(Code 1968, § 304.5; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-56. Fees.

(a) All applications for permits must be accompanied by the required fee, the amount of which is to be determined as follows:

- (1) *Minimum fee:* The minimum fee to be charged for any one (1) permit shall be:

Residential \$45.00

Commercial 55.00

- (2) *Receptacles, switches, fixtures, each* 0.20

- (3) *Smoke Detection Outlet, each* 0.20

- (4) *Services, meters, each* 1.00

1 and 3 phase through 800A 15.00

800 amp and larger 25.00

Branch circuit panels, each 4.00

- (5) *Interior transformers:*

0-25kva, each	5.00
25kva up to 200kva, each	8.00
Over 200kva, each	10.00
(6) <i>Temporary service</i>	15.00
(7) <i>Outside lighting and signs,</i>	10.00
(8) <i>Motors, all sizes, each</i>	2.00
(9) <i>Generator</i>	20.00
(10) <i>Residential heating:</i>	
Electric units, each	1.00
Oil or gas, each	5.00
(11) <i>Appliances, each</i>	2.00
(12) <i>Miscellaneous:</i>	
Swimming pools, above or inground, each	10.00
Air conditioners:	
Central unit, each	10.00
Window units	3.00
Signs, inside	5.00
Fire and burglar alarm systems:	
Residential	5.00
Commercial/industrial	15.00
Circuses, carnivals, fairs, etc.	25.00
Alterations to existing wiring	5.00
Emergency lighting, battery units, each	1.00
Repairs after a fire	15.00

(b) All work requires a permit. A belated fee of one hundred dollars (\$100.00) additional per permit may be assessed for permits taken out after work has been started or completed before an inspection. If upon inspection by the electrical inspector there is found to be work performed that was not included on the permit, an additional permit to cover this work must be obtained, and the fee for the additional permit shall be double the fee set forth above, but in no event less than ten dollars (\$10.00).

(Code 1968, § 304.8; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 635-77, §§ 2, 3, 10-17-77; Ord. No. 525-83, 5-16-83; Ord. No. 542-87, § 3, 6-3-87; Ord. No. 111-90, 10-1-90; Ord. No. 186-95, § 5, 3-6-95; Ord. No. 261-96, § 1, 5-20-96; Ord. No. 302-97, § 2, 5-19-97; Ord. No. 138-00, §2, 1-19-00; Ord. No. 243-05/06, 6-15-06)

Sec. 6-57. Installations without a permit.

Whenever any electrical work or wiring is found to have been installed without a permit where one is required, the electrical inspector is authorized to cut the wires, remove the fuses or otherwise make the specific circuit or system inoperative until such permit has been secured from the building authority. The fee for the permit shall be double the fee set forth in section 6-56(a), but in no event less than ten dollars (\$10.00).

(Code 1968, § 304.9; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 635-77, § 4, 10-17-77; Ord. No. 542-87, § 4, 6-3-87)

Sec. 6-58. Reserved.

Sec. 6-59. Reserved.

Sec. 6-60. Reserved.

Sec. 6-61. Reserved.

Sec. 6-62. Reserved.

Sec. 6-63. Reserved.

Sec. 6-64. Reserved.

Sec. 6-65. Reserved.

DIVISION 3. INSPECTION AND ENFORCEMENT

Sec. 6-66. Duties of electrical inspector generally.

(a) After installation and upon request, the electrical inspector shall examine all the work described on the permit to see

that it is installed in accordance with the incorporated National Electrical Code and the ordinances of the city.

(b) The electrical inspector shall enforce the provisions of this article to the extent that wires, conduits, fixtures, equipment and other appliances used for light, heat, power transmission, etc., shall be installed, constructed and guarded so as to reduce as far as practicable the danger therefrom to life and property.

(c) The electrical inspector shall have the authority to reject any work that is not completed either in accordance with any permit issued under this article or with any applicable code or ordinance, or in a workmanlike or safe manner.

(Code 1968, §§ 304.11, 304.12; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 186-95, § 6, 3-6-95)

Sec. 6-67. Right of entry to inspect.

The electrical inspector shall have the right during reasonable hours to enter in and upon any premises, building or other place, in the discharge of his or her official duties, for the purpose of making any inspection, reinspection or test of the installation of electrical wiring, devices, appliances and equipment contained therein.

(Code 1968, § 304.13; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-68. Right of access and inspection.

The electrical inspector shall have access at all reasonable times to all wiring devices, appliances and apparatus in or upon any public or private premises, which carry or are intended to carry an electrical light or power current, and no person shall arrange, fix or change any such wiring, devices, appliances, or apparatus without giving the electrical division reasonable notice and opportunity to inspect and approve such alterations or changes.

(Code 1968, § 304.14; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-69. Concealment.

It shall be unlawful for any person to cover or conceal, or cause to be concealed, any wiring for which a permit has been issued, or is required, before the wiring is inspected and approved (or tagged) by the electrical inspector. The electrical inspector shall have seventy-two (72) hours after notification to make the inspection.

(Code 1968, § 304.10; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 542-87, § 5, 6-3-87)

Sec. 6-70. Red tag for defects; blue tag for compliance.

In a case where work is found to be defective, the inspector will hang a red tag and notify the person who is responsible for the defect. When installation has conformed with this article to the satisfaction of the inspector, a blue tag will be displayed. Under no circumstances will partitions be covered or complete installations made without this blue tag. If covered or walled in before the blue tag is displayed, the inspector has the power to have same removed so that the wiring is made visible for inspection.

(Code 1968, § 304.11; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-71. Enforcement for defective installations.

(a) When any electrical work or wiring is found to have been installed in a manner not in accordance with the provisions of this article, the electrical inspector is hereby authorized and empowered to place a stop order, remove fuses, cut wires, or otherwise render the system inoperative until such work or wiring has been corrected, reinspected and approved.

(b) No stop order may be removed without authorization of the electrical inspector and the payment of an additional ten dollar (\$10.00) fee.

(c) Any electrical wire, device, apparatus, fixture or other appliance used for electrical purposes which may, in the opinion of the electrical inspector, at any time become defective so as to be a possible source of fire or accident, or a danger to persons or property, shall be condemned by the inspector or person and when, in his or her opinion, it is necessary in order to prevent such accident or danger, the inspector is hereby authorized to disconnect such wires or apparatus, or to cause the same to be disconnected from service.

(d) In case any person owning or using any electrical wire, apparatus, fixture, or other appliance, which have been condemned by the inspector, shall fail to have the same put in safe condition and accepted by the inspector within forty-eight (48) hours after the same has been condemned, or within such other reasonable length of time as shall be prescribed by the inspector, the inspector shall remove the fuses, cause wires to be cut, or by other means render the system inoperative and no person, in any manner, shall reconnect the same or cause the same to be connected until the defects have been corrected and the system approved by the

(Code 1968, § 304.16; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-72. Closing-in inspection.

When a closing-in inspection is called for, all wall cases, boxes, etc., will be made ready for devices or fixtures by insuring that all necessary pig-tailing and bonding will be done and that all neutral and bonding wires in panels will be made up before calling for an inspection.

(Code 1968, § 304.26; Ord. No. 226-75, § 1, 4-23-75)

Sec. 6-73. Appeal.

When the electrical inspector condemns all or a part of any electrical installation, the owner may, within ten (10) days after receiving written notice from the electrical inspector, file an appeal in writing for review of the action with the board of appeals. The appeal shall be conducted pursuant to section 6-18(121.5).

(Code 1968, § 304.30; Ord. No. 226-75, § 1, 4-23-75; Ord. No. 240-98, § 4, 4-6-98)

Sec. 6-74. Reserved.

Sec. 6-75. Reserved.

Sec. 6-76. Reserved.

Sec. 6-77. Reserved.

Sec. 6-78. Reserved.

Sec. 6-79. Reserved.

Sec. 6-80. Reserved.

Sec. 6-81. Reserved.

Sec. 6-82. Reserved.

Sec. 6-83. Reserved.

Sec. 6-84. Reserved.

Sec. 6-85. Reserved.

ARTICLE IV. MECHANICAL CODE

Sec. 6-86. Adoption of BOCA National Mechanical Code.

There is hereby adopted for the purpose of regulating the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of building service equipment the following certain code recommended by the Building Officials and Code Administrators International, Inc., the BOCA National Mechanical Code, 1993 edition, and the whole thereof, except for such portions as are deleted, modified or amended in

this article.

(Code 1968, § 301.1; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81; Ord. No. 291-84, § 1, 11-19-84; Ord. No. 541-87, § 1, 6-3-87; Ord. No. 110-90, 10-1-90; Ord. No. 170-93, § 3, 12-20-93)

State law reference(s)--Authority to adopt codes by reference, 30-A M.R.S.A. § 3003.

Sec. 6-87. Definitions.

The BOCA National Mechanical Code shall be construed as follows:

- (a) *Name of jurisdiction.* Wherever the phrase "name of jurisdiction" appears in the code, "the City of Portland" shall be substituted.
- (b) *Name of state.* Wherever the phrase "name of the state" appears in the code, "the State of Maine" shall be substituted.
- (c) *Mechanical official.* Wherever the term "mechanical official" appears in the code, it shall mean the "building authority or his authorized representative."
- (d) *Other regulations.* Wherever the code refers to "other regulations," "all pertinent laws," or "other provisions of law," such reference shall include, at a minimum, the Maine Revised Statutes Annotated, Private and Special Laws of the State of Maine, regulations of administrative agencies of the State of Maine, other provisions of these codes except those deleted, and all other ordinances of the city.

(Code 1968, § 301.2; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81; Ord. No. 110-90, 10-1-90)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 6-88. Amendments.

The BOCA National Mechanical Code is hereby amended as follows:

Section M-113.0 is hereby amended as follows:

M-113.2 Periodic inspections: The fees for all periodic inspections shall be in accordance with the provisions of the BOCA National Building Code, as amended.

M-113.3 Fee schedule: The fees for all mechanical work shall be paid in accordance with the provisions of the BOCA National Building Code, as amended.

Section M-116.0 is hereby deleted in its entirety and replaced with the following:

M-116.0 Violations: Violations shall be punished in accordance with the provisions of sections 1-15 and 6-18 of the Portland City Code. Each day that a violation continues after notice has been sent shall constitute a separate offense.

Section M-121.0 is hereby deleted in its entirety and replaced with the following:

M-121.0 Appeals: The appeals provisions of section 6-18 shall govern appeals under the BOCA National Mechanical Code. (Ord. No. 170-93, § 4, 12-20-93)

Editor's note--Ord. No. 170-93, § 4, adopted Dec. 20, 1993, repealed former § 6-88, amendments, and added similar new provisions in lieu thereof as herein set out. Formerly, such provisions derived from § 3-1.4 of the city's 1968 Code as amended by Ord. No. 211-79, adopted Oct. 22, 1979; Ord. No. 354-81, adopted Dec. 21, 1981; and Ord. No. 110-90, adopted Oct. 1, 1990.

Sec. 6-89. Standards and review; appeals and waiver.

An appeal of a decision by the building authority may be taken to the board of appeals pursuant to section 6-18(121.5) of this code.

(Code 1968, § 301.3; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81; Ord. No. 110-90, 10-1-90; Ord. No. 240-98, § 5, 4-6-98)

Sec. 6-90. Standards mandatory.

Except as otherwise expressly provided in this article, all general provisions of this article and the code incorporated herein are mandatory. Exceptions to general prohibitions or requirements shall be narrowly construed and narrowly applied. Any person asserting that failure to comply with a general prohibition or requirement is authorized by an exception to such general prohibition or requirement shall bear the burden of proof as to such exception.

(Code 1968, § 301.2; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81; Ord. No. 110-90, 10-1-90)

Sec. 6-91. Other code and statutory provisions.

Where any other provisions of this Code contain more stringent requirements, compliance with the more stringent requirements shall be required. Where approval of the fire chief, health authority or any other specified city official is required by any provision of this Code as to the subject matter of the permit application, such approval shall be a condition precedent to issuance of the permit under this Code. Whenever there is an application for a permit for any structure, other than a single- or two-family dwelling, such permit shall not be issued without the written certificate of the fire chief or his authorized representative that the work described is in compliance with other requirements of this Code or of state law as to fire prevention or exiting.

(Code 1968, § 301.2; Ord. No. 211-79, 10-22-79; Ord. No. 354-81, 12-21-81)

- Sec. 6-92. Reserved.
- Sec. 6-93. Reserved.
- Sec. 6-94. Reserved.
- Sec. 6-95. Reserved.
- Sec. 6-96. Reserved.
- Sec. 6-97. Reserved.
- Sec. 6-98. Reserved.
- Sec. 6-99. Reserved.
- Sec. 6-100. Reserved.
- Sec. 6-101. Reserved.
- Sec. 6-102. Reserved.
- Sec. 6-103. Reserved.
- Sec. 6-104. Reserved.
- Sec. 6-105. Reserved.

ARTICLE V. HOUSING CODE

Sec. 6-106. Definitions.

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

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

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

include one (1) or more dwelling units or rooming units or a combination of both.

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

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

Enforcement authority means and includes the building authority, the health authority, and the director of planning and urban development.

Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the building authority.

Friable asbestos material shall mean any material that contains more than one (1) percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder, when dry, by hand pressure.

Floor area shall mean the floor area inside of and between exterior walls or partitions or any combination thereof, as measured within a habitable room.

Habitable room shall mean a room used, or intended to be used, for living, sleeping, cooking, or eating purposes and excludes bathrooms, toilet rooms, laundries, pantries, halls, closets, heater rooms, utility rooms, and attics. Basement or cellar areas are not habitable rooms except as permitted in this article.

Infestation shall mean the presence within a dwelling or on premises of a dwelling of rodents, vermin, or other pests, as determined through actual observation of them or by evidence of their presence.

Lead-based paint hazard means the presence of lead in any form which exceeds the permissible concentration and which exists in an unacceptable condition.

Lead-based substance means any substance which contains lead

at a level that constitutes or potentially constitutes an environmental lead hazard.

Licensed lodging shall mean the use of one or more rooms, without individual bathroom or kitchen facilities, used to provide sleeping accommodations for no more than two persons, and which are available for use by the public for a fee and which are occupied, regardless of the duration of the occupancy, in the absence of a written lease. Licensed lodging does not including the following:

- (a) Sleeping accommodations, whether provided by a business or non-profit organization, where the owner or manager of such an operation routinely provides:
 - 1. Daily maid service;
 - 2. Replacement of linens and towels as demanded by guests of the establishment; and
 - 3. A centralized telephone system.
- (b) Any establishment licensed by the Maine Department of Human Services to provide health care under the direction of duly licensed health care professionals.
- (c) Dormitories, including dwelling units converted to licensed use, operated by educational institutions authorized to confer degrees.
- (d) Sleeping accommodations provided to graduate medical students under the auspices of the accreditation council on graduate medical education or a similar entity.

Multiple dwelling shall mean any dwelling containing more than two (2) dwelling units, rooming units, or combination of both.

Occupant shall mean any person, including an owner or operator, residing in or having actual possession of a dwelling unit or rooming unit.

Operator shall mean any person who has charge, care, management, or control of any dwelling or part thereof in which dwelling units or rooming units are let or offered for occupancy.

Owner shall mean any person or persons who alone, jointly, severally, or jointly and severally with others:

- (a) Shall have legal or record title to any dwelling, dwelling unit, or dwelling premises;
- (b) Shall have charge, care, or control of any dwelling, dwelling unit, or dwelling premises as an agent of the owner, executor, administrator, trustee, or guardian of the estate of the owner;
- (c) Shall have an equitable interest in a dwelling, dwelling unit, or dwelling premises under a contract or a bond for a deed with the person having legal or record title.

Rooming house shall mean any dwelling, or part thereof, containing three (3) or more rooming units in which space is rented or offered for rent by the owner or operator to be occupied or intended to be occupied by three (3) or more persons who are not related by blood or marriage to the owner or operator.

Rooming unit shall mean one (1) or more rooms forming a single unit used, or intended to be used, for living and sleeping purposes, but not designed for food preparation, by two (2) or more persons living in common or by a person living alone.

Supplied shall mean installed, furnished, or provided by the owner at his or her expense.

(Code 1968, § 307.2; Ord. No. 310-68, § 1, 8-5-68; Ord. No. 490-74, § 1, 8-5-74; Ord. No. 114-77, § 2, 2-23-77; Ord. No. 475-86, § 1, 4-7-86; Ord. No. 159-95, 1-4-95; Ord. No. 45-04/05, 9-8-04)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 6-107. Minimum standards for dwellings established.

There are hereby established minimum standards for buildings used for dwelling purposes in the city. All such buildings not now conforming to these standards will be required to meet such minimum standards, and buildings newly constructed or converted for dwelling purposes shall meet such minimum standards. The standards set forth herein are intended to be minimum only and shall not be construed otherwise, nor shall they apply wherever a greater standard is required by any other ordinance or law.

(Code 1968, § 307.1; Ord. No. 475-86, § 1, 4-7-86)

Sec. 6-108. Minimum standards for structural elements.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, rooming unit, or a combination of the same, which does not comply

with the following minimum standards:

- (a) *Foundations, basements, cellars, exterior walls, roofs.* Every foundation, basement, cellar, exterior wall, and roof shall be substantially weathertight, watertight, and vermin proof; shall be structurally sound and in good repair; and shall be safe for the intended use as well as capable of supporting whatever load normal use may cause to be placed thereon. Every exterior wall or portion thereof shall be painted or stained. Insulation shall be installed and maintained so as not to present a health or safety hazard to occupants. Water from roofs shall be so drained and conveyed therefrom as not to cause repeatedly wet floors, walls, or ceilings, or hazard to adjacent buildings or the occupants thereof.
- (b) *Interior floors, walls, ceilings and doors.* Every floor, wall, ceiling, and door shall be in a structurally sound condition and in good repair and shall be substantially vermin proof.
- (c) *Exterior windows, doors and skylights.* Every window or door, including basement or cellar door and hatchway, and skylight shall be substantially weathertight, watertight, and vermin proof and shall be kept in sound working condition and good repair.
- Every exterior window shall include storm sash with screens or an alternative equally effective for heat retention and ventilation purposes, all in operable condition.
- (d) *Stairways, stairwells, stairs and porches.* Every inside and outside stairway, stairwell, stairs, and porch and any appurtenances thereto shall be structurally sound, in good repair, and safe to use.
- (e) *Chimneys, flues and vent.* Every chimney and every flue, vent, and smokepipe and any attachments thereto shall be structurally sound, in good repair, and safe to use.
- (f) *Required equipment and utilities.* Every supplied facility, piece of equipment, or utility which is required under this article shall be so constructed and installed that it will function safely and effectively and shall be maintained in good working condition.

(Code 1968, § 307.3; Ord. No. 475-86, § 3, 4-7-86)

Sec. 6-109. Sanitation and maintenance of equipment; division of responsibility therefor.

Every dwelling, dwelling unit, roominghouse, rooming unit, dwelling premises, or combination of the same, shall be kept and maintained in a sanitary and clean condition, and facilities shall be provided, in accordance with the following division of responsibility:

- (a) *Maintenance of assigned areas.* Every occupant of a dwelling, dwelling unit, or rooming unit shall maintain in a clean and sanitary manner that part of the dwelling, dwelling unit, or rooming unit, and dwelling premises which he or she occupies and controls.
- (b) *Maintenance of shared areas.* Every owner or operator of a multiple dwelling or rooming house shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and dwelling premises.
- (c) *Maintenance of supplied facilities.* Every occupant of a dwelling unit shall keep all supplied facilities, including refrigeration, plumbing and cooking equipment, in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in their proper use and operation.
- (d) *Disposal of rubbish, ashes, garbage and waste.* Separate watertight, tightly covered plastic or metal containers shall be provided, one (1) or more for garbage and other food wastes, one (1) or more for rubbish, paper, and other non-food wastes, and one (1) or more metal containers for ashes, and all such containers shall be kept covered at all times so as to prevent the ingress and egress of flies, rats or other animals. Plastic or paper bags or boxes are not considered "containers" for purposes of this section. Ashes shall be cold when placed in containers for collection. Such containers shall be cleaned periodically so that they will not become foul or offensive and shall be placed in convenient locations for removal of the contents by persons authorized to collect the same. Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall place or cause to be placed all garbage, rubbish and other waste material in such containers and shall not permit any accumulation or deposit of such substances in or about the premises

except in said containers. The responsibility for the provision of such containers shall be as follows:

1. It shall be the duty of every occupant of every dwelling occupied by not more than two (2) families to provide and keep within the dwelling or upon the premises where the dwelling is situated sufficient containers to meet the above requirements.
2. It shall be the duty of the owner or operator of every multiple dwelling to provide and keep within the dwelling or upon the premises where the dwelling is situated sufficient containers to meet the above requirements.
3. It shall be the duty of every owner or operator of a rooming house to provide and keep within the dwelling or upon the premises where the dwelling is situated sufficient containers to meet the above requirements.

(e) *Rodent and vermin control.* Every dwelling, dwelling unit, rooming house, rooming unit, and dwelling premises shall be kept and maintained free from insects, rodents, or other pests in accordance with the following division of responsibility:

1. Every occupant of a dwelling unit shall be responsible for the extermination of such insects, rodents, or other pests where the infestation is confined to such dwelling unit, except as provided in subsection 6-109(e)2.
2. When infestation of a dwelling unit shall exist because of the failure of the owner or operator of a dwelling or dwelling premises to keep the same in a substantially rodent or vermin-proof condition, extermination shall be the responsibility of the owner or operator.
3. Every owner or operator of a dwelling shall be responsible for the extermination of such insects, rodents, or other pests whenever infestation exists in any two (2) or more dwelling and/or rooming units, or in shared areas or upon the dwelling premises.

4. Every owner or operator of a rooming house shall be responsible for the extermination of any insects, rodents, or other pests in the dwelling or upon the dwelling premises.
- (f) *Maintenance of service to utilities.* No owner, operator or occupant shall cause any service, facility, equipment or utility supplied in accordance with the requirements of this article to be removed, shut off, or discontinued for any occupied dwelling, dwelling unit, rooming house, or rooming unit except for such temporary interruption as may be necessary when actual repairs or alterations are being expeditiously made. For purposes of this Code, whenever it is established that the interruption was for more than twelve (12) hours within a twenty-four-hour period, the owner or operator shall have the burden of producing evidence proving the interruption was necessary and unavoidable given all the surrounding circumstances.
- (g) *Vacating of premises.* It shall be the duty of every occupant of a dwelling, dwelling unit or rooming unit, upon vacating such premises, to leave the premises in a clean and sanitary condition with no accumulation of rubbish or other debris. No owner or operator shall allow another to occupy any dwelling, dwelling unit, or rooming unit which has not been placed in a clean and sanitary condition with no accumulation of rubbish or other debris.

(Code 1968, § 307.4; Ord. No. 475-86, § 4, 4-7-86)

Sec. 6-109.5. Standards for unoccupied residential structures.

The owner of any unoccupied structure containing dwelling units or rooming units or any combination thereof shall comply with the following minimum standards:

- (a) *Foundations, basements, cellars, exterior walls, roofs.* Every foundation, basement, cellar, exterior wall and roof shall be substantially weathertight, watertight and vermin-proof; shall be structurally sound and in good repair; and shall be safe for the intended use as well as capable of supporting whatever load normal use may cause to be placed thereon. Every exterior wall or portion thereof shall be painted or stained. Water from roofs shall be so drained and conveyed therefrom as not to cause repeatedly wet floors, walls or ceilings, or hazard to adjacent buildings or the occupants thereof.

- (b) *Interior floors, walls, ceilings and doors.* Every floor, wall, ceiling and door shall be in a structurally sound condition and shall be substantially vermin-proof.
- (c) *Exterior windows, doors and skylights.* Every window or door, including basement or cellar door and hatchway, and skylight shall be substantially weathertight, watertight and vermin-proof, and shall be kept secured to prevent ingress of people and animals.
- (d) *Stairways, stairwells, stairs and porches.* Every outside stairway, stairwell, stairs and porch and any appurtenances thereto shall be structurally sound, in good repair and safe to use.
- (e) *Chimneys, flues and vent.* Every chimney shall be structurally sound and in good repair.
- (f) *Rodent and vermin control.* All unoccupied structures and exterior property shall be kept free from rodent and vermin infestation. Where rodents and vermin are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. Every owner or operator of an unoccupied residential structure shall be responsible for the extermination of such rodent and vermin or pest whenever infestation exists.

(Ord. No. 172B-94, 2-7-94)

Sec. 6-110. Minimum standards for space and occupancy thereof.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, dwelling unit, or rooming unit which is or would be overcrowded as determined by the following minimum standards for space and occupancy:

- (a) *Space per person.* Every dwelling unit shall contain at least one hundred (100) square feet of habitable floor area for the first occupant and at least seventy (70) square feet of additional habitable floor area for each additional occupant. For the purpose of this subsection, a child under the age of one (1) shall not be counted.
- (b) *Efficiency apartments.* A dwelling unit occupied by two (2) or more occupants which contains a room not intended primarily for cooking or sleeping, but which is properly designed and equipped or especially furnished with either

a kitchenette or wall-type kitchen unit and bed-furniture properly designed for daytime storage or other daytime use, to be maintained as a combination of regular living and efficiency cooking, may contain seventy (70) square feet less habitable floor area than would otherwise be required. For the purpose of this subsection, a child under the age of one (1) shall not be counted.

- (c) *Sleeping space.* Every room occupied for sleeping purposes in a dwelling unit and in a rooming unit shall contain at least fifty (50) square feet of habitable floor area for each occupant, except that children under one (1) shall not be counted and children more than one (1) but less than ten (10) shall be deemed one-half person.
- (d) *Size of habitable rooms.* No habitable room, other than a kitchen or dining alcove, shall contain less than sixty-five (65) square feet of floor area, nor shall the least horizontal dimension of such room be less than seven (7) feet.
- (e) *Computation of floor area.* In computing floor area for the purposes of this section, the space used for closets or other enclosed spaces and, in the case of rooms with sloping ceilings, portions of such rooms with less than four (4) feet in height shall be excluded in computing the area.
- (f) *Basement dwelling units.* Every room in any cellar or basement used for the purposes of a habitable room shall meet the following conditions:
 - 1. The ceiling shall have a clear inner height of at least seven (7) feet and shall be at least three (3) feet above the grade of the ground at the points where the required windows open.
 - 2. The floor and walls shall be water- and damp-proof and the room shall be well drained and dry.
 - 3. There shall be one (1) or more windows, the combined total sash area of which shall be not less than eight (8) square feet, or one-twelfth of total floor area, whichever is greater, which windows shall open readily for purposes of ventilation directly to the outside air.

- (g) *Notice of maximum occupancy required.* When a person lets to another for occupancy any dwelling, dwelling unit, or rooming unit, he or she shall notify the occupant in writing of the maximum number of persons permitted to occupy the premises by the provisions of this article.

(Code 1968, § 307.5)

Sec. 6-111. Minimum plumbing standards.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with the following minimum standards:

- (a) *Basic facilities.* Every dwelling unit shall contain within its walls, in sound operating condition, a kitchen sink, a private flush toilet, lavatory basin, and bathtub or shower. Rooming houses and dwelling houses containing rooming units shall contain at least one (1) flush toilet, one (1) lavatory basin, and one (1) bathtub or shower for each five (5) persons or fraction thereof living within rooming units in the dwelling.
- (b) *Location of facilities.* The flush toilet, lavatory basin, and bathtub or shower shall be conveniently located within a room or compartment which affords privacy and is separate from habitable rooms, is accessible from a common hall without passing through another dwelling unit or rooming unit or without going outside of the rooming house or dwelling house, is not more than one (1) story removed from the rooming unit of any occupant intended to share such facilities, with the lavatory basin further required to be in the same room or compartment as practicable. No such facilities located in a basement or cellar shall count in computing the number of facilities required hereunder, except upon the prior approval of the building authority.
- (c) *Water supply.* Every dwelling, dwelling unit and rooming house shall be provided with a potable water supply. Every kitchen sink, lavatory basin, and bathtub or shower required by this article shall be properly connected with hot and cold water lines with adequate supply and pressure. The hot water lines shall be connected with water-heating facilities which supply water at a temperature of at least one hundred ten (110) degrees Fahrenheit at every required fixture at all times.

- (d) *Maintenance of plumbing fixtures.* All fixtures required by this article and all fixtures installed in addition thereto shall be properly installed and maintained in sound mechanical condition, free from defects, leaks, or obstructions, and in accordance with the state plumbing code.
- (e) *Additional requirements for structures located on islands in Casco Bay.* All new or replacement plumbing fixtures to be installed in any structures located on an island in Casco Bay shall be of water conservation design, as outlined in the state plumbing code. Toilets shall have a low water volume standard of 1.6 gallons per flush or less. Other plumbing fixtures shall have a flow restriction with a maximum flow rated three (3) gallons per minute.

(Code 1968, § 307.6; Ord. No. 310-68, §§ 2, 3, 8-5-68; Ord. No. 475-86, § 5, 4-7-86; Ord. No. 165-89, 12-11-89)

Sec. 6-112. Minimum ventilation standards.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, dwelling unit, rooming house or rooming unit unless every habitable room therein has a window or windows with a total sash area equal to at least one-twelfth of its floor area opening on a street, alley, yard or court open to the sky and constructed so that at least one-half of the sash area can be opened, except that an approved method of mechanical ventilation may be substituted for such window or windows.

(Code 1968, § 307.7)

Sec. 6-113. Minimum lighting standards.

No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit which does not comply with the following minimum standards:

- (a) *Habitable rooms.* Every habitable room, other than rooms used primarily for sleeping, shall contain at least two (2) separate duplex convenience outlets or at least one (1) duplex convenience outlet and one (1) ceiling-type or wall-type electric light fixture.
- (b) *Rooms used primarily for sleeping, bathrooms, utility rooms, cellars and basements.* Every room used primarily for sleeping, water-closet compartment, bathroom, laundry

room, furnace room, cellar and basement shall contain at least one (1) ceiling-type or wall-type electric light fixture.

- (c) *Passageways and common stairway.* Every passageway and stairway shall have at least one (1) ceiling-type or wall-type electric light fixture adequate to provide safe passage.
- (d) *Extension cords.* No temporary wiring shall be used except extension cords which run directly from portable electrical fixtures to convenience outlets, ceiling or wall-type fixtures and which do not lie under rugs or other floor coverings, nor extend through doorways, transoms or similar openings through structural elements.
- (e) *Maintenance of lighting fixtures.* All fixtures required by this article and all fixtures installed in addition thereto shall be maintained in good and safe working conditions and shall be installed in accordance with the electrical code of the city.

(Code 1968, § 307.8; Ord. No. 475.86, § 6, 4-7-86)

Sec. 6-114. Minimum heating standards.

No person shall occupy as owner-occupant or shall allow another to occupy, except when used solely for seasonal occupancy between March first and October thirty-first, any dwelling, dwelling unit, rooming house or rooming unit which does not comply with the following minimum standards:

- (a) *When central heating plant not available.* When heat is not furnished by a central heating plant, each dwelling unit or rooming unit shall be provided with one (1) or more masonry flues and smoke or vent pipe connections, or equal arrangement, in accordance with the provisions of the city Code to permit the use of heating equipment capable of providing heat as required by this section.
- (b) *Heating facilities required.* Every habitable room, excepting rooms used primarily for sleeping purposes, shall be served by heating facilities which provide a minimum temperature of at least sixty-eight (68) degrees Fahrenheit, at a distance of three (3) feet above floor level, as required by prevailing weather conditions from September fifteenth through May fifteenth of each year.

- (c) *Maintenance of equipment.* All stoves, furnaces, room heaters, or domestic water heaters operated by solid, liquid, or gaseous fuel shall be properly vented and maintained in safe operating condition by the owner, operator, occupant or both.

(Code 1968, § 307.9; Ord. No. 475-86, § 7, 4-7-86; Ord. No. 156-88, 9-19-88)

Sec. 6-115. Lead-based paint hazard.

(a) This provision is intended to supplement the Lead Poisoning Control Act (22 M.R.S.A. Sections 1314 et seq.) and the regulations adopted pursuant thereto including, but not limited to, the Rules for Environmental Lead Inspections and the Rules for Abatement of Environmental Lead Hazards.

(b) When either the city's health authority, as defined in section 2-17(h), or the city's director of planning and urban development, as defined in section 2-17(i)(10) of this Code as amended, determines that an environmental lead hazard exists in any dwelling or premises (as those terms are defined in Section 216.03-7 and Section 216.03-31 of the Rules for Abatement of Environmental Lead Hazards), he or she shall issue an order in writing to the owner (as defined in Section 216.03-28 of the Rules for Abatement of Environmental Lead Hazards), describing the environmental lead hazards and establishing a time within which such hazards shall be abated.

(Code 1968, § 307.9A; Ord. No. 490-74, § 2, 8-5-74; Ord. No. 475-86, § 8, 4-7-86; Ord. No. 159-95, 1-4-95)

Sec. 6-116. Minimum standards for safety.

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

- (a) No dwelling unit or rooming unit shall be located within a building containing any establishment handling, dispensing, storing or producing flammable liquids, toxic gas vapors or fibrous materials, such as asbestos, which may endanger the lives or safety of the occupants.
- (b) Every dwelling unit and every rooming unit shall have safe, unobstructed means of egress leading to safe and open spaces at ground level in accordance with applicable statutes, regulations and ordinances.

- (c) Every hallway, stairway, corridor, exit, fire escape door or other means of egress shall be kept clear of obstructions at all times.
- (d) Storage rooms and storage lockers shall not be used for storage of refuse, rubbish or waste.
- (e) Every dwelling, dwelling unit, rooming house and rooming unit shall comply with the applicable provisions of the most current edition of the National Fire Protection Association Life Safety Code, and with all other applicable state statutes and regulations. The enforcement authority's inspection obligation under this subsection shall be limited to notify and cite the owner or any designated responsible party for violations relating to fire/smoke detectors and fire alarms systems.
- (f) When the health or building authority determines that a dwelling contains friable asbestos material in an amount and/or location which presents an unacceptable health hazard to the occupants and/or the general public, the owner of the dwelling, upon notification from the health or building authority, shall remove that material or encapsulate it. Removal or encapsulation shall be conducted in accordance with all applicable federal, state and local laws and regulations.

(Code 1968, § 307.10; Ord. No. 475-86, § 9, 4-7-86; Ord. No. 188-00, §5, 4-24-00)

Sec. 6-116.1. Disorderly houses.

(a) No person shall occupy as owner-occupant or shall allow another to occupy any dwelling, dwelling unit, rooming house, or rooming unit (hereinafter jointly and severally "building") which is a disorderly house as defined herein.

(b) A "disorderly house" is any building which:

- (1) The police have visited eight (8) or more times in any thirty (30) day period in response to situations which are created by the owner, tenants, or tenants' cohobitees, guests or invitees and which would have a tendency to disturb unreasonably the community, the neighborhood or an ordinary individual in the vicinity of said building, including, but not limited to: loud music; boisterous parties; sounds emanating from within the structure which are audible outside the building; loud noise or fights within the building or in its vicinity

involving tenants of the building or their invitees (excluding incidents involving domestic violence); tenants or invitees of tenants being intoxicated on public ways in the vicinity of the building; other similar activities in the building or outside the building itself; or

- (2) The police have visited three (3) or more times in any thirty (30) day period in response to situations which are created by the owner, tenants, or tenants' cohobitees, guests or invitees and involve the arrest and conviction of tenants or their invitees for activities which constitute either a crime or civil infraction under either state or local law, or create a reasonable suspicion that illegal drug use or sales under 17-A M.R.S.A. chapter 45 or prostitution or public indecency under 17-A M.R.S.A. chapter 35 has occurred; or

(c) The situation to which the visit pertains shall be documented by the police department. Such documentation may include sworn affidavits by named citizens which may be sufficient to create a reasonable suspicion said illegal activity has occurred. (Ord. No. 36-98, § 1, 4-22-98; Substitute Ord. No. 52-00, §1, 8-7-00; Ord. No. 35-07/08, 8-20-07)

Sec. 6-116.2. Notice of disorderly house.

(a) *Hot spots.* Whenever a building has been visited by the police in response to a disturbance described in section 6-116.1(b)(1) four (4) times, but less than eight (8) times in any thirty (30) day period or in response to activities that involve a criminal conviction or reasonable suspicion of criminal activity described in section 6-116.1(b)(2) one (1) time in any thirty (30) day period, the police department, the director of planning and urban development, or any other agent designated by the city manager (hereinafter referred to as the "city") shall notify the owner of the circumstances involving the said visits, as long as the owner has registered in accordance with section 6-150 et seq. (disclosure of building ownership). Such notice shall be deemed sufficient for all legal purposes.

(b) *Disorderly houses.* Whenever a building has been identified as a disorderly house by the city, it shall cause written notification of the events which form the basis for that designation to be given to the owner as long as that owner has registered in accordance with section 6-150 et seq. (disclosure of building ownership). Such notice shall be sufficient for all legal purposes. The notice shall require the owner to meet with

representatives of the city (including the police department and the director of planning and urban development or their designee(s)) within five (5) business days from the date of the written notification, or such other time as is agreed upon by the director of planning and urban development, to identify ways in which the problems which have been identified will be eliminated.

At the time of said meeting, the owner shall be obligated to provide to the city the following documentation:

- (1) A copy of the names of all tenants or other persons authorized to reside or presently residing in the building and the units they occupy;
- (2) copies of all leases with tenants residing in the building;
- (3) contracts with any property manager or other person responsible for the orderly operation of the building;
- (4) an accurate and up to date disclosure of building ownership form as required in 6-150 et seq.

In addition, the owner will agree to take effective measures to address the disorderly house, which measures shall be memorialized in a written agreement at the conclusion of the meeting with the city and shall be implemented within one (1) week of said meeting unless another date is agreed upon by the police department and the director of planning and urban development or his or her designee. Failure to enter into such an agreement at the conclusion of the meeting will be deemed a violation of this housing code, and the city shall file a complaint in the district court seeking all compensatory and equitable relief permitted by law.

If the same building should be classified as a disorderly house on a subsequent occasion, then the city is under no obligation to meet with the owner but may condemn and post the building or any units therein, and/or proceed directly with a complaint to the district court seeking all compensatory and equitable relief permitted by law.

(c) The notices provided for in this section may be given to an owner who has not complied with section 6-150, but are not required.

(Ord. No. 36-98, § 1, 4-22-98; Substitute Ord. No. 52-00, §2, 8-7-00; Ord. No. 35-07/08, 8-20-07)

Sec. 6-116.3. Enforcement.

If the owner (a) refuses to agree to take effective measures to address the disorderly house, (b) takes ineffective measures to address the disorderly house as determined by the city, (c) fails to implement the agreement reached with the city to address the disorderly house or (d) if, in the discretion of the city, the disorderly house requires immediate posting, the city may condemn and post the building against occupancy, pursuant to section 6-121 through 6-130, and/or may file a legal action against the owner seeking any and all damages and remedies to which it is entitled pursuant to state and local laws.

The planning and urban development department shall prepare and present a report to the housing committee on or before September 7, 2001, that describes the operation of sections 6-116.1 through 6-116.3 from its effective date for the purpose of evaluation.

(Ord. No. 36-98, § 1, 4-22-98; Substitute Ord. No. 52-00, §3, 8-7-00)

Sec. 6-117. Inspections.

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

(Code 1968, § 307.11; Ord. No. 475-86, § 10, 4-7-86)

Sec. 6-118. Notices.

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

(Code 1968, § 307.12)

Sec. 6-119. Reinspections.

After the expiration of the time for correction of a

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

(Code 1968, § 307.13)

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

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

- (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested in such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;
- (b) Properties which lack plumbing, ventilating, lighting or heating facilities or equipment adequate to protect the health, safety and general welfare of the occupants or the public;
- (c) Properties which, because of their general condition, state of the premises, number of occupants, or location, are so unsanitary, unsafe, overcrowded or otherwise dangerous or detrimental that they create a serious menace to the occupants or the public;
- (d) Properties which contain lead-based paint substances, as defined herein;
- (e) Properties in or on which the owner, operator or occupant has failed to comply with notices or orders issued under the provisions of this article; or
- (f) Properties which are disorderly houses.

NOTE: The words "enforcement authority" would be substituted

for "building authority" throughout the housing code.
(Code 1968, § 307.14; Ord. No. 475-86, § 11, 4-7-86; Ord. No. 159-95, 1-4-95;
Ord. No. 36-98, § 2, 4-22-98)

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

The building authority shall give notice in writing to the property owner or operator of such condemnation and posting, and in the event such property is occupied, he or she shall give like notice to the occupant, which shall also include a reasonable time limit within which such property shall be vacated.
(Code 1968, § 307.15; Ord. No. 475-86, § 12, 4-7-86)

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

No property which has been condemned and posted against occupancy shall again be used for the purpose of habitation until the building authority shall in writing approve of its use and shall likewise authorize the removal of the posted notice.
(Code 1968, § 307.16)

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

It shall be a violation of this article for any person to deface or remove any such posted notice without the prior approval of the building authority, and it shall also be a violation of this article for any person to occupy or let to another for occupancy any property which has been condemned and posted as provided above without receiving the prior approval of the building authority.
(Code 1968, § 307.17)

Sec. 6-124. Property to be secured if not improved.

If the owner or operator of any property which has been condemned as unfit for habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this article, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard shall exist.
(Code 1968, § 307.18)

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

It shall be a violation of this article for any person to sell, transfer, or otherwise dispose of any property against which an order has been issued by the building authority under the provisions of this article unless he or she shall first furnish to

the grantee a true copy of any such order and shall at the same time notify the building authority in writing of the intent to so transfer either by delivering the notice to the building authority and receiving a receipt therefor or by registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed. In the event of a violation of this section, such person shall be subject to a penalty as provided in section 1-15, in addition to any penalty which may be imposed for failure to comply with any order of the building authority.

(Code 1968, § 307.19)

Sec. 6-126. Responsibility hereunder may not be transferred.

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

(Code 1968, § 307.20)

Sec. 6-127. Appeals.

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

(Code 1968, § 307.21; Ord. No. 475-86, § 13, 4-7-86)

Sec. 6-128. Personal nonliability.

No officer or employee charged with the enforcement of this article and acting for the city in the discharge of his or her duties shall render himself or herself personally liable for any damage that may occur to any person or property as a result of his or her acts in the discharge of his or her duties. Any suit brought against any officer or employee because of any act performed by him or her under the provisions of this article shall be defended by the corporation counsel until the final determination of the proceedings therein.

(Code 1968, § 307.22)

Sec. 6-129. Exception for island properties.

The building authority may permit the use of buildings located on the islands for dwelling purposes which do not meet the minimum standards set forth in this article when he or she finds that it is not feasible or practicable to provide such minimum standards and the health, safety or general welfare of the occupants or the

public will not be adversely affected.
(Code 1968, § 307.23)

Sec. 6-130. Violations.

Any person violating any of the provisions of this article or failing or neglecting or refusing to obey any order or notice of the building authority issued hereunder shall be subject to a penalty as provided in section 1-15.

(Code 1968, § 307.24; Ord. No. 133-75, 2-19-75)

Sec. 6-131. Cost of service for responses to disorderly houses.

(a) Whenever the police department is required to respond to a situation at a disorderly house, as defined in section 6-116.1, which constitutes the ninth (9th) or greater response in any thirty (30) day period, the owner of the disorderly house shall pay the cost of service for each such response as follows:

(1) For each such response for service the owner shall pay fifty dollars (\$50.00) which shall be in addition to any penalty to which the owner may be subject.

(b) Failure to pay the cost of service within thirty (30) days after demand therefor shall subject the owner to the penalties provided in section 1-15.

(c) Charges which become payable hereunder shall be treated as liens on the property in question and shall be enforced in accordance with the provisions of section 1-16.

(Ord. No. 36-98, § 3, 4-22-98; Substitute Ord. No. 52-00, § 4, 8-7-00)

Sec. 6-132. Licensed lodging.

(a) *Statement of policy.* The intent of this section is to provide tenant-at-will status to residents of licensed lodging, as defined in section 6-106, after they have resided in a unit for thirty (30) days or more. Such licensed lodging offers sleeping accommodations but few other amenities, and residents of such housing in the past have been subjected to summary eviction procedures by landlords who purposefully characterize their rentals as "lodging houses" and thereby purport to act under state law in ejecting occupants without any recourse, regardless of the length of residency.

(b) *License required for licensed lodging.* No person,

firm, corporation or other entity shall offer or provide licensed lodging, as that term is defined in section 6-106, without having obtained a license to do so.

(c) *Licensing procedure.*

- (1) The licensing procedure shall be that established in chapter 15, licenses and permits, except as modified herein.
- (2) The license application shall be accompanied by a diagram showing the location of all rooms situated within the building or structure which is the subject of the application, including, but not limited to, the location of rooms providing sleeping accommodations, bathrooms, and kitchens.

(d) *Licensing fee.* The license fee shall be ten dollars (\$10.00) for each unit of licensed lodging and shall be renewable annually. In the renewal application, the owner shall identify occupants who have qualified as constructive tenants-at-will pursuant to the provisions of subsection (f) below during the previous year.

(e) *Application to buildings or structures with three or more units.* The requirements of this section shall apply to buildings or structures containing three (3) or more units of licensed lodging.

(f) *Constructive "tenant at will" status after 30 day occupancy.* Any person who has occupied a licensed lodging unit situated at the same building or structure for thirty (30) consecutive days and has paid rent for that thirty (30) day period will be deemed to have achieved the status of a tenant at will as of the 30th day and may not thereafter be evicted except in accordance with the requirements of Maine's Forcible Entry and Detainer Law (14 M.R.S.A. § 6001, et seq.)

(g) *Termination of owner's interest.*

- (1) Upon termination of an owner's interest in any building or structure providing licensed lodging, whether by sale, assignment, death, appointment of a receiver or otherwise, the owner shall advise the successor in title, the City of Portland and all occupants of licensed lodging who have qualified under subsection (f) above of the status of such occupants, which shall

be binding upon the successor in title as though it were the owner when the status was achieved.

(2) Notice to the City of Portland shall be addressed to:

Chief of Inspection Services
Portland City Hall
389 Congress Street
Portland, ME 04101

(h) *Owner's responsibility.* The owner shall remain liable to the occupants qualified under subsection (g) above until the notice required by that section has been provided.
(Ord. No. 45-04/05, 9-8-04)

- Sec. 6-133. Reserved.
- Sec. 6-134. Reserved.
- Sec. 6-135. Reserved.
- Sec. 6-136. Reserved.
- Sec. 6-137. Reserved.
- Sec. 6-138. Reserved.
- Sec. 6-139. Reserved.
- Sec. 6-140. Reserved.
- Sec. 6-141. Reserved.
- Sec. 6-142. Reserved.
- Sec. 6-143. Reserved.
- Sec. 6-144. Reserved.
- Sec. 6-145. Reserved.
- Sec. 6-146. Reserved.
- Sec. 6-147. Reserved.
- Sec. 6-148. Reserved.
- Sec. 6-149. Reserved.

ARTICLE VI. DISCLOSURE OF BUILDING OWNERSHIP

Sec. 6-150. Purpose.

The proliferation of real estate proprietorships, partnerships, and trusts having undisclosed, anonymous or otherwise unidentifiable principals, owning large numbers of multiunit residential properties, sometimes managed through unresponsive property management companies, has impeded the proper enforcement of this chapter, chapter 12 and other ordinances of the city. This article is intended to require the disclosure of the ownership of

such property and to make owners and persons responsible for the maintenance of property more accessible and accountable with respect to the premises.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89)

Sec. 6-151. Registration required.

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

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

(b) *Registration of management companies.* Any individual, firm, corporation or purchaser under a land installment contract pursuant to Title 13 M.R.S.A. § 481 et seq. as may be amended from time to time, managing property subject to the registration requirements of subsection (a) shall register with the building authority its management responsibility within thirty (30) days of the effective date of this article or within thirty (30) days of assuming management responsibility. Any filing shall be updated, at least annually, if there are any changes whatsoever with regard to the information supplied.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89; Ord. No. 246-97, 4-9-97)

Sec. 6-152. Registration form; information.

The building authority shall provide forms to be completed by the owners and managers of properties subject to registration under this article and shall maintain a file containing all registrations made under this article.

(a) The registration form for owners shall include, at a minimum, the following:

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

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89)

Sec. 6-153. Violations.

Any person failing to file the required registration, failing to file any required update to the registration or filing a false statement on any registration shall be guilty of an offense. It shall also be a violation of this article for any owner or manager

to rent any apartment or other portion of any building subject to registration, not registered under this article, or to permit the occupancy of such premises. No certificate of occupancy shall be issued for property subject to the registration requirements which is not registered in accordance with this article. Each day's continuing failure to file such a registration, to update such registration or permitting the continued occupancy of such premises shall be a separate offense.

(Ord. No. 443-89, 6-7-89; Ord. No. 53-89, 7-17-89)

- Sec. 6-154. Reserved.**
- Sec. 6-155. Reserved.**
- Sec. 6-156. Reserved.**
- Sec. 6-157. Reserved.**
- Sec. 6-158. Reserved.**
- Sec. 6-159. Reserved.**
- Sec. 6-160. Reserved.**
- Sec. 6-161. Reserved.**
- Sec. 6-162. Reserved.**
- Sec. 6-163. Reserved.**
- Sec. 6-164. Reserved.**

ARTICLE VII. GREEN BUILDING CODE

***Editor's Note:** Article VII (Green Building Code) was adopted in its entirety by Council Order 187-08/09 and passed on 4-6-09)

Sec. 6-165. Purpose.

The purpose of this article is to promote standards for construction that result in buildings that are environmentally responsible, energy efficient, provide healthy places to work consume less energy and create fewer emissions.

(Ord. No. 187-08/09, 4-6-09)

Sec. 6-166. Definitions.

The following words shall be defined as set forth below for use in this article.

Funded in whole or in part: Receipt of tax increment financing or a grant, HOME loan, Community Development Block Grant loan or Neighborhood Stabilization Program loan greater than twenty-five thousand dollars (\$25,000.00).

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) A change of use.

(Ord. No. 187-08/09, 4-6-09)

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 that are of 5,000 square feet in floor area or greater and have a total construction cost of greater than \$250,000.00 and all new construction and renovation projects to be funded in whole or in part by the city of Portland that are of 10,000 square feet in floor area or greater and have a total construction cost of greater than \$250,000 shall be certified to the U.S. Green Building Council's ("USGBC") Leadership in Energy and Environmental Design ("LEED") Silver Standard, and shall achieve the minimum LEED optimize energy performance points necessary to meet the targets of the 2030 challenge as published by Architecture 2030.

(Ord. No. 187-08/09, 4-6-09)

Sec. 6-168. Submission of LEED checklist.

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 a LEED checklist, along with a narrative description detailing how the LEED points will be achieved, including the points necessary to meet the 2030 challenge.

A copy of the final submission of LEED documentation to the USGBC 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.

(Ord. No. 187-08/09, 4-6-09)

Sec. 6-169. Certificate of Occupancy.

A copy of the final submission of LEED documentation to the USGBC 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.

(Ord. No. 187-08/09, 4-6-09)

Sec. 6-170. Waivers.

The requirement of LEED certification may be waived in an emergency situation or under documented circumstances showing that compliance with this requirement would be cost prohibitive and/or create an unreasonable burden on the construction project or city; have a negative impact on an historic structure; or, if due to specific circumstances, would defeat the intent of LEED certification. Any request for waiver of LEED certification must be accompanied by specific reasons for the waiver and approved by the director of planning and urban development. If a waiver is granted, a reasonable effort must still be made to maximize the number of LEED points attained by the project.

(Ord. No. 187-08/09, 4-6-09)

Sec. 6-171. Appeals.

Any applicant aggrieved by the decision of the director of planning and urban development may appeal that decision to the city council by filing an administrative appeal within twenty one (21) days of the issuance of the decision. The city council shall place the appeal on its next regularly scheduled meeting. The appeal shall be de novo and public comment shall be accepted. The decision of the city council shall be in writing, final and non-appealable.

(Ord. No. 187-08/09, 4-6-09)

Sec. 6-172. Applicability.

This ordinance shall apply to new construction and renovation projects to be owned, occupied, or funded in whole or in part by the city of Portland for which site plan applications, building

City of Portland
Code of Ordinances
Sec. 6-172

Buildings and Building Regulations
Chapter 6
Rev. 5-6-09

permit applications (not associated with an approved site plan), or funding assistance requests are submitted on or after the effective date of this ordinance.
(Ord. No. 187-08/09, 4-6-09)