

Order 153-19/20

Amended to add language re: suspending evictions: 9-0 on 3/30/2020

Amended to prohibit short term rentals: 9-0 on 3/30/2020

Amended to suspend some city code requirements and deadlines: 9-0 on 3/30/2020

Passage as an emergency as amended: 9-0 on 3/30/2020

Effective 3/30/2020

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CITY OF PORTLAND
IN THE CITY COUNCIL

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**ORDER RENEWING AND AMENDING THE PROCLAMATION DECLARING
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, is hereby renewed and amended to be in effect for twenty-eight days, from March 30, 2020 through 12:00 a.m. on April 27, 2020, in substantially the form attached; 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.

PROCLAMATION DECLARING CONTINUED STATE OF EMERGENCY AND REQUIREMENT TO STAY AT HOME

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, the Portland City Manager has identified additional services and functions that likewise are essential to promote the public health, safety and welfare of the City of Portland, ensuring workers providing critical services and functions in those designated sectors may continue to work to ensure community resilience and continuity of response efforts, while at the same time encouraging social distancing at these services, with no in-person dining, and curbside pick-up of any goods where practicable;

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. This Proclamation is issued in accordance with, and incorporates by reference, the March 15, 2020 Executive Order issued by Governor Janet T. Mills. More specifically, the following provisions should still be complied with within the City of Portland:
 - A. Gatherings of more than ten (10) people are prohibited throughout the State. Gatherings subject to the Governor's Executive Order are

those that are primarily social, personal, and discretionary events other than employment. Such gatherings include, without limitation, community, civic, public, leisure, and faith-based events; social clubs; sporting events with spectators; concerts, conventions, fundraisers, parades, fairs, and festivals; and any similar event or activity in a venue such as an auditorium, stadium, arena, large conference room, meeting hall, theatre, gymnasium, fitness center or private club; and

- B. All restaurants and bars shall close their dine-in facilities. Such businesses that offer carry-out, delivery, and drive-through food and beverage service may continue to do so but eating and drinking inside restaurants and bars is still temporarily prohibited.
3. The business, production and service sectors identified in Exhibit A are hereby designated as “COVID-19 Essential Services.”
4. All individuals currently living within the City of Portland are ordered to stay at their place of residence. To the extent individuals are using shared or outdoor spaces, they must at all times as reasonably possible maintain social distancing of at least six (6) feet from any other person with whom they don’t share a household when they are outside their residence. All persons may leave their residences only to access COVID-19 Essential Services or as otherwise expressly provided herein. Individuals experiencing homelessness are exempt from this requirement, but are strongly urged to obtain shelter, and be at least six (6) feet from any other person, to the maximum extent practicable and possible.
5. All travel including, but not limited to, travel on foot, bicycle, scooter, motorcycle, golf carts, automobile, or public transit, for COVID-19 Essential Services is permitted. Outdoor exercise and/or dog walking is also specifically permitted. All individuals are encouraged to not use or congregate on City playgrounds, and it is recommend that all individuals should seek, to the maximum extent possible, to be at least six (6) feet from any other person with whom they do not share a household with when engaged in any travel or exercise activities on City streets, trails, grounds, fields, tennis or basketball courts or other outdoor areas.
6. The requirements in Paragraphs 4 and 5, above, shall not apply to police officers, peace officers, firefighters, EMS, or other emergency personnel or civilians engaged in police or emergency work, persons performing essential governmental functions, nor shall it apply to health-care providers or workers traveling to or coming from work assignments in hospitals or other health-care facilities whether in or outside of the City of Portland. Those requirements shall also not apply to authorized representatives of any news service, newspaper or radio or television station or network.
7. All businesses with a facility in the City of Portland that do not provide COVID-19 Essential Services, shall close their physical workspaces and facilities (“brick-and-

mortar premises”) to workers, customers, and the public as of the effective date and time of this proclamation. Businesses that do not provide COVID-19 Essential Services are encouraged to continue operations through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed pursuant to this proclamation. With that said, such non-essential businesses may continue to access their brick-and-mortar premises in order to conduct essential business functions including, but not limited to, processing mail, depositing checks, completing payroll and paying vendors; as long as social distancing requirements are being implemented, and the fewest number of employees possible are on premises when conducting such services. Churches, temples, mosques, and other places of worship shall not be required to close their brick-and-mortar premises to employees or to the public; provided, however, that such institutions shall be required to comply with all limitations on gatherings established by Governor Janet T. Mills’ March 15, 2020 executive order outlined in paragraph 2 above.

8. All businesses providing COVID-19 Essential Services are strongly encouraged to remain open. To the greatest extent feasible, COVID-19 Essential Services shall comply with social distancing protocols by maintaining at least six (6) feet of physical distance from other people, including other employees and members of the public, including, but not limited to, when any customers are standing in line, and allow and encourage remote working where practical.
9. Housing insecurity because of involuntary unemployment, extended sickness, or required quarantine as a result of a public health emergency in Maine is a subject of general concern. Losing a home is catastrophic at any time, and during the COVID-19 emergency in particular, losing housing endangers the public peace, health, and safety of all loss of all residents of the City. Public health and safety are promoted by stabilizing households, which, through no fault of their own, may suddenly have the inability to afford rent; and

COVID-19 has had a significant and, in many instances, devastating impact on local businesses. The need for businesses offering non-essential services to close bricks-and-mortar locations in order to reduce person-to-person contact and help “flatten the curve,” has resulted in significant financial hardship to many of the local businesses that are so critical to the City, its economy, and our shared sense of place. Public health and safety are promoted by stabilizing these critical businesses which, through no fault of their own, may suddenly have drastically reduced operation and income and a sudden inability to afford rent for their commercial spaces; and

In light of the current COVID-19 pandemic, the Maine Judicial Court’s suspension of eviction cases until May 1, 2020, and the shared need for all members of our community to work cooperatively to protect the public health and safety, all owners of residential and commercial rental properties within the City of Portland are hereby requested to rescind or suspend all terminations of all leases or tenancies, including tenancies at will (both residential and commercial) for non-payment of rent beginning March 1, 2020 until 30 days after the termination of this

Proclamation if the tenant is able to show an inability to pay rent due to circumstances related to the COVID-19 pandemic. These circumstances include loss of income due to a COVID-19 related workplace or business closure, child care expenditures due to school closures, health care expenses related to being ill with COVID-19 or caring for a member of the tenant's household who is ill with COVID-19, or reasonable expenditures that stem from government-ordered emergency measures. The requested limitation does not extend to cases where a tenant causes substantial damage to the property or the other bases for termination of tenancies contained in 14 M.R.S. § 6002(A), (B), (D), (E) & (F) nor would it eliminate the obligation of tenants to pay rent.

10. 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.
11. 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.
12. 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.
13. 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.

14. 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.
- 15.. 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.
16. 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.
17. This proclamation shall be effective as of **March 30, 2020 7:00 p.m.**
18. This order shall remain in effect for Twenty-Eight (28) days.
19. Effective immediately, renting, letting, advertising for rent, or entering into an agreement for the rent of any Short Term Rental, as defined in Sec. 6-150 of the Portland City Code, is hereby prohibited. Any individual(s) currently occupying a Short-Term Rental on or before March 30, 2020, may continue such occupancy, but all such rental agreements or arrangements for such Short-Term Rentals shall be terminated by operation of this paragraph on or before April 6, 2020. Nothing in this paragraph shall be construed, however, to bar or preclude a Short-Term Rental from being used to provide housing to medical/healthcare professionals or first responders, if such housing is funded by the Maine Emergency Management Association; or to provide emergency housing to an individual experiencing homelessness through the operation of the State of Maine's General Assistance program; or for residents of the City of Portland who are self-isolating as a result of illness or risk of exposure to COVID-19.
20. Violation of or failure to comply with this Order is punishable by a fine of \$500.00 per occurrence plus the costs of prosecution.
21. 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.

EXHIBIT A

COVID-19 Essential Services include, but are not limited to, the following:

1. Health care operations and pharmacies;
2. Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences;
3. Food cultivation and processing, including farming, livestock, and fishing;
4. Businesses and organizations that provide food, shelter, medical, and social services, and other necessities of life for economically disadvantaged or otherwise needy or homeless individuals, and any associated parking in a parking garage that is related to these services;
5. Newspapers, television, radio, and other media services;
6. Gas stations and auto-supply, auto-repair, and related facilities;
7. Banks and related financial institutions;
8. Hardware and building material stores;
9. Plumbers, electricians, exterminators, building cleaning and maintenance, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences and essential businesses;
10. Businesses and organizations providing mailing and shipping services, including post office boxes;
11. Colleges, universities, community colleges, trade schools, and other schools exclusively for the purposes of facilitating distance learning, no in-person instruction is authorized;
12. Laundromats, dry cleaners, and laundry service providers;
13. Businesses that manufacture or supply products needed for people to work from home;
14. Businesses that manufacture or supply other essential businesses with the support or supplies necessary to operate;

15. Businesses that ship or deliver groceries, food, goods or services directly to residences;
16. Airlines, taxis, public transportation, marine transport, and any other transportation providers providing transportation services necessary for purposes expressly authorized in this Proclamation; Home-based care for seniors, adults, or children;
17. Residential facilities, housing authorities, and homeless and other shelters for seniors, adults, and children;
18. Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities;
19. Childcare facilities providing services that enable employees of Essential Services as defined herein to work as permitted. To the extent possible, childcare facilities are recommended to operate under the following conditions: Childcare should be carried out in stable groups of 10 or fewer (“stable” means that the same 10 or fewer children are in the same group each day); Children should not change from one group to another; If more than one group of children is cared for at one facility, each group should be in a separate room. Groups should not mix with each other; and Childcare providers should remain solely with one group of children.
20. Medical marijuana facilities;
21. Funeral homes, crematoriums and cemeteries;
22. Animal shelters, veterinary clinics, animal feed and pet supply stores;
23. The State or Federal Judicial Branch;
24. Government facilities, agencies, and services needed to ensure the continuing operation of the government and provide for the public health, safety and welfare, including but not limited to police, fire, EMS, code enforcement, and trash collection;
25. Businesses and organizations providing for the construction and maintenance of essential infrastructure, including utilities such as electricity, water, wastewater, and telecommunications;
26. Industrial manufacturing facilities;
27. Construction businesses; only existing or ongoing construction projects conducted by these businesses may continue so as long as, to the maximum extent possible, all persons must be at least six (6) feet from any other person;
28. Insurance businesses;

29. Security companies; and
30. Hotels and other places of accommodation, except to the extent that said hotels and places of accommodation include bars, restaurants, meeting facilities, and other facilities required to be closed by City or State emergency proclamation or executive order.