

Order 175-19/20

Passage as an Emergency: 9-0 on 5/4/2020

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

Effective 5/4/2020

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER REPEALING AND RETAINING
CERTAIN PORTIONS OF THE
PROCLAMATION DECLARING THE CONTINUED STATE OF EMERGENCY
AND REQUIREMENT TO STAY AT HOME**

ORDERED , that the Proclamation Declaring the Continued State of Emergency and Requirement to Stay at Home, issued by the City Manager Jon P. Jennings on March 24, 2020, and renewed, extended, and amended by the Portland City Council on March 30th, April 13th and April 27th, 2020, is hereby repealed and certain portions retained, as well as extended according to the provisions provided herein through June 1, 2020; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the City Manager or his or her designee to execute any related documents necessary or convenient to carry out the intent of this Order.

EMERGENCY PROCLAMATION

WHEREAS, there is currently an outbreak of novel coronavirus disease 2019 (“COVID-19”), a respiratory illness, first detected in Wuhan City, Hubei Province, China, and it continues to expand to a growing number of international locations, including the United States; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services announced a nationwide public health emergency to respond to COVID- 19; and

WHEREAS, on March 11, 2020, the World Health Organization (the “WHO”) declared that global health crisis involving COVID-19 is a pandemic; and

WHEREAS, on March 12, 2020, the State of Maine identified and confirmed its first case of COVID-19; and

WHEREAS, on March 13, 2020, the City of Portland, Maine identified and confirmed its first case of COVID-19; and

WHEREAS, on March 16, 2020, the City of Portland declared an emergency and issued an emergency proclamation wherein in, among other things, restaurants and bars were to be closed for in-person gatherings and only open for take-out dining; and

WHEREAS, on March 19, 2020 the Federal Cybersecurity and Infrastructure Security Agency issued guidance identifying 14 critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to COVID-19 pandemic; and

WHEREAS, as of March 29, 2020, there are 253 cases in the State of Maine, and 74 cases in Cumberland County of COVID-19; and

WHEREAS, on March 18, 2020, the Maine Supreme Judicial Court issued a Revised Emergency Order and Notice from the Maine Supreme Judicial Court [Regarding] Courthouse Safety and Coronavirus (Covid-19), in which the Court ordered that cases involving Forcible Entry and Detainer (evictions, landlord/tenant) will not be heard or scheduled by any Maine court before May 1, 2020; and

WHEREAS, the City of Portland is the largest city in Cumberland County, and is the service center for the region; and

WHEREAS, COVID-19 has been detected in hundreds of thousands of people worldwide and is primarily spread from person to person; and

WHEREAS, COVID-19 is easily transmitted, especially in group settings, and it is essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety; and

WHEREAS, this worldwide outbreak of COVID-19 is emerging and rapidly evolving; and

WHEREAS, Governor Janet T. Mills issued an executive order on March 15, 2020 prohibiting gatherings of more than ten (10) people throughout the State, and closing all restaurants and bars dine-in facilities; and

WHEREAS, on March 24, 2020, Governor Mills issued further guidance to businesses and the public regarding COVID-19;

WHEREAS, under conditions of this emergency, the City of Portland recommends and encourages all landlords throughout the City to not undertake or process any evictions; and

WHEREAS, the City of Portland also recommends that persons not advertise or encourage the use or rental of short-term rentals throughout the City for vacation purposes or otherwise; and

WHEREAS, on April 30, 2020, Governor Janet T. Mills issued Executive Order Number 49 entitled “An Order to Stay Safer at Home;”

NOW THEREFORE, BE IT ORDERED, that the Mayor and City Council of the City of Portland, do hereby declare and order as follows:

1. A civil state of emergency continues to exist within the City of Portland.
2. Proclamation is issued in accordance with, and hereby incorporates by reference, Governor Mills’ FY 19/20 Executive Order Numbers 14, 19, 28, 34 and 49, as amended from time to time, and any interpretive guidance issued by the State regarding those Orders including, but not limited to, the implementation of the State’s Restarting Plan, which are all also hereby incorporated into this Order by this reference.
3. For the duration of this proclamation, and except as expressly stated herein, all provisions of the City Code permitting dogs to be off leash and under voice control on public streets or publicly owned or publicly accessible property are suspended during the hours between 10:00 a.m. and 5:00 p.m. All dogs on any public street or publicly owned property must be controlled by a leash of not more than the specified lengths permitted under Chapter 5 of the Portland City Code for particular parks or publicly owned property during those aforementioned hours, except that dogs shall continue to be permitted to be under voice control in the Ocean Avenue Dog Park and the Valley Street Park.
4. The laws and rules outlined in the Land Use Code, including, but not limited to, the Site Plan, Subdivision, Historic Preservation Ordinance, and other procedures applicable to the City planning and land use application and review processes contained in Chapter 14, to the extent they impose limitations on the amount of time permitted for the holding of public hearings, the certification of applications, the

holding of neighborhood meetings, the submission of recommendations, any required or necessary voting, the taking of final actions, and the issuance of determinations, are suspended, and any such time limitations are tolled for the duration of this Proclamation.

5. The neighborhood meetings required in Chapter 14 of the City Code may be conducted by an applicant remotely through telephonic, video, electronic or other similar means of remote participation under the following conditions:
 - A. Notice of the neighborhood meeting has been widely given to the parties required by the City's code to receive notice by electronic, telephonic, or other means and includes the method by which the public and interested parties may attend;
 - B. The applicant and all individuals speaking on behalf of the applicant in the remote meeting are able to hear and speak during the meeting and members of the public attending the remote meeting are able to hear the applicant and its representatives; and
 - C. Members of the public attending the remote meeting are able to participate through telephonic, video, electronic or other similar means of remote participation.
6. For the duration of this Proclamation, unless earlier rescinded by the City Council, the City Manager may suspend, by written agreement with a person, entity, or service provider providing emergency and essential services, suspend the rules and laws relating to Buildings and Building Regulations (Chapter 6), Licenses and Permits (Chapter 15), and Fire Prevention and Protection (Chapter 10) for all projects or properties undertaking temporary emergency and essential services during the duration of the declared State and City State of Emergency. Any agreement shall outline programmatic details and demonstrate, to the Manager's satisfaction, that the property and land use being undertaken meets minimum life safety requirements and that the suspension of the rules and laws suspended hereunder and otherwise applicable will not unduly impact the health and safety of the public.
7. The laws and rules outlined in the Licenses and Permits Code (Chapter 15) and the Vehicles for Hire Code (Chapter 30), to the extent they impose deadlines for renewing existing licenses, taking action on applications for new or renewal licenses, or issuing new or renewal licenses are suspended, and any such time limitations are tolled for the duration of this Proclamation.
8. No City-issued permit, license, application, or appeal shall be considered granted, approved or denied, constructively or otherwise, due to a failure of the permit granting authority to act within the time required by a City ordinance, bylaw, rule or regulation; provided, however, that the permit granting authority acts within 45 days of the termination of this Proclamation; provided, however, that the applicant and Permit Granting Authority may agree to alternative timing in writing.

9. A City-issued permit in effect or existence as of March 16, 2020, including any deadlines or conditions of the permit, shall not lapse or otherwise expire and the expiration date of the permit or time period for meeting a deadline or for performance of a condition of the permit, shall be tolled for the duration of this Proclamation.
10. Effective immediately, and continuing for thirty (30) days after the expiration of this emergency proclamation, the City adopts an Affordable Rental Housing Incentive Program pursuant to which any person who holds a short term rental registration for a non-owner occupied short term rental unit pursuant to Sec. 6-150 et seq., is entitled to a one-time payment of \$1,000.00 so long as that person:
 - (a) relinquishes their short-term rental registration for that unit;
 - (b) registers the unit as a long-term rental (or has an existing long-term rental registration for that unit); and
 - (c) provides evidence to the Housing and Community Development Division that the person has entered into an agreement to lease the unit to a tenant for a minimum of one (1) year, and that tenant will be receiving either Section 8 funds or General Assistance funds for the unit. The \$1,000 payment shall be paid out of the Housing Trust Fund but shall not exceed a total of \$25,000. These funds shall be distributed on a first come first served basis.

The provisions of Chapter 14 of the Portland City Code governing approval of the Council's Housing Trust Fund Annual Plan are suspended to permit the temporary addition and funding of the Affordable Rental Housing Incentive Program to the Housing Trust Fund Annual Plan for the conversion of short-term rental dwelling units to rental housing units during the period beginning April 28, 2020 until thirty (30) days after the termination of this Proclamation.

11. The tax payment due dates/deadlines specified in Order No. 245 (FY-18-19), the FY 19-20 Appropriation Resolve, may be extended by the City Manager, in consultation with the City Finance Director and the Mayor during the duration of the declared State and City State of Emergency.
12. This Order is enacted as an emergency, and shall remain in effect through **June 1, 2020.**
13. Consistent with Governor Janet T. Mills' April 10, 2020 Executive Order, the municipal election scheduled for June 9, 2020 is hereby rescheduled to July 14, 2020 to reduce exposure to COVID-19 and to coincide with the July 14, 2020 primary election.
14. Violation of or failure to comply with this Order is punishable by a fine of \$500.00 per occurrence plus the costs of prosecution.
15. If any provision of this Proclamation or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and

shall continue in full force and effect. To this end, the provisions of this Proclamation are severable.