

HOUSING\*

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## SOUTH PORTLAND CODE OF ORDINANCES

## Chapter 12

## HOUSING\*

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\* **Editor's note**--Ch. 12 is basically derived from Title 5 of the 1966 Revised Ordinances of the city. In the inclusion of said title, the editors in several instances redesignated and renumbered articles and relocated provisions for purposes of classification, revised catchlines and catchphrases in order to facilitate indexing, reference and use and changed "ordinance" to "chapter" or "article" where appropriate.

**Cross reference(s)**--Housing appeal board, § 2-96 et seq.; housing inspector's duties relative to enforcement of the garbage and refuse chapters, §§ 9-4, 9-5; zoning, Ch. 27.  
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- Art. I. In General, §§ 12-1--12-30
- Art. II. Administration and Enforcement, §§ 12-31--12-68
- Art. III. Responsibilities of Owners and Occupants Generally, §§ 12-69--12-95
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- Art. IX. Housing Security
- Art. X. Housing Affordability



**ARTICLE I. IN GENERAL****Sec. 12-1. Definitions.**

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

*Affordable housing:* Dwelling units for which the percentage of income a household is charged in rent and other household expenses, or must pay in monthly mortgage payments (including insurance and taxes), does not exceed 30% of a household's income.

*Easement:* That portion of a building next below the ground floor or basement having not much more than one-half (1/2) its clear height below the adjoining grade.

*Cellar:* That portion of a building next below the ground floor or basement having more than one-half (1/2) its clear height below the adjoining grade.

*Discrimination:* The unjust or prejudicial treatment of different categories of people, when those categories are protected from discrimination by municipal, state and federal law, including, but not limited to, categories based on race, color, religion, sex, sexual orientation, familial status. Ancestry, national origin, age, physical or mental disability, and based on receipt of public assistance, as provided in 5 M.R.S. § 4581-A, as amended from time to time.

*Dwelling:* Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

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

*Dwelling unit:* Any room or group of rooms located within a dwelling and forming a single habitable 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.

*Extermination:* 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; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the health officer.

*Garbage:* Shall mean residential offal, household garbage and kitchen waste.

*Habitable room:* A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes excluding bathrooms, water closet compartments, laundries, pantries, game rooms, foyers or communicating corridors and permanent built-in closets and storage spaces.

*Health officer:* The legally designated health authority of the City of South Portland, or his authorized representative.

*Infestation:* The presence or evidence of the presence, within or around a dwelling, of any insects, rodents or other pests.

*Landlord:* An owner, manager, lessee, sublessee, managing agent or other person having the right to rent or sell or manage any dwelling unit or rental property or any agent of these individuals or entities.

*Multiple dwelling:* Any dwelling containing more than two (2) dwelling units.

*Neighborhood activity centers.* Relatively small areas where local residents can easily walk to gather, shop, dine, or purchase services. They are characterized by a mix of residential and such non-residential uses as office, retail, commercial, entertainment, and personal services, and are distinct from business hubs that draw

from larger market areas.

*Occupant:* Any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

*Operator:* Any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

*Ordinary minimum winter conditions:* Minus twenty (20) degrees Fahrenheit.

*Owner:* Any person who, alone or jointly or severally with others:

- (1) Has legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Has charge, care or control of any dwelling or dwelling unit as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as if he were the owner

*Person:* Any individual, firm, corporation, association or partnership.

*Plumbing:* All of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bath tubs, shower baths, installed clotheswashing machines, catch basins, drains, vents and other similar supplied fixtures, together with all connections to water, sewer or gas lines.

*Refuse* shall mean an accumulation of any putrid substance, garbage, rubbish, old lumber, debris, rubble, abandoned appliances or abandoned household furniture.

*Rooming house:* Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to four (4) or more persons who are not husband or wife, son or daughter, mother or father or sister or brother of the owner or operator.

*Rooming unit:* Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

*Supplied:* Paid for, furnished, installed or provided by or under the control of the owner or operator.

*Temporary housing:* Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system.

*Tenant:* An individual, individuals, an entity, entities, a lessee or sub-lessee, or other person having the right to rent any dwelling unit or rental property or any agent of these individuals or entities. This definition includes a tenant at will as described in 14 M.R.S. § 6002, as amended from time to time.

(Code 1966, §§ 5-1--5-1-21; Ord. No. 9-70, § 3-16-70; Ord. No. 19-72, 9-6-72; Ord. No. 3-17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

## **Sec. 12-2. Construction of certain words.**

Whenever the words "dwelling" and "dwelling premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(Code 1966, § 5-1-22)

## **Sec. 12-3. Scope of chapter.**

This chapter contains provisions establishing minimum standards governing the

condition and maintenance of dwellings; establishing minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings safe, sanitary, and fit for human habitation; establishing minimum standards governing the condition of dwellings offered for rent; fixing certain responsibilities and duties of owners and occupants of dwellings; authorizing the inspection of dwellings; and condemnation of dwellings unfit for human habitation; and fixing penalties for violation.

(Code 1966, Title 5)

**Sec. 12-4. Effect of chapter on other ordinances.**

This chapter shall not interfere with, abrogate, annul or repeal any ordinance of the city, provided that where this chapter imposes greater restrictions than any other ordinance of the city its provisions shall control.

(Code 1966, § 5-13-2)

**Sec. 12-5. Responsibility for compliance with chapter not transferable.**

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

(Code 1966, § 5-13-4; Ord. No. 19-72, 9-6-72)

**Sec. 12-6. Compliance with maintenance standards prerequisite to occupancy of dwelling or dwelling unit.**

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements relating to the safe and sanitary maintenance of parts of dwellings and dwelling units:

- (1) *Foundations, floors, walls, ceilings, roofs to be weatherproof, rodentproof, capable of affording privacy and properly maintained.* Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight and rodentproof; shall be capable of affording privacy; and shall be kept in good repair.
- (2) *Windows, doors, hatchways to be weatherproof, rodentproof and properly maintained.* Every window, exterior door and basement hatchway shall be reasonably weathertight, watertight and rodentproof and shall be kept in sound working condition and good repair.
- (3) *Construction, maintenance of stairways, porches.* Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.
- (4) *Stairways to have handrails.* Every stairway four (4) feet or more in height shall have a safe and proper handrail.
- (5) *Railings or parapets around porches, balconies, roofs.* Railings or parapets shall be provided around porches that are higher than thirty (30) inches above ground level, balconies, roofs used for egress or tenancy purposes and/or similar places. Such protective railings or parapets shall be properly balustered and be not less than three (3) feet in height.
- (6) *Construction, maintenance of bathroom and water-closet floors.* Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(Code 1966, §§ 5-7-1--5-7-1.3)

**Sec. 12-7. Removal of required services, facilities, equipment, utilities.**

No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the health officer.

(Code 1966, § 5-7-2)

**Sec. 12-8. Egress from dwelling units.**

Every dwelling unit shall have one or more approved means of egress with minimum head room of six (6) feet six (6) inches leading to safe and open space at ground level, and every dwelling unit in a multiple dwelling shall have immediate access to two (2) or more appropriate and approved means of egress with minimum head room of six (6) feet six (6) inches leading to safe and open space at ground level, as required by the laws of the state and the ordinances of the city.

(Code 1966, § 5-5-3; Ord. No. 19-72, 9-6-72)

**Sec. 12-9. Service for collection, removal and disposal of refuse.**

For provisions relative to establishing and maintaining a service for the collection, removal and disposal of refuse within the boundaries of the city, see chapter 9 of this Code.

(Code 1966, § 5-4-1; Ord. No. 9-70, 3-16-70)

**Secs. 12-10--12-30. Reserved.**



**ARTICLE II. ADMINISTRATION AND ENFORCEMENT****Sec. 12-31. Violations a misdemeanor; general penalty.**

- (a) Any person violating any of the provisions of this chapter for which no penalty is provided or failing to comply with any lawful order or direction of the health officer in the enforcement of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each day of such violation.
- (b) Notwithstanding the above penalties, the penalty provisions of section 1-8 shall govern.

(Code 1966, §§ 5-13-1, 5-13-1.1; Ord. No. 7-70, 3-16-70)

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**Editor's note**--Subsection 12-31(b) was rewritten to provide for the application of the penalty provisions of § 1-8 of this Code.  
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**Sec. 12-32. Health officer to give notice of alleged violations; notice requirements.**

- (a) Whenever the health officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, he shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided.
- (b) Such notice:
  - (1) Shall be put in writing;
  - (2) Shall include a statement of the reasons why it is being issued;
  - (3) Shall allow a reasonable time for the performance of any act it requires;
  - (4) Shall be served upon the owner or his agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant if a copy thereof is served upon him personally; or if a copy thereof is sent by registered mail to his last known address; or if he is served with such notice by any other method authorized or required under the laws of this state;
  - (5) May contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter.

(Code 1966, §§ 5-10-1--5-10-1.5)

**Sec. 12-33. Hearing before health officer authorized; petition; notice of hearing; postponement; rights of petitioner at hearing.**

- (a) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the health officer, provided that such person shall file in the office of the health officer a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten (10) days after the days the notice was served.
- (b) Upon receipt of the petition, the health officer shall set a time and place for the hearing, not later than ten (10) days after the day on which the petition was filed and shall give the petitioner notice thereof in the manner prescribed in section 12-32.
- (c) Upon application of the petitioner the health officer may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in his judgment the petitioner has submitted a good and sufficient reason for such postponement.

- (d) At the hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.

(Code 1966, § 5, 5-10-2)

**Sec. 12-34. Power of health officer to sustain, modify, withdraw notice at hearing; when notices become orders.**

- (a) After a hearing held pursuant to this article, the health officer shall sustain, modify or withdraw the notice of violation, depending upon his findings as to the compliance with the provisions of this chapter.
- (b) If the health officer sustains or modifies the notice of violation, it shall be deemed to be an order. Any notice served pursuant to section 12-32 shall automatically become an order if a written petition for a hearing is not filed in the office of the health officer within ten (10) days after such notice is served.

(Code 1966, § 5-10-3)

**Sec. 12-35. Record of proceedings at hearing.**

The proceedings at a hearing held pursuant to this article, including the findings and decision of the health officer, shall be recorded and entered as a matter of public record in the office of the health officer. Such record shall also include a copy of every notice or order issued in connection with the matter.

(Code 1966, § 5-10-4)

**Sec. 12-36. Authority to appeal health officer's order.**

Any person aggrieved by an order of the health officer may appeal to the superior court in accordance with the Maine Rules of Civil Procedure.

(Code 1966, § 5-10-6; Ord. No. 17-76, 7-19-76)

**Sec. 12-37. Restriction on disposition of property subject to order; penalty.**

- (a) It shall be unlawful for the owner of any dwelling, dwelling unit, rooming house, rooming unit and premises against which any lawful order has been issued by the health officer pursuant to this article to sell, transfer or otherwise dispose thereof to another, unless he shall first furnish to the grantee prior to transfer thereof, a true copy of any order issued by the health officer and at the time notify the health officer in writing of the intent to transfer either by delivering the notice to the health officer 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.
- (b) In the event of any violation of the terms of this section, the grantor shall be subject to a penalty of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) in addition to any penalties imposed for failure to comply with any lawful order of the health officer.

(Code 1966, § 510-5)

**Sec. 12-38. Health officer to make inspections.**

The health officer is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming houses, rooming units and premises located within this city in order that he may perform his duty of safeguarding the health and safety of the occupants of dwellings and of the general public.

(Code 1966, § 5-2-1)

**Sec. 12-39. Right of entry to make inspections.**

For the purpose of making inspections authorized and directed by section 12-38, the health officer is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and premises.

(Code 1966, § 5-2-2)

**Sec. 12-40. Owner or occupant to give access to health officer to make inspection.**

The owner or occupant of every dwelling, dwelling unit, rooming house and rooming unit, or the person in charge thereof, shall give the health officer free access to such dwelling, dwelling unit, rooming house or rooming unit and premises at all reasonable times for the purpose of inspection, examination and survey.

(Code 1966, § 5-2-3)

**Sec. 12-41. Occupant to give access to owner to make repairs, alterations.**

Every occupant of a dwelling, dwelling unit, rooming house and rooming unit shall give the owner thereof; or his agent or employees, access to any part of such dwelling, dwelling unit, rooming house, rooming unit or premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant to the provisions of this chapter.

(Code 1966, § 5-2-4)

**Sec. 12-42. Dwellings may be declared unfit for human habitation and placarded when certain defects found.**

Any dwelling, dwelling unit, rooming house or rooming unit which is found to have any of the following defects may be declared unfit for human habitation and may be so designated and placarded by the health officer where:

- (1) *Existence of deteriorated conditions.* The interior or exterior walls, foundation, doors, windows, floors, stairs, roof or any other portion of any dwelling, dwelling unit, rooming house or rooming unit are so deteriorated, broken, damaged or in such state of disrepair as to cause conditions detrimental to life and health;
- (2) *Lack of toilet facilities.* The lack of toilet facilities creates a nuisance and health hazards;
- (3) *Plumbing inadequacies.* The plumbing, plumbing fixtures, septic tanks or other waste disposal facilities are in such condition as to create a nuisance or a health hazard;
- (4) *Overcrowding.* Serious or dangerous overcrowding of persons in sleeping rooms or space creates a hazard to health;
- (5) *Rodent or vermin infestation.* Rodent or vermin infestation within the building may result in contamination of food or other health hazards;
- (6) *Inadequate or contaminated water supply.* No adequate water supply is available, or the available supply is subject to such contamination as may cause a health hazard;
- (7) *Infectious or communicable disease.* An infectious or communicable disease exists therein, and, as a result thereof, reasonable isolation and disinfection procedures cannot be followed due to lack of sanitary facilities or overcrowding;
- (8) *Other conditions.* Other conditions are present which are or may become detrimental to health.

(Code 1966, §§ 5-11-1--5-11-1.8)

**Sec. 12-43. Authority to order corrective action or vacation of premises when health menace exists; placarding generally.**

- (a) In instances where the health officer determines that extreme danger or menace to the occupants or the public health exists, he may order immediate correction to be made or, if the circumstances warrant, may order the vacation of the occupants.
- (b) If any person so notified neglects or refuses to comply with an order of the health officer, the health officer may then declare the premises unfit for human habitation by issuing to the occupants and the owner or operator a written order to vacate the premises within such time as he may deem reasonable, and a placard prohibiting continued occupancy or reoccupancy may be conspicuously posted on the premises.
- (c) To placard, the health officer shall issue to the occupants and the owner or operator a written notice to vacate the premises within such time as the health officer may deem reasonable, and a placard prohibiting continued occupancy or reoccupancy may be conspicuously posted on the premises.

(Code 1966, § 95-10-7, 5-10-10; Ord. No. 17-76, 7-19-76)

**Sec. 12-44. Reserved.**

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**Editor's note**--Ord. No. 17-76, enacted July 19, 1976, redesignated § 12-44(b) as § 12-43(c) and repealed § 12-44(a), relative to appeals to the housing board of appeals.  
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**Sec. 12-45. Duty to render property condemned as unfit for human habitation safe and secure.**

In the event the owner or operator of any property which has been condemned as unfit for human habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this chapter, such owner or operator shall proceed to make said property safe and secure so that no danger to life or property or fire hazard shall exist.

(Code 1966, § 5-11-1.9; Ord. No. 19-72, 9-6-72)

**Sec. 12-46. When condemned dwelling may again be used for human habitation; when health officer to remove placard.**

- (a) No dwelling, dwelling unit, rooming house or rooming unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the health officer.
- (b) The health officer shall remove such placard whenever the defects upon which the placarding action is based have been eliminated.

(Code 1966, § 5-10-8)

**Sec. 12-47. Removing or defacing placard prohibited.**

No person shall deface or remove a placard placed pursuant to this article from any dwelling, dwelling unit, rooming house or rooming unit which has been declared unfit for human habitation except as otherwise provided in this article.

(Code 1966, § 5-10-9)

**Secs. 12-48--12-68. Reserved.**

**ARTICLE III. RESPONSIBILITIES OF OWNERS AND OCCUPANTS GENERALLY****Sec. 12-69. Cleanliness of dwelling units, public areas.**

- (a) No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary, and fit for human occupancy.
- (b) Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (c) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(Code 1966, § 5-12-1)

**Sec. 12-70. Screens, storm doors and windows.**

- (a) The owner of a dwelling or dwelling unit shall be responsible for providing adequate screens and storm doors and windows wherever the same are required under the provisions of this chapter.
- (b) Every occupant of a dwelling or dwelling unit shall be responsible for hanging adequate screens and storm doors and windows whenever the same are required under the provisions of this chapter except where the owner has agreed to supply such service.

(Code 1966, §§ 5-12-2.1, 5-12-2.2)

**Sec. 12-71. Plumbing insulation.**

It shall be the duty of the owner to provide adequate insulation or other means of protection of all plumbing within a dwelling unit so as to prevent the plumbing from freezing under ordinary minimum winter conditions.

(Code 1966, § 5-12-3)

**Sec. 12-72. Adequate heat to be maintained in dwelling unit.**

It shall be the duty of the occupant to maintain adequate heat in the dwelling unit at all times to prevent freezing of the plumbing.

(Code 1966, § 5-12-4)

**Sec. 12-73. Compliance with provisions pertaining to collection, removal and disposal of refuse required.**

The owners and occupants of dwellings or dwelling units shall conform to the provisions of chapter 9 of this Code pertaining to the collection, removal and disposal of refuse within the boundaries of the city.

(Code 1966, § 5-12-5; Ord. No. 9-70, 3-16-70)

**Sec. 12-74. Extermination of vermin, rodents and insects.**

- (a) Whenever infestation of vermin or rodents is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonably insectproof condition, the responsibility for extermination shall fall upon the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.
- (b) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests

therein or on the premises.

(Code 1966, §§ 5-12-6.1, 5-12-6.2)

**Secs. 12-75--12-95.      Reserved.**

## ARTICLE IV. ROOMING HOUSES\*

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 \* **Cross reference(s)**--Disposition of rooming house subject to order of health officer, § 12-37; inspection of rooming houses, §§ 12-38--12-40; occupant of rooming house to give access to owner to make repairs and alterations, § 12-41; declaring rooming houses unfit for habitation, §§ 12-42--12-44; use of rooming house following declaration, § 12-46; water supply required, § 12-121(4).  
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**Sec. 12-96. Operator's general responsibility for sanitary maintenance.**

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

(Code 1966, § 5-9-1)

**Sec. 12-97. Compliance with standards prerequisite to operation or occupancy.**

No person shall operate a rooming house or shall occupy or let to another for occupancy any rooming unit in any rooming house which does not comply with the following requirements:

- (1) *Water closet, bath and shower requirements.* At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the plumbing inspector and in good working condition, shall be supplied for each eight (8) persons, or fraction thereof, residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities, provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half ( 1/2) the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement except by written approval of the health officer.
- (2) *Floor space requirements for sleeping rooms.* Every room occupied for sleeping purposes by one person shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least fifty (50) square feet of floor space for each occupant thereof.

(Code 1966, §§ 5-9-2--5-9-2.2)

**Sec. 12-98. Linen requirements.**

The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(Code 1966, § 5-9-3)

**Secs. 12-99--12-119. Reserved.**





**ARTICLE V. PLUMBING\***

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 \* **Cross reference(s)**--Owner of dwelling unit to provide insulation of plumbing fixtures, § 12-71; plumbing, Ch. 20.  
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**Sec. 12-120. Proper installation and maintenance required.**

All plumbing shall be properly installed and maintained in a good sanitary working condition, free from defects, leaks and obstructions.

(Code 1966, § 5-3-1)

**Sec. 12-121. Compliance with requirements prerequisite to occupying or letting dwelling or dwelling unit.**

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requirements:

- (1) *Kitchen sink required.* Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system approved by the plumbing inspector.
- (2) *Flush water closet and lavatory basin required.* Every dwelling unit shall contain, within a room which affords privacy, a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system approved by the plumbing inspector.
- (3) *Bathtub or shower required.* Every dwelling unit shall contain, within a room which affords privacy, a bathtub or shower in good working condition and properly connected to a water and sewer system approved by the plumbing inspector.
- (4) *Water supply.* Every dwelling, dwelling unit, and rooming house, or combination of the same, 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 are capable of heating water to such a temperature as to permit an adequate amount of water at a temperature of one hundred twenty (120) degrees Fahrenheit or above to be drawn at every required fixture at all reasonable times.

(Code 1966, §§ 5-3-2--5-3-2.4; Ord. No. 19-72, 9-6-72)

**Sec. 12-122. Accessibility of bathtub, water closet or shower.**

The water closet and bathtub or shower compartment for each dwelling unit shall be accessible from within the building without passing through any part of any other dwelling unit.

(Code 1966, § 5-3-3)

**Sec. 12-123. Drains.**

Every sink, tub, shower, toilet or other plumbing fixture in a building used for habitation shall be provided with a proper and unobstructed drain which discharges into a sewage system outside the building, and said fixtures and drains shall be maintained by the owner in a sanitary working condition at all times.

(Code 1966, § 5-3-1.5)

**Sec. 12-124. Use of underground water-borne sewage treatment.**

Where connection to a public sewer is not practicable, a dwelling unit shall be served by an underground water-borne sewage treatment system approved by the plumbing inspector and maintained in a proper manner.

(Code 1966, § 5-3-4)

**Secs. 12-125--12-145. Reserved.**

**ARTICLE VI. LIGHT, VENTILATION AND HEATING\***

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 \* **Cross reference(s)**--Duty to provide and install windows in dwellings and dwelling units, § 12-70.  
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**Sec. 12-146. Compliance with article prerequisite to occupying or letting dwelling or dwelling unit.**

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of this article.

(Code 1966, §§ 5-5-1, 5-5-2)

**Sec. 12-147. Minimum window and skylight area for habitable rooms.**

Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window or skylight area for every habitable room shall be ten per cent (10%) of the floor area of any such room. Whenever walls or other portions of structures face a window or any such room and such light obstruction structures are located less than three (3) feet from the window and extend to a level above that of the window of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such room, the total window area of such skylight shall equal fifteen per cent (15%) of the total floor area of such room.

(Code 1966, § 5-5-1.1)

**Sec. 12-148. Openable window area in habitable rooms.**

Every habitable room shall have at least one window or skylight which can be easily opened. The total openable window area in every habitable room shall be equal to at least forty-five per cent (45%) of the minimum window area or minimum skylight area, as required in section 12-147, except where there is supplied some other device affording adequate ventilation and approved by the health officer.

(Code 1966, § 5-5-1.2)

**Sec. 12-149. Light, ventilation requirements for bathrooms and water closets.**

Every bathroom and water closet compartment shall be well lighted and ventilated. Three (3) foot candles of light (three (3) lumens per square foot) shall be provided by either natural or artificial means and shall be available at all times. Such light shall be measured thirty-six (36) inches from the floor at the center of the room. Every bathroom and water closet compartment shall have at least one window or skylight which can be easily opened. The total openable window area shall be equal to at least forty-five per cent (45%) of the minimum window area or minimum skylight area as required in section 12-147. Such window area requirements of this section may be waived provided that there is an installed mechanical ventilation system approved by the health officer.

(Code 1966, § 5-5-1.3)

**Sec. 12-150. Electric outlet requirements.**

Where there is electric service available from power lines which are not more than three hundred (300) feet away from a dwelling, every habitable room shall contain at least two (2) separate wall type electric convenience outlets or one such convenience outlet and one ceiling or wall type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition and shall be connected to the source of electric power in accordance with the American Insurance Association (successor to the National Board of Fire Underwriters). No temporary wiring shall be used except extension cords which

run directly from portable electric fixtures to convenience outlets, and which do not lie under rugs or other floor coverings, nor extend through doorways, transoms or other openings through structural elements.

(Code 1966, § 5-5-1.4)

**Sec. 12-151. Passageway and staircase lighting requirements.**

Every portion of any passageway or staircase common to two (2) or more dwelling units in a building used for human habitation shall be illuminated naturally or artificially at all times with an illumination of at least two (2) foot candles (two (2) lumens per square foot) in the darkest portion of the normally traveled stairs and passageways. Such means of illumination in dwellings of three (3) dwelling units or less with a common passageway may be controlled by switches that may be turned on as needed.

(Code 1966, § 5-5-1.5)

**Sec. 12-152. Required heating equipment.**

Every dwelling unit shall have heat generating equipment properly installed and capable of safely heating all rooms except those used exclusively for sleeping purposes to a temperature of at least seventy (70) degrees Fahrenheit measured at a distance of thirty-six (36) inches above the floor level, under ordinary minimum winter conditions.

The requirements of this section shall not apply to dwelling units used solely for seasonal occupancy during the months of March through October.

(Code 1966, § 5-5-2.1)

**Sec. 12-153. Venting requirements when heat not furnished by central heating.**

When heat is not furnished by a central heating plant, each dwelling unit shall be provided with one or more masonry flues and smoke or vent pipe connections or approved equal arrangement to vent satisfactorily and safely any heating unit.

(Code 1966, § 5-5-2.2)

**Secs. 12-154--12-174. Reserved.**

**ARTICLE VII. GENERAL SPACE, USE AND OCCUPANCY STANDARDS****Sec. 12-175. Compliance with standards prerequisite to occupying or letting dwelling unit.**

No person shall occupy or let to another for occupancy any dwelling unit, for the purpose of living therein, which does not comply with the following requirements for space, use and occupancy:

- (1) *Floor space requirements.* Every dwelling unit shall contain at least one hundred (100) square feet of floor area per occupant. Every sleeping room or room used for sleeping purposes shall contain a minimum of seventy (70) square feet of floor area and at least fifty (50) square feet of habitable room area; provided that the occupancy of any dwelling unit having more than one habitable room shall not exceed an average of one and one-half (1 1/2) persons per habitable room; and provided further that for the purposes of this section, a child under ten (10) years of age shall be deemed to be one-half ( 1/2) person.
- (2) *Ceiling heights.* At least one-half (1/2) of the floor area of every habitable room shall have a ceiling of at least seven (7) feet; and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (3) *Use of cellars restricted.* No cellar space shall be used as a habitable room or dwelling unit.
- (4) *Use of basement restricted.* No basement space shall be used as a habitable room or dwelling unit unless the floors and walls are free from chronic dampness and protected from surface runoff.

(Code 1966, §§ 5-6-1--5-6-1.4)

**Sec. 12-176. Temporary housing.**

No temporary housing shall be used without the written permission of the health officer.

(Code 1966, § 5-6-2)

**Secs. 12-177--12-197. Reserved.**



**ARTICLE VIII. INSECT, RODENT AND VERMIN CONTROL\***

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\* **Cross reference(s)**--Rodent control generally, § 10-18 et seq.; responsibility of owner and occupant of dwelling to maintain such dwelling in a rodentproof or reasonably insectproof condition, § 12-74.  
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**Sec. 12-198. Health officer may require extermination, rodentproofing.**

Rodent or vermin extermination and rodentproofing may be required by the health officer.

(Code 1966, § 58-1)

**Sec. 12-199. Dwellings to be free of insects, rodents, vermin.**

Every dwelling shall be free from insects, rodents or vermin.

(Code 1966, § 5-8-1)

**Sec. 12-200. Responsibility for extermination.**

Responsibility for extermination required by this article shall be as set forth in section 12-74.

(Code 1966, § 5-8-3)

**Sec. 12-201. Screening requirements.**

During that portion of each year when the health officer deems it necessary for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied screens and a self-closing device, and every window or other device with openings to outdoor space, used for ventilation, shall likewise be supplied with screens. In every basement or cellar at least one window, and every opening used for ventilation which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

(Code 1966, § 5-8-2)

**Sec. 12-202-12-219. Reserved**

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])





**ARTICLE IX. HOUSING SECURITY****Sec. 12-220. Purpose**

The purpose of this Article is to address housing insecurity in the City of South Portland; to prohibit discrimination and ensure equal housing opportunity for residents of the City of South Portland without regard to, among other things, receipt of public benefits; to minimize the potential adverse impacts of short-notice rent increases; and to educate tenants and landlords of their rights and responsibilities.

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

**Sec. 12-221. Applicability**

The Article shall apply to any and all dwelling units within the City limits of South Portland.

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

**Sec. 12-222. Discrimination prohibited in sale or rental of dwelling units.**

(a) A Tenant shall have the right to secure a rental dwelling unit without being refused that right on the basis of discrimination because of race, color, sex. Sexual orientation, physical or mental disability, religion, ancestry, national origin, or familial status, pursuant to 5 M.R.S. § 4581-A, et seq., as amended from time to time.

(b) A Landlord shall not refuse to rent or impose terms of tenancy on any Tenant who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of the individual's status as a recipient as described in 5 M.R.S. § 4581-A, et seq., as amended from time to time.

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

**Sec. 12-223. Notification of rent increases.**

(a) Notwithstanding 14 M.R.S. § 6015, as may be amended from time to time, for any rent increase effective on or after January 1, 2023, a Landlord shall provide ninety (90) calendar days' advance written notice of any rent increase to a Tenant. The notice required under this section must specify:

- (i) The amount of the rent increase;
- (ii) The amount of the new rent;
- (iii) The date on which the increase becomes effective;
- (iv) That Tenant has a minimum of forty-five (45) days from the date Tenant receives written notice of the rent increase to accept or reject the new rent; and
- (v) Tenant's response deadline, including specific date, time and method of communication, of Tenant's acceptance or rejection of the new rent to Landlord, which response deadline must be as least forty-five (45) days from the date Tenant receives written notice of the rent increase as described in subsection (b) below.

(b) A Landlord must deliver the written notice required under subsection (a) to

each Tenant as follows:

- (i) By hand delivery directly to that Tenant, with that Tenant signing a written acknowledgement of the date on which the notice was so delivered, in which case the notice is considered to have been delivered to that Tenant on the acknowledged delivery date;
- (ii) Electronically as though the notice was related to a "transaction" as defined in 10 M.R.S. § 9402(11), as may be amended from time to time, if the Landlord and that Tenant have agreed to conduct that transaction by electronic means as provided in 10 M.R.S. § 9405(2), as may be amended from time to time, in which case the notice is considered to have been delivered to that Tenant upon receipt as provided in 10 M.R.S. § 9415(2), as may be amended from time to time; and
- (iii) If the Landlord is unable to hand or, if otherwise permitted in subsection (b)(ii), electronically, deliver the notice directly to a Tenant as provided in subsection (b)(i) or (b)(ii) above after three or more good faith attempts to do so on three separate days, or if the Landlord is able to hand deliver the notice to a Tenant, but a Tenant then refuses to sign a written acknowledgement of that Tenant's receipt of that notice, then the Landlord may deliver the notice to that Tenant by mailing it by first class mail, postage prepaid, addressed to Tenant's last known mailing address, and obtaining a U.S. Postal Service certificate of mailing for the same, in which case delivery of the notice shall be conclusively presumed to have been made on the third calendar day after that mailing, or if that third day is not a day on which the U.S. Postal Service would ordinarily deliver mail at the Tenant's last known mailing address, then on the next day when such a delivery would be made in the ordinary course of business of the U.S. Postal Service.
- (c) Tenant shall have at least forty-five (45) days from the date the Tenant receives written notice of the rent increase to respond to Landlord regarding acceptance or rejection of the rent increase.
- (d) A Landlord may obtain the signature of a Tenant by electronic signature as though the notice were related to a "transaction" as defined in 10 M.R.S. § 9402(11), as may be amended from time to time, if the Landlord and that Tenant have agreed to conduct transactions by electronic means as provided in 10 M.R.S. § 9405(2), as may be amended from time to time. The Landlord shall retain the original, or a physical or - to the extent provided in 10 M.R.S. § 9412(1) - electronic, copy of the notice, acknowledgement, receipt and/or certificate set forth in subsection (b)(i)-(iii) for a period of six (6) years from the date of such, and shall make any such original or copy available for inspection at the request of the City of South Portland.

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000]; Ord. No. 9-22/23, 10/18/2022 [Fiscal Note: Less than \$1000])

**Sec. 12-224. Tenant and Landlord rights and responsibilities.**

(a) The City Manager or his/her designee shall create and make available on the City's publically accessible web site a plain language document that explains tenancy at will and the rights and responsibilities of Tenants and Landlords of rental dwelling units. That document shall also include a checklist of required notices concerning environmental lead hazards, energy efficiency or radon testing, pursuant to 14 M.R.S. §§ 6030-B, 6030-C, and 6030-D, respectively, as amended from time to time.

(b) The document referenced above shall be provided by Landlords to all Tenants in the City of South Portland at the commencement of the rental of a dwelling unit. It

shall be the responsibility of the Landlord to ensure the most current version of the document is provided when required.

(c) An acknowledgement of receipt of the document described above must be signed by all Tenants prior to the Tenants taking possession of the dwelling unit, and a copy of the acknowledgement kept on file by the Landlord for at least six (6) years and made available for inspection at the request of the City of South Portland.

(d) Landlord may obtain the signature of Tenant by electronic signature pursuant to the Uniform Electronic Transactions Act if Landlord and Tenant have agreed to conduct transactions by electronic means.

(e) A Landlord is prohibited from refusing to accept Cash or a check from a financial institution located in the United States tendered as a form of payment, whether such refusal is by the Landlord or any person authorized to accept payment on behalf of the Landlord and whether such payment tendered is in full or only a portion of the amount due Landlord. "Cash" means United States coins and currency as set forth in 31 U.S.C. § 5103, as the same may be amended. "Cash" does not include currency issued under the authority of any country other than the United States; or any paper instrument (including, but not limited to, any check, bond, or promissory note) or any coin that is not legal tender in the United States as provided in 31 U.S.C. § 5103, as the same may be mended. The following are excepted from these provisions:

- (i) A Landlord's refusal to accept a check where the Landlord has reasonable grounds to believe that the check was fraudulently or improperly issued, or Cash that the Landlord has reasonable grounds to believe is counterfeit, only during the period in which the Landlord is making diligent efforts to ascertain whether the check was fraudulently or improperly issued, or the Cash is counterfeit and thereafter if the Landlord reasonably determines that such is the case. Reasonable efforts to determine whether a check was fraudulently or improperly issued must include good faith efforts by the Landlord to contact the issuing institution by telephone or email within three (3) business days after the Landlord receives that check; or
- (ii) A Landlord's refusal to accept a check where a Tenant's check has been returned within the prior three (3) months; or
- (iii) A Landlord's refusal to accept any payment of Cash in a manner which is intended by the Tenant to unreasonably burden the Landlord, including, but not limited to, a Cash payment that includes an excessive number of coins or other forms of currency, or which includes Cash that has been contaminated by a foreign substance that creates a health risk or a nuisance.

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000]; Ord. No. 2-22/23, 8/2/2022 [Fiscal Note: Less than \$1000])

#### **Sec. 12-225. Variation by agreement.**

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

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

#### **Sec. 12-226. Limitation of liabilities.**

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

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

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

**Sec. 12-227. Enforcement and penalties.**

(a) Notwithstanding any other provision of this chapter to the contrary, it shall be the duty of the Code Enforcement Officer to enforce sections 12-223, 12-224 and 12-225 of this chapter. Any person who is found to be in violation of sections 12-223, 12-224 or 12-225 of this chapter shall be initially subject to a letter of warning from the Code Enforcement Officer. A second violation of sections 12-223, 12-224 or 12-225 of this chapter shall be punishable by a civil penalty of five hundred dollars (\$500); a third violation of sections 12-223, 12-224 or 12-225 of this chapter shall be punishable by a civil penalty of one thousand dollars (\$1,000); and any subsequent violation of sections 12-223, 12-224 or 12-225 of this chapter shall be punishable by a civil penalty of one thousand five hundred dollars (\$1,500). Each violation of sections 12-223, 12-224 or 12-225 of this chapter shall constitute separate offenses. Violators may be subject to legal action brought by the City seeking any and all remedies to which it is entitled pursuant to State and local laws, including, without limitation, declaratory and injunctive relief. All civil penalties shall inure to the benefit of the City of South Portland.

(b) Notwithstanding any other provision of this chapter to the contrary, any violation of section 12-222 of this chapter shall be enforced as required by the Maine Human Rights Act, 5 M.R.S. § 4551 et seq., as amended from time to time.

(c) Any person aggrieved by a determination by the Code Enforcement Officer that a violation of sections 12-223, 12-224 or 12-225 of this chapter has occurred may appeal such a determination to the Board of Appeals in accordance with the administrative appeal provisions in Chapter 27 of the Code of Ordinances.

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

**Sec. 12-228. Severability.**

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

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

**Sec. 12-229. Effective date; Applicability date.**

This Article shall become effective pursuant to Section 225 of the City Charter. In order to allow time for Landlords and Tenants to become familiar with the requirements of this ordinance, and notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Article as evidenced by Ordinance #3-17/18, when enacted, shall govern any tenancy commenced on or after October 1, 2017. For purposes of this Article, neither a tenancy at will created by a hold-over tenant at the end of a lease for a specific term nor the extension of a lease term is considered a new tenancy.

(Ord. No. 3 17/18, 8/7/17 [Fiscal Note: Less than \$1,000])

**Secs. 12-230--12-239. Reserved.**

## **ARTICLE X. HOUSING AFFORDABILITY**

### **Sec. 12-240. Purpose.**

The purpose of this Article is to address the production, preservation, and rehabilitation of affordable housing for rental and home ownership in the City through various policies and financial incentives. The City recognizes that access to safe, quality, and affordable housing is a fundamental human right contributing to the overall health, safety, and well-being of its residents. The City desires to have a mix of housing that meets the needs of all its residents, achieved through incremental growth and development that conforms to the community's vision and long-term development goals. The City recognizes that when the local housing market is out of equilibrium, it disproportionately affects individuals making less than the area median income. The City also recognizes that local government plays an important role in both planning for and investing in the City's future, to include housing.

### **Sec. 12-241. Establishment of Affordable Housing Trust Fund.**

The City hereby establishes the Affordable Housing Trust Fund ("AHTF"). Guidelines for use of the AHTF shall be outlined in an Affordable Housing Trust Fund Operations Manual ("Manual") to be approved by City Council Order, as may be amended from time to time. No funds may be appropriated from the AHTF until the Manual has been approved by the City Council. The City Council, after receipt of a recommendation from the Affordable Housing Committee, may expend funds from the AHTF for the following:

- (a) Issuance of loans to support the production, preservation, and rehabilitation of safe, quality, and affordable housing, to include:
  - (1) Gap financing;
  - (2) Construction costs;
  - (3) Pre-development costs;
  - (4) Acquisition costs; or
  - (5) Rehabilitation of existing housing;
- (b) Award of grants through a competitive Request for Proposals (RFP) process developed by the Affordable Housing Committee in conjunction with, and the approval of, the City Council, based on the most recent housing needs assessment in the Manual.
- (c) Purchase and acquire fee simple interests and any lesser interests, including deed restrictions, development rights or easements, in any real property situated within the territorial limits of the City, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the purposes of this Article and will ultimately be conveyed, transferred, or sold to an affordable housing agency or developer.

Any proposed acquisition or sale of any real property interest(s) and any proposed use of land pursuant to this Article shall be referred to the Affordable Housing Committee for its review and recommendation(s).

### **Sec. 12-242. Management of Affordable Housing Trust Fund.**

The Affordable Housing Committee shall serve as an advisory body for the management of the AHTF and its programs. Deposits into the AHTF shall include:

- (a) Any funds appropriated to be deposited into the AHTF by vote of the City Council;
- (b) Voluntary contributions of money or other liquid assets and all the net proceeds from disposal of real property donated to the City specifically for the benefit of the AHTF and accepted by vote of the City Council;
- (c) Interest from deposits and investments of the AHTF;

- (d) Thirty percent (30%) of the net proceeds from the sale of improved real property owned by the City but not donated specifically for the benefit of the AHTF, unless this net sale proceeds requirement is waived by the City Council for good cause shown;
- (e) Any federal, State or other grant and/or loan funds received for the benefit of the AHTF and the programs it supports; and
- (f) Any authorized transfer of revenues generated in accordance with an approved Affordable Housing Tax Increment Financing (AH-TIF) Development Program.

All expenses lawfully incurred in carrying out this Article must be evidenced by proper vouchers and accounting practices. The City shall prudently invest available assets of the AHTF and all income from any investment shall accrue to the AHTF.

The City Manager or his/her designee shall keep a full and accurate account of AHTF activity, including a record as to when, from or to whom and on what account money has been paid or received relative to this Article, and as to when, from or to whom and for what consideration real property interests have been acquired, improved or disposed of. The City Manager or his/her designee shall report annually all revenues and distributions, including grants, loans, acquisitions and dispositions of real property interests, and other related expenses, which document shall be included in the City's annual report.

**Sec. 12-243. City willingness to partner with LIHTC program applicants.**

The City affirms its intent to identify and partner with a Low-Income Housing Tax Credit (LIHTC) Program applicant each application cycle, if a proposed project exists that meets the following criteria:

- (a) The proposed housing or mixed-use development is located in a targeted growth area, neighborhood activity center, or is in a neighborhood identified by the City as having limited access to affordable housing relative to other neighborhoods in the City;
- (b) The proposed housing or mixed-use development is consistent with the City's Comprehensive Plan and neighborhood master plan (if applicable), whether or not a zoning ordinance amendment is required;
- (c) The proposed housing or mixed-use development will address the community's identified needs related to affordable housing, e.g., demographic, unit type and number of bedrooms, safe distance to community facilities, schools, public services, and access to public transit; and
- (d) The developer or agency proposing the project has demonstrated qualifications and experience with creating safe, quality, and affordable housing, and in the judgment of the City Council there is a high probability of project success if LIHTC funding is approved by the Maine State Housing Authority.

**Sec. 12-244. City support for affordable housing projects.**

The City desires to provide a variety of support to promote the production, preservation, and rehabilitation of affordable housing in the community. The following are examples of support the City may provide to affordable housing projects or programs:

- (a) Grants and/or low-interest loans to offset the cost of property acquisition, development, construction or rehabilitation, or other associated improvements, financed through the AHTF and/or the Community Development Block Grant (CDBG) program;
- (b) Credit Enhancement Agreements (CEAs) through the creation of AH-TIF Development Programs, with terms for those CEAs structured to increase the points awarded through the LIHTC application process established by the Maine State Housing Authority Qualified Allocation Plan (QAP);
- (c) Conditional or contract zoning, where appropriate and consistent with the City's Comprehensive Plan, that would enable the creation of affordable housing in areas where it would otherwise not be feasible or too cost-prohibitive based on then-current zoning regulations.

**Secs. 12-245-12-250. Reserved.**

(Ord. No. 3-19/20, 7/2/19 [Fiscal Note: Less than \$1000])





**ARTICLE XI. MORATORIUM ON CERTAIN EVICTIONS AND RENT INCREASES**

**Sec. 12-260. Necessity of Moratorium.**

The City makes the following findings:

**WHEREAS**, many City residents have experienced a decrease in inflation-adjusted wages and a reduced ability to find adequate and affordable housing;

**WHEREAS**, many City residents have recently experienced sudden and significant increases in rent, in some instances as high as 25-30%, jeopardizing those residents' ability to remain in their homes and/or afford to pay for other basic necessities;

**WHEREAS**, according to the Housing Needs Assessment and Strategy Final Report prepared by Crane Associates, Inc. and Economic & Policy Resources for the City dated May 16, 2022 (the "Report"), of the 12,463 residences in South Portland as of 2020, 6,836 are owner-occupied, 5,003 are renter-occupied, and 624 are vacant;

**WHEREAS**, according to the Report, a renter household must earn \$25.88/hour or \$53,830/year to be able to afford median rent and not pay more than 30% of their income for rent;

**WHEREAS**, according to the Report, 85.1% of the 5,003 rentals in South Portland are not affordable for the 14.8% of households making \$29,180/year or less (60% and below of Area Median Income);

**WHEREAS**, according to the Report, 14.7% of South Portland children experience poverty (*i.e.*, a family of 4 earning less than \$25,000/year);

**WHEREAS**, Housing Choice Voucher Fair Market Rents, as determined by the U.S. Department of Housing and Urban Development (HUD) for Fiscal Year 2022 are as follows:

	Efficiency	1-bedroom	2-bedroom	3-bedroom	4-bedroom
So. Portland, Portland, Westbrook	\$1,143	\$1,330	\$1,721	\$2,195	\$2,689

**WHEREAS**, under the State's general assistance statute, 22 M.R.S. § 4301(4), an "emergency" means any life-threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person;

**WHEREAS**, under the State's general assistance statute, 22 M.R.S. § 4308(2), a person experiencing or facing homelessness who does not have sufficient resources to provide one or more basic necessities in an emergency may be eligible for emergency general assistance;

**WHEREAS**, stable and affordable homes are necessary determinants of health for children to succeed in school and workers and families to thrive;

**WHEREAS**, the combination of high rents and low vacancy rates has resulted in heightened housing uncertainty for many City residents;

**WHEREAS**, the uncertainty created by the possibility of losing affordable housing and homelessness is a danger to the public health, safety and welfare;

**WHEREAS**, the City Council finds that an emergency measure is necessary and essential to prevent the irreparable injury tenants will suffer due to

unanticipated, unbudgeted, and significant rent increases, or due to the service of certain eviction notices upon tenants;

**WHEREAS**, under Secs. 222 and 225 of the City Charter, the City Council has the power to enact an emergency ordinance, not in conflict with general laws, as necessary to protect public health, safety and welfare;

**WHEREAS**, the above-identified issues constitute a current and immediate threat to the public health, safety and welfare of the community, and should be adopted to temporarily prevent further rent increases and evictions of tenants without cause until such time as the City may evaluate the need for, and to consider, what additional or different ordinance provisions and regulations, if any, might be appropriate as well as to prepare reasonable ordinances and regulations governing rent stabilization;

**WHEREAS**, it is anticipated that such a study, review, and preparation of ordinances and regulations will take not more than 180 days from the Applicability Date of this Moratorium on Certain Evictions and Rent Increases ("Moratorium");

**WHEREAS**, for the reasons set forth above, this Moratorium is declared by the City Council to be necessary for immediate preservation of the public peace, health, and safety, and the recitals above taken together constitute the City Council's statements of the reasons constituting such necessity and emergency; and

**WHEREAS**, in the judgment of the City Council, the recitals above taken together constitute an emergency within the meaning of the City Charter that necessitates final passage of this Moratorium upon first reading.

**Sec. 12-261. Title; Authority.**

This Article XI is entitled "Moratorium on Certain Evictions and Rent Increases" and is hereinafter referred to as the "Moratorium." This Moratorium is adopted pursuant to the City's home rule authority under Article VIII, Part Second of the Maine Constitution and 30-A M.R.S. § 3001; 30-A M.R.S. § 4356; and any other enabling statutes.

**Sec. 12-262. Definitions.**

*Applicability Date* means May 31, 2022.

*Applicable Law* means all controlling applicable federal, state and local statutes, regulations, and ordinances, as well as all administrative rules and orders that have the effect of law, as well as all applicable final, non-appealable judicial opinions.

*Housing Services* means those services that were provided by the Landlord as of April 1, 2022, in connection with a Lease Tenancy or Tenancy at Will in a Housing Unit, including, but not limited to: repairs; replacement; maintenance; painting; light; heat; water; elevator service; laundry facilities and privileges; janitor service; trash removal; furnishings; telephone; parking; any rights permitted the Tenant under the terms of a Lease or Rental Agreement, including the right to have a specific number of occupants and the right to keep pets; and any other benefits, privileges or facilities.

*Housing Unit* means one or more rooms, including a building, forming a single unit used or intended for use as a residence under the terms of a Lease or Rental Agreement.

*Landlord* means the Owner(s) of a Housing Unit, or the sub-lessor(s) of a Housing Unit, and any Person acting as an agent, representative, successor, or assignee of any such owner or sub-lessor with respect to the Housing Unit.

*Lease* means a written agreement between, and signed by, a Landlord and a Tenant, or a sub-lessor and a subtenant, for the lease or sub-lease of a

Housing Unit for residential purposes during a Lease Term, including any amendments to, and extensions of, that agreement, but shall not include any agreement to the extent that it creates a tenancy at will.

*Lease Tenancy* means any tenancy, other than a Tenancy at Will, created in a Lease.

*Lease Term* means the period, including any extensions of the same, during which the tenancy granted to the Tenant in a Lease is to run as provided in that Lease, unless earlier terminated as provided in that Lease for breach of its terms or other contingent event.

*Moratorium Period* means the period beginning on the Applicability Date and ending on November 27, 2022.

*No-Fault Cause* means existence of any of the following:

- (a) Whether the Tenant is a Tenant at Will or holds a Lease Tenancy in a Housing Unit, any of the causes for termination of a tenancy or the filing of a forcible entry and detainer action listed in either:
  - (i) 14 M.R.S. § 6002(1), provided, however, that the meaning of rent shall not include a Prohibited Rent Increase; or
  - (ii) 14 M.R.S. § 6025(3);
- (b) A Tenant's refusal to provide a Landlord with access to a Housing Unit as required by the terms of a Lease, a Rental Agreement, or 14 M.R.S. § 6025;
- (c) A Tenant's actual or attempted:
  - (i) Assignment of any rights under the terms of a Lease or Rental Agreement; or
  - (ii) Subletting of all or any part of a Housing Unitto the extent that such action violates the terms of a Lease or a Rental Agreement;
- (d) An individual Owner's intent to occupy the Housing Unit, or the intent of any Owner to permit the occupation of the Housing Unit by the spouse, domestic partner, children, grandchildren, parents, or grandparents of an individual Owner, or of any individual who, directly or indirectly, holds an ownership interest in the Owner;
- (e) The Landlord intends to withdraw the Housing Unit from the residential rental market for a period of not less than 12 months;
- (f) The Landlord intends to demolish the Housing Unit or the building in which a Housing Unit is located no more than 60 days after the date on which the Landlord delivers a Notice to Quit to any Tenant of that Housing Unit which includes the same as a No-Fault Cause for the termination of the Tenant's tenancy in that Housing Unit;
- (g) The Landlord is complying with Applicable Law, or the terms of a deed or other document recorded in the Cumberland County Registry of Deeds prior to April 1, 2022, or the terms of any other agreement which became binding upon, and enforceable against, the Landlord on or before that date and which otherwise continues to be enforceable against the Landlord despite the enactment of the Moratorium; or
- (h) The Tenant is in violation of any term of a Lease, other than nonpayment or late payment of a Prohibited Rent Increase that, under the terms of that Lease, constitutes grounds for termination of the Tenant's tenancy in a Housing Unit.

*Notice to Quit* means any written notice sent by a Landlord to a Tenant of a Housing Unit to terminate a Tenancy at Will, to terminate a Lease Tenancy prior to the end of the Lease Term, or to otherwise terminate a Tenant's right to possession of a Housing Unit.

*Owner* means any Person that holds title, singly or with others, to one or more Housing Units in any manner that permits that Owner, by itself or in combination with other Owners of any such Housing Units, to create a Lease Tenancy or Tenancy at Will in those Housing Units.

*Person* means an individual, corporation, business or other trust, estate, limited or general partnership, limited liability company or partnership, association, joint venture, or any other legal or commercial organization, and also includes any employee, agent, independent contractor, servant, or other representative of the same with respect to a Housing Unit.

*Prohibited Rent Increase* means any increase in excess of 10%, on or after April 1, 2022 through the end of the Moratorium Period, of: (i) any rent charged by a Landlord for a Housing Unit then used for residential purposes; or (ii) any other charge or fee imposed for a Housing Service in the terms of a Lease or Rental Agreement other than increases resulting from, and not exceeding, increases in costs or expenses imposed by parties other than the Landlord, but which are incurred by the Landlord and that, under the terms of the Lease or Rental Agreement, are to be paid by the Tenant. Any late charges or fees imposed by a Landlord for non-payment or late payment of any amount that is otherwise a "Prohibited Rent Increase" shall also constitute a "Prohibited Rent Increase."

*Rental Agreement* means any written or oral agreement that creates or extends a Tenancy at Will for residential purposes in a Housing Unit.

*Tenant* means any individual, other than a Landlord, who becomes entitled to possession of a Housing Unit for residential purposes as a Tenant at Will or as the holder of a Lease Tenancy.

*Tenancy at Will* means a tenancy at will as that term is used in 14 M.R.S. § 6002.

*Tenant at Will* means any Person who is in possession of, or is entitled to be in possession of, a Housing Unit as a party to and under the terms of a Rental Agreement.

#### **Sec. 12-263. Moratorium.**

(a) During the Moratorium Period, a Landlord shall not, and shall not threaten to:

- (1) Deliver a Notice to Quit to a Tenant, unless that Notice states and describes a No-Fault Cause for its issuance and delivery;
- (2) Commence or prosecute a forcible entry and detainer action under 14 M.R.S. § 6001 to obtain possession of a Housing Unit, unless the complaint filed to initiate the action states and describes a No-Fault Cause for the termination of the Tenant's right to possess the Housing Unit and the Landlord proves the existence of such reason at any evidentiary hearing that may be held in that action; or
- (3) Obtain a judgment in any forcible entry and detainer action based upon a 30-day Notice to Quit issued pursuant to 14 M.R.S. § 6002 that states and describes a No-Fault Cause for its issuance and delivery as required by Sec. 12-263(a)(1) of this Moratorium, unless the Landlord proves the existence of the No-Fault Cause described in that Notice at any evidentiary hearing that may be held in that action.

(b) Unless the Housing Unit is exempt from this Moratorium under Sec. 12-263(d), a Landlord shall not (i) impose a Prohibited Rent Increase on

- any Tenant or Housing Unit; or (ii) reduce any Housing Services provided to that Tenant. To the extent that a Landlord and Tenant had reached agreement after April 1, 2022 on a Prohibited Rent Increase, which was not in effect prior to the Applicability Date, the Landlord shall not impose such Prohibited Rent Increase on the Tenant or Housing Unit, and such Prohibited Rent Increase shall be void and unenforceable to the extent accruing during any part of the Moratorium Period.
- (c) Any Landlord that, as of April 1, 2022, was accepting federal, state or local public assistance, including medical assistance and housing subsidies, for:
- (1) Any full or partial payment of rent for a Housing Unit then being used for residential purposes by a Tenant;
  - (2) Any full or partial payment of rent for a Housing Unit then being used for residential purposes made by another Person on behalf of a Tenant; or
  - (3) A Housing Unit then being used for residential purposes shall continue to accept such payments as rent for that Tenant and for any such Housing Unit during the Moratorium Period.
- (d) This section shall not apply to the following types of Housing Units, residential real properties, or residential circumstances:
- (1) Any Housing Unit owned, in whole or in part, by an Owner who, at the time that Housing Unit was or is rented to a Tenant, owns 10 or fewer Housing Units within the City;
  - (2) Any rental property or rental unit to the extent that it is not rented pursuant to an agreement that creates a Lease Tenancy or Tenancy at Will in that property or unit, and the party occupying or in possession of the same does not hold any such tenancy in that property or unit;
  - (3) Housing Units and housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, or continuing care retirement community facility;
  - (4) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school;
  - (5) Housing Units and housing accommodations in which the Tenant shares bathroom or kitchen facilities with an individual Owner who maintains their principal residence at the residential real property;
  - (6) Single-family Owner-occupied residences, including a residence in which the Owner-occupant rents or leases an "authorized accessory dwelling unit" as defined in Sec. 14-801 of Article XVII, Short-Term Residential Rentals, of Chapter 14 of the Code of Ordinances;
  - (7) "Short-term rentals" provided to "short-term rental guests," as those terms are defined in Sec. 14-801 of Article XVII, Short-Term Residential Rentals, of Chapter 14 of the Code of Ordinances; or
  - (8) Housing Units for which the amount, or maximum amount, of rent charged is otherwise controlled, limited, or set by a federal, state, or local governmental agency.

**Sec. 12-264. Effective Date.**

This Moratorium shall become effective pursuant to Sec. 225 of the City Charter (the "Effective Date") and shall remain in full force and effect until the earlier of the following: (i) 180 days from the Applicability Date, as that 180-day period may be extended, repealed, or modified pursuant to Applicable Law; or (ii) the effective date of a new City ordinance, or

amendments to one or more existing City ordinances or regulations, adopted to address rent stabilization.

**Sec. 12-265. Applicability Date.**

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this Moratorium when enacted shall apply on or any time after the Applicability Date, as defined herein.

**Sec. 12-266. Non-Waivability.**

The provisions of this Moratorium may not be waived, and any term of any Lease, Rental Agreement, contract, or other agreement that purports to waive or limit a Tenant's substantive or procedural rights under this Moratorium is contrary to public policy, unenforceable, and void.

**Sec. 12-267. Conflicts; Savings Clause.**

Any provisions of the City's ordinances that are inconsistent with or conflict with the provisions of this Moratorium are hereby repealed to the extent applicable for the duration of this Moratorium. If any section or provision of this Moratorium is declared by a court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

**Sec. 12-268. Enforcement; Violations.**

The provisions of this Moratorium shall be investigated and enforced by the City Manager or his/her duly authorized designee(s). Each failure to comply with the requirements set forth in this Moratorium with respect to an individual Tenant shall be deemed a separate offense triggering a separate fine of, at a minimum, the greater of 12 months' periodic rent at the rental rate as of April 1, 2022 or 12 months' periodic rent at the rental rate the Landlord announced or implemented on or after April 1, 2022. A Landlord's delivery of a Notice to Quit that does not comply with the requirements of this Moratorium shall render that Notice to Quit void and illegal. The City may allocate fines collected for violations of this Moratorium for the Affordable Housing Trust Fund or rent relief. The City shall be entitled to all rights available to it, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

(Emergency Ord. No. 24, 6/7/2022 [Fiscal Note: Less than \$1000])

**Sec. 12-269. Moratorium Extended.**

WHEREAS, the Moratorium on certain evictions and rent increases was enacted by the City Council on June 7, 2022 for a period of one hundred and eighty (180) days from the date of applicability of this Article, i.e., until November 27, 2022; and

WHEREAS, the Moratorium was necessary to provide the City with time to study its own ordinances to determine the implications of many residents' recent experience of sudden and significant increases in rent, jeopardizing those residents' ability to remain in their homes and/or afford to pay for other basic necessities, and to draft an amendment or amendments to the South Portland Code of Ordinances to address the concerns identified in Sec. 12-260; and

WHEREAS, the heightened housing uncertainty for many City residents that continues to exist as well the length of time that the Moratorium has been in place make it increasingly difficult, if not impossible, for Tenants to pay deferred rent under Sec. 12-263(b) of Ordinance #24-21/22, and, therefore, it is necessary and appropriate to eliminate such deferred rent payment; and

WHEREAS, the problems giving rise to the need for the Moratorium still exist; and

WHEREAS, the City has been actively studying those problems since the date of the adoption of the Moratorium and drafting amendments to the South Portland Code of Ordinances that will adequately address the same such that reasonable progress is being made to alleviate the problems giving rise to the need for the Moratorium, but the City has not yet completed that work;

NOW, THEREFORE, all provisions of Secs. 12-260, 12-261, 12-262, 12-263 (as amended by Ordinance #8-22/23), 12-264, 12-265, 12-266, 12-267 and 12-268 of this Chapter are hereby extended for an additional one hundred and eighty (180) days from November 27, 2022 to May 26, 2023.

(Ord. No. 8-22/23, 10/18/2022 [Fiscal Note: Less than \$1000])