

AGENDA

SPECIAL CITY COUNCIL MEETING

AUGUST 21, 2017 6:00 PM

1. Agenda Only

Documents:

[SPECIAL CITY COUNCIL MEETING AGENDA 2017-08-21.PDF](#)

2. Agenda And Packet

Documents:

[SPECIAL CITY COUNCIL MEETING AGENDA AND PACKET 2017-08-21.PDF](#)

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
SPECIAL CITY COUNCIL MEETING
AUGUST 21, 2017

The Portland City Council will hold a Special City Council Meeting at 6:00 p.m. in City Council Chambers, City Hall. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

**Order 34-17/18
(Tab 25)**

Order Setting Public Hearing on Citizen Initiative Amendment to Chapter 14 of the Portland City Code Re: Strengthen Zoning Protection by Allowing Resident Participation in Proposed Zoning Changes – Sponsored by Katherine L. Jones, City Clerk.

This order sets a public hearing on a citizen initiative amendment to the Portland City Code called, “Strengthen Zoning Protection by Allowing Resident Participation in Proposed Zoning Changes” to be held by the City Council on September 6, 2017, at 5:30 p.m. in City Council Chambers at Portland City Hall, 389 Congress Street, Portland, Maine.

Five affirmative votes are required for passage after public comment.

**Order 35-17/18
(Tab 26)**

Order Setting Election Date on Citizen Initiative Amendment to Chapter 14 of the Portland City Code Re: Strengthen Zoning Protection by Allowing Resident Participation in Proposed Zoning Changes – Sponsored by Katherine L. Jones, City Clerk.

A petition was filed on May 15, 2017 in the City Clerk’s Office regarding an Amendment to Chapter 14 of the Portland City Code Re: Amendment to Strengthen Zoning Protection by Allowing Resident Participation in Proposed zoning Changes. The petition contains the signatures of 1,500 voters of the City of Portland. The required number of signatures to put this question on the ballot is fifteen hundred (1,500); therefore, the City Clerk has deemed the petition sufficient.

Pursuant to section 9-39 of the Portland City Code, the Council has the ability to send the Ordinance to the voters for their approval or send the ordinance to the voters for their approval along with a proposed competing measure, as well as to enact the proposed Citizen Initiative Ordinance (see next two agenda items).

This order sends the proposed Citizen Initiative Ordinance to the voters on November 7, 2017, at the regularly scheduled election and it also authorizes the City Clerk to place a summary of the proposed ordinance on the ballot.

Five affirmative votes are required for passage after public comment. In order to coincide with consideration of Order 37-17/18, staff is recommending that this item be postponed to the September 6th City Council meeting.

**Order 36-17/18
(Tab 27)**

Order Enacting Citizen Initiative Amendment to Chapter 14 of the Portland City Code Re: Strengthen Zoning Protection by Allowing Resident Participation in Proposed Zoning Changes – Sponsored by Katherine L. Jones, City Clerk

This is a companion order to Order 36-17/18 and enacts the Citizen Initiative Ordinance.

This item must be read on two separate days. This is its first reading.

**Order 37-17/18
(Tab 28)**

Order Setting Election Date on Amendment to Chapter 14 of the Portland City Code Re: Strengthen Zoning Protection by Allowing Resident Participation in Proposed Zoning Changes and Sending a Competing Measure to the Voters – Sponsored by Katherine L. Jones City Clerk.

This order allows the City Council to offer both the Citizen Initiative Amendment and a competing measure to the Citizen Initiative referendum Question and submits the measures to the voters of the City of Portland on November 7, 2017 at the regularly scheduled election. This order also authorizes the City Clerk to place summaries of the proposed ordinances on the ballot.

Five affirmative votes are required for passage. In order to coincide with consideration of Orders 36-17/18 and 37-17/18, staff is recommending that this order be postponed to the September 6th Council meeting.

**Order 38-17/18
(Tab 29)**

Order Setting Public Hearing on Citizen Initiative Amendment to Chapter 6 of the Portland City Code Re: Rent Stabilization and Protection of Tenants' Rights – Sponsored by Katherine L. Jones, City Clerk.

This order sets a public hearing on a citizen initiative amendment to the Portland City Code called, "Rent Stabilization and Protection of Tenants' Rights" to be held by the City Council on September 6, 2017, at 5:30 p.m. in City Council Chambers at Portland City Hall, 389 Congress Street, Portland, Maine.

Five affirmative votes are required for passage after public comment.

**Order 39-17/18
(Tab 30)**

Order Setting Election Date on Citizen Initiative Amendment to Chapter 6 of the Portland City Code Re: Rent Stabilization and Protection of Tenants' Rights - Sponsored by Katherine L. Jones, City Clerk.

A petition was filed on June 20, 2017 in the City Clerk's Office regarding an Amendment to Chapter 6 of the Portland City Code Re: Rent Stabilization and Protection of Tenants' Rights. The petition contains the signatures of 1,500 voters of the City of Portland. The required number of signatures to put this question on the ballot is fifteen hundred (1,500); therefore, the City Clerk has deemed the petition sufficient.

Pursuant to section 9-39 of the Portland City Code, the Council has the ability to send the Ordinance to the voters for their approval of send the ordinance to the voters for their approval along with a proposed competing measure, as well as to enact the proposed Citizen Initiative Ordinance (see next two agenda items.)

This order sends the proposed Citizen Initiative Ordinance to the voters on November 7, 2017, at the regularly scheduled election and it also authorizes the City Clerk to place a summary of the proposed ordinance on the ballot.

Five affirmative votes are required for passage after public comment. In order to coincide with consideration of Order 41-17/18, staff is recommending that this item be postponed to the September 6th City Council meeting.

**Order 40-17/18
(Tab 31)**

Order Enacting Citizen Initiative Amendment to Chapter 6 of the Portland City Code Re: Rent Stabilization and Protection of Tenants' Rights Sponsored by Katherine L. Jones, City Clerk

This is a companion order to Order 40-17/18 and enacts the Citizen Initiative Ordinance.

This item must be read on two separate days. This is its first reading.

**Order 41-17/18
(Tab 32)**

Order Setting Election Date on Amendment to Chapter 6 of the Portland City Code Re: Rent Stabilization and Protection of Tenants' Rights and Sending a Competing Measure to Voters – Sponsored by Katherine L. Jones, City Clerk.

This order allows the City Council to offer both the Citizen Initiative Amendment and a competing measure to the Citizen Initiative referendum Question and submits the measures to the voters of the City of Portland on November 7, 2017 at the regularly scheduled election. This order also authorizes the City Clerk to place summaries of the proposed ordinances on the ballot.

Five affirmative votes are required for passage. In order to coincide with consideration of Orders 40-17/18 and 41-17/18 above, staff is recommending that this order be postponed to the September 6th Council meeting.

EXECUTIVE SESSION:

Executive Session: Consultation with City Attorney Re: McDonough v. City of Portland Pursuant to 1 M.R.S. §405(6)(E) – Sponsored by Jon P. Jennings, City Manager.

8/18/2017 11:20 AM

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
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8/18/2017 11:20 AM

Order 34-17/18
Tab 25 8-21-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
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JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING PUBLIC HEARING ON CITIZEN INITIATIVE AMENDMENT TO
CHAPTER 14 OF THE PORTLAND CITY CODE
RE: STRENGTHEN ZONING PROTECTION BY ALLOWING RESIDENT
PARTICIPATION IN PROPOSED ZONING CHANGES**

ORDERED, that a public hearing on a citizen initiative regarding amendments to Chapter 14 of the Portland City Code called, "Strengthen Zoning Protection by Allowing Resident Participation in Proposed Zoning Changes," shall be held by the City Council on September 6, 2017, at 5:30 p.m., or as soon as possible after said time, in City Council Chambers at Portland City Hall, 389 Congress Street, Portland, Maine.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Katherine Jones

DATE: August 4, 2017

SUBJECT: Citizen Initiative

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading X Final Action

Can action be taken at a later date: Yes No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. ONE SENTENCE SUMMARY

An Amendment to strengthen zoning protection by allowing resident participation in proposed zoning changes.

II. AGENDA DESCRIPTION

**ORDER SETTING PUBLIC HEARING ON
CITIZENS INITIATED AMENDMENT TO**

CHAPTER 14 §58 An Amendment to strengthen zoning protection by allowing resident participation in proposed zoning changes.

ORDERED: That a public hearing on a citizen initiated charter amendments regarding An amendment to strengthen zoning protection by allowing resident participation in proposed zoning changes be held on September 6, 2017 at 5:30 P.M.

III. BACKGROUND

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

**VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE
AGENDA DESCRIPTION**

VII. RECOMMENDATION

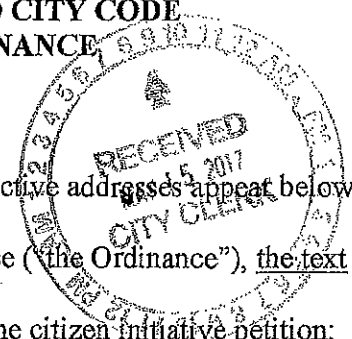
VIII. LIST ATTACHMENTS

Prepared by:

Date:

Bean/agendarequestmemo/rev 1/23/2017

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**



The undersigned hereby depose and say as follow:

- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to Mary Davis the following address:

1666 WESTBROOK ST Portland, ME 04102

Dated at Portland, this 15 day of May 2017.

Stephen J. Schwartz
(Print) Name

150 Rivington Road
Address

[Signature]
Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

(Print) Name

Address

Signature

Subscribed and sworn to before me this 15th day of May, 2017.

Judith A. Brueger
Signature of Notary Public/Attorney-at-law

1/19/24
Date Commission Expires/Date Entered the Bar

Judith A. Brueger
Printed Name

Exhibit A

Chapter 14 § 58 An Amendment to strengthen zoning protection by allowing resident participation in proposed zoning changes

Be it enacted by the citizens of the City of Portland as follows:

Portland's Code of Ordinances, Chapter 14, Land Use, Article III. ZONING, §§ 14-46 to 14-57 is hereby amended by adding a new provision § 14-58, as follows:

Part I:

Procedure for Resident Participation in Rezone Proposals

(1) If 25% of registered voters who either reside or own property within 500 feet of a proposed zone change / zoning map amendment sign and file a written objection to the proposed zone change / zoning map amendment with the city clerk, before approval by the city council, the proposed zone change / zoning map amendment becomes null and void unless the requirements of subsection (2) are met.

(2) Within five business days after filing of the objection, the city clerk will notify the applicant, the person or entity applying for the zone change, of the objection. In order for the zone change/zoning map amendment to take effect over the objection, the applicant must file a document signed by a majority (51%) of the registered voters who reside or own property within 1,000 feet of the parcel for which the zone change / zoning map amendment is proposed stating their approval of the zone change/zoning map amendment. This document must be filed with the city clerk within 45 days after notification by the clerk of the filing of the objection to the zone change / zoning map amendment referred to in subsection (1). If the applicant fails to obtain and file the required signatures, the zone change / zoning map amendment is null and void.

(3) If written objection has been made to an application for a zone change/ zoning map amendment that predates the effective date of this amendment (Section 14-58), the clerk's notification to the applicant shall be made within five business days of adoption of this ordinance by the voters. After notification, the applicant shall comply with the provisions of paragraph (2).

If the applicant fails to obtain and file the required signatures, the zone change / zoning map amendment is null and void.

(4) The City Council shall have authority to adopt reasonable rules and regulations to carry out the intent of this ordinance.

Part II:

The effective date of the initiated amendment:

In accordance with 1 MRSA, §302, and Maine case law interpreting this provision, Parts I and II of this initiated amendment, if approved by the voters of the city Portland, shall go into effect as of the date of filing the originating petition with the Portland City Clerk, *i.e.* May 15, 2017.

SUMMARY

This amendment adds a section to the land use ordinances that allows the residents and property owners within 500 feet of a proposed zone change to have meaningful input in the zoning process and to object in writing to zone changes. If 25 or 25% of these residents and property owners sign a document objecting to the zone change, no change can occur, unless the applicant for the change files a document signed by majority of residents and property owners within 1,000 feet of the proposed zone change stating they agree to the zone change. Otherwise no zone change can go into effect. If approved this amendment is in force as of May 15, 2017, the date it was filed.

*Order 35-17/18
Tab 26 8-21-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
CITIZEN INITIATIVE AMENDMENT
TO CHAPTER 14 OF THE PORTLAND CITY CODE
RE: STRENGTHEN ZONING PROTECTION BY ALLOWING RESIDENT
PARTICIPATION IN PROPOSED ZONING CHANGES**

ORDERED, that pursuant to Sections 9-36(f) and 9-39 of the Portland City Code, the citizen initiative amendment to Chapter 14 of the Portland City Code called, "Strengthen Zoning Protection By Allowing Resident Participation In Proposed Zoning Changes," shall be submitted to the voters of the City on November 7, 2017 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to provide the summary on the ballot in place of the entire proposed ordinance, both of which are substantially in the form attached hereto.

Chapter 14 §58

Part I: Procedure for Resident Participation in Rezone Proposals

(1) If 25 % of registered voters who either reside or own property within 500 feet of a proposed zone change/zoning map amendment sign and file a written objection to the proposed zone change/zoning map amendment with the city clerk, before approval by the city council, the proposed zone change/zoning map amendment becomes null and void unless the requirement of subsection (2) are met.

(2) Within five business days after filing the objection, the city clerk will notify the applicant, the person or entity applying for the zone change, of the objection. In order for the zone change/zoning map amendment to take effect over the objection, the applicant must file a document signed by a majority (51%) of the registered voters who reside or own property within 1,000 feet of the parcel for which the zone change/zoning map amendment. This document must be filed with the City Clerk within 45 days after notification by the clerk of the filing of the objection to the zone change/zoning map amendment referred to in subsection (1). If the applicant fails to obtain and file the required signatures, the zone change/zoning map amendment is null and void.

(3). If written objection has been made to an application for a zone change/zoning map amendment that predates the effective date of this amendment (Section 14-58), the clerk's notification to the applicant shall be made within five business days of adoption of this ordinance by the voters. After notification, the applicant shall comply with the provisions of paragraph (2).

If the applicant fails to obtain and file the required signatures, the zone change/zoning map amendment is null and void.

(4) The City Council shall have authority to adopt reasonable rules and regulations to carry out the intent of this ordinance.

Part II

The effective date of the initiated amendment:

In accordance with 1 M.RSA, § 302, and Maine case law interpreting this provision, Parts I and II of this initiated amendment, if approved by the voters of the City of Portland shall go into effect as of the date of filing the originating petition with the Portland City Clerk, i.e. May 15, 2017.

SUMMARY

This amendment adds a section to the land use ordinances that allows the residents and property owners within 500 feet of a proposed zone change to have meaningful input in the zoning process and to object in writing to zone changes. If 25 or 25 % of these residents and property owners sign a document objecting to the zone change, no change can occur, unless the applicant for the change files a document signed by majority of residents and property owners within 1,000 feet of the proposed zone change stating they agree to the zone change. Otherwise no zone change can go into effect. If approved this amendment is in force as of May 15, 2017, the date it was filed.

Order 36-17/18
Tab 27 8-21-17

ETHAN K. STRIMLING (MAYOR)
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IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER ENACTING CITIZEN INITIAIVE AMENDMENT
TO CHAPTER 14 OF THE PORTLAND CITY CODE
RE: STRENGTHEN ZONING PROTECTION BY ALLOWING RESIDENT
PARTICIPATION IN PROPOSED ZONING CHANGES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE, IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Chapter 14 of the Portland City Code is hereby amended
adding a new provision § 14-58, as follows:*

Section § 14-58.

Part I: Procedure for Resident Participation in Rezone Proposals

(1) If 25 % of registered voters who either reside or own property within 500 feet of a proposed zone change/zoning map amendment sign and file a written objection to the proposed zone change/zoning map amendment with the city clerk, before approval by the city council, the proposed zone change/zoning map amendment becomes null and void unless the requirement of subsection (2) are met.

(2) Within five business days after filing the objection, the city clerk will notify the applicant, the person or entity applying for the zone change, of the objection. In order for the zone change/zoning map amendment to take effect over the objection, the applicant must file a document signed by a majority (51%) of the registered voters who reside or own property within 1,000 feet of the parcel for which the zone change/zoning map amendment. This document must be filed with the City Clerk within 45 days after notification by the clerk of the filing of the objection to the zone change/zoning map amendment referred to in subsection (1). If the applicant fails to obtain and file the required signatures, the zone change/zoning map amendment is null and void.

(3). If written objection has been made to an application for a zone change/zoning map amendment that predates the effective date of this amendment (Section 14-58), the clerk's notification to the applicant shall be made within five business days of adoption of this ordinance by the voters. After notification, the applicant shall comply with the provisions of paragraph (2). If the applicant fails to obtain and file the required signatures, the zone change/zoning map amendment is null and void.

(4) The City Council shall have authority to adopt reasonable rules and regulations to carry out the intent of this ordinance.

Part II

The effective date of the initiated amendment:

In accordance with 1 M.R.S.A., § 302, and Maine case law interpreting this provision, Parts I and II of this initiated amendment, if approved by the voters of the City of Portland shall go into effect as of the date of filing the originating petition with the Portland City Clerk, i.e. May 15, 2017. into effect. If approved this amendment is in force as of May 15, 2017, the date it was filed.

Order 37 17/18
Tab 28 8/21/17

ETHAN K. STRIMLING (MAYOR)
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**ORDER SETTING ELECTION DATE ON AMENDMENT TO CHAPTER 14
OF THE PORTLAND CITY CODE RE: STRENGTHEN ZONING
PROTECTION BY ALLOWING RESIDENT
PARTICIPATION IN PROPOSED ZONING CHANGES
AND SENDING A COMPETING MEASURE TO THE VOTERS**

ORDERED, that pursuant to Sections 9-36(f) and 9-39 of the Portland City Code, the amendment to Chapter 14 of the Portland City Code called, "Strengthen Zoning Protection By Allowing Resident Participation In Proposed Zoning Changes" shall be submitted to the voters of the City in substantially the form attached hereto on November 7, 2017 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the attached competing measure shall also be submitted to the voters of the City on November 7, 2017 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to provide a summary of the proposed ordinance and of the competing measure on the ballot.

Chapter 14 §58

Part I: Procedure for Resident Participation in Rezone Proposals

(1) If 25 % of registered voters who either reside or own property within 500 feet of a proposed zone change/zoning map amendment sign and file a written objection to the proposed zone change/zoning map amendment with the city clerk, before approval by the city council, the proposed zone change/zoning map amendment becomes null and void unless the requirement of subsection (2) are met.

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If the applicant fails to obtain and file the required signatures, the zone change/zoning map amendment is null and void.

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Part II

The effective date of the initiated amendment:

In accordance with 1 M.RSA, § 302, and Maine case law interpreting this provision, Parts I and II of this initiated amendment, if approved by the voters of the City of Portland shall go into effect as of the date of filing the originating petition with the Portland City Clerk, i.e. May 15, 2017.

SUMMARY

This amendment adds a section to the land use ordinances that allows the residents and property owners within 500 feet of a proposed zone change to have meaningful input in the zoning process and to object in writing to zone changes. If 25 or 25 % of these residents and property owners sign a document objecting to the zone change, no change can occur, unless the applicant for the change files a document signed by majority of residents and property owners within 1,000 feet of the proposed zone change stating they agree to the zone change. Otherwise no zone change can go into effect. If approved this amendment is in force as of May 15, 2017, the date it was filed.

*Order 38-17/18
Tab 29 8-21-17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING PUBLIC HEARING ON CITIZEN INITIATIVE AMENDMENT TO
CHAPTER 6 OF THE PORTLAND CITY CODE
RE: RENT STABILIZATION AND PROTECTION OF TENANTS' RIGHTS**

ORDERED, that a public hearing on a citizen initiative regarding amendments to Chapter 6 of the Portland City Code called, "Rent Stabilization and Protection of Tenants' Rights," shall be held by the City Council on September 6, 2017, at 5:30 p.m., or as soon as possible after said time, in City Council Chambers at Portland City Hall, 389 Congress Street, Portland, Maine.

MEMORANDUM
City Council Agenda Item

DISTRIBUTE TO: City Manager, Mayor, Anita LaChance, Sonia Bean, Danielle West-Chuhta, Nancy English, Julianne Sullivan

FROM: Katherine Jones

DATE: August 4, 2017

SUBJECT: Citizen Initiative

SPONSOR:

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ Final Action X _____

Can action be taken at a later date: _____ Yes _____ No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

I. ONE SENTENCE SUMMARY

Chapter 6: Buildings and Building regulations Re: Rent Stabilization and Protection of Tenants' Rights.

II. AGENDA DESCRIPTION

**ORDER SETTING PUBLIC HEARING ON
CITIZENS INITIATED AMENDMENT TO**

Chapter 6: Buildings and Building regulations Re: Rent Stabilization and Protection of Tenants' Rights.

Summary: The proposed ordinance enacts rent stabilization in the City of Portland. The ordinance applies to most rental units within the City, except for those constructed after January 1, 2017, units owned by small-scale landlords (five units or less), subsidized units, in-law units, and public accommodations such as hospitals. Under the ordinance, annual rent increases are capped to an amount equal to the increase in the cost of living and any increase in city property tax. Additionally, landlords are provided opportunity to make further increases to recoup costs associated with capital expenditures or to ensure a fair rate of return. Finally, the Ordinance creates an appointed rent board, comprised of both landlords and tenants from across the city, and it tasked with enforcing the ordinance, collection and analyzing data regarding the City's rental market, and proposing changes to the Ordinance from time to time.

ORDERED: That a public hearing on a citizen initiated charter amendments regarding Chapter 6: Buildings and Building regulations Re: Rent Stabilization and Protection of Tenants' Rights be held on September 6, 2017 at 5:30 P.M.

III. BACKGROUND

IV. INTENDED RESULT AND OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND THAT WILL NOT APPEAR IN THE AGENDA DESCRIPTION

VII. RECOMMENDATION

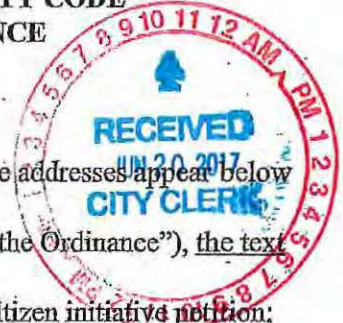
VIII. LIST ATTACHMENTS

Prepared by: Katherine Jones
Date: 08/04/2017

Rent ordinance

**AFFIDAVIT FILED PURSUANT TO §9-36 OF PORTLAND CITY CODE
SEEKING PETITIONS FOR INITIATION OF ORDINANCE**

The undersigned hereby depose and say as follow:



- (1) The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;
- (2) The undersigned file this affidavit for the purpose of initiating an ordinance ("the Ordinance"), the text and a summary of which is annexed to this Affidavit as Exhibit A;
- (3) The undersigned will constitute the Petitioners' Committee and circulate the citizen initiative petition;
- (4) All notices to the Committee are to be sent to 139 Park St. the following address;

Portland ME 04107

207-409-0088

Dated at Portland, this 20th day of June 2017.

- | | | | | | |
|----------------|-------------------|---------|--|-----------|--|
| ✓ (Print) Name | Nicholas Pellenz | Address | 273 Danforth St | Signature | |
| ✓ (Print) Name | EVAN LEDRUM | Address | 142 PARK AVE #10 | Signature | |
| ✓ (Print) Name | Jacob Chase | Address | 303 Brackett St. #5 | Signature | |
| ✓ (Print) Name | William Z Anchors | Address | 44 Waterville St #1 | Signature | |
| ✓ (Print) Name | Mathew Macmillan | Address | 287 State St Apt 2
PORT ME | Signature | |
| ✓ (Print) Name | Mackenzie Marrie | Address | 35 State St. #2
Portland, ME 04101 | Signature | |
| ✓ (Print) Name | Margaux Donell | Address | 161 Danforth St #5
Portland ME 04102 | Signature | |
| ✓ (Print) Name | Gabriel Grabin | Address | 30 Preble St #452
Portland ME 04101 | Signature | |
| ✓ (Print) Name | Genevieve Cox | Address | 196 Sheridant St. #3
Portland, ME 04101 | Signature | |
| ✓ (Print) Name | DENNIS SEINE | Address | 254 STEVENS AVE
PORTLAND ME 04103 | Signature | |

Subscribed and sworn to before me this 20th day of June, 2017.

Signature of Notary Public/Attorney-at-law

Amy J. Kotsimpulou
Printed Name

Date Commission Expires AMY J. KOTSIMPULO the Bar
**MY COMMISSION EXPIRES
MARCH 26, 2018**

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 6: BUILDINGS AND BUILDING REGULATIONS
Re: Rent Stabilization and Protection of Tenants' Rights

WHEREAS, surveys by multiple independent investigators have shown there to be a critical shortage of affordable rental housing in the City, with most tenants paying more than thirty (30) percent of their income to rent; and

WHEREAS, according to verifiable sources, the average rent within the City has increased over forty (40) percent in the past five years; and

WHEREAS, due to this shortage it has become increasingly difficult for tenants to find decent, safe, sanitary, and affordable rental housing within the City, forcing many such tenants to move to neighboring municipalities, or risk becoming homeless; and

WHEREAS, the burden of such unaffordable housing has fallen disproportionately on the elderly, immigrants, LGBTQ youth, and other populations that the City has traditionally sought to welcome and protect; and

WHEREAS, it is in the public interest to ensure affordable housing within the City, in order to maintain its diverse and unique character, and to protect tenants from involuntary displacement, while also ensuring a fair, just, and reasonable return for Landlords.

NOW, THEREFORE, BE IT ORDERED, pursuant to its authority under 30-A M.R.S. §3001:

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

ARTICLE XII. RENT STABILIZATION

Sec. 6-230. Purpose.

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

Sec. 6-231. Applicability.

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

- (a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;
- (b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;
- (c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;
- (d) Rental Units within a building originally designed and constructed to contain only two (2) or three (3) dwelling units, one of which the Landlord currently occupies as his or her principal residence.
- (e) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code; and
- (f) Any rental unit constructed on or after January 1, 2017.

Sec. 6-232. Definitions.

Allowable increase percentage means the amount that the rent of a Covered Unit may be raised within a Rental Year, unless a Landlord is entitled to additional increases as laid out in Section 6-233 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2018, and shall be equal to 100 percent of the change in the Consumer Price Index for the Portland-South Portland-Biddeford Metro Area, as published by the United States Bureau of Labor Statistics or its designee.

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

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not charged to a Tenant during a particular Rental Year. For example, if the Base Rent for the Covered Unit was \$1,500 per month and for the subsequent Rental Year the Allowable Increase Percentage was two (2) percent and the Tax Rate Rent Adjustment was two (2) percent then the maximum allowable rent for the subsequent Rental Year, would be \$1,560 per month. If the Landlord did not raise the rent of the Covered Unit for the subsequent Rental Year, then the Banked Rent would equal \$1,560 per month. Such Banked Rent is reported by the Landlord as

part of the annual registration of the Covered Unit, pursuant to Section 6-151(c).

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

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

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2018.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2018 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

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

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

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

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

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

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

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

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

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2018, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tax rate rent adjustment means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City increases the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit. For example, if property taxes for a building increase by \$100 per year, and the building has four Covered Units, the Tax Rate Rent Adjustment may not exceed \$25 per year.

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

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2018, each Covered Unit shall be registered with the City in accordance with Section 6-151(c). Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of November 1, 2017 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance.

(b) Base rent for Discontinued Covered Units.

- (i) If a Covered Unit is not registered with the City as of January 1, 2018, but is registered with the City after such date, the Base Rent shall be set by the Landlord.
- (ii) If a Covered Unit is registered with the City as of January 1, 2018, but is removed from the rental housing market, the Base Rent for such a

- Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the Rental Year in which the Covered Unit was removed from the rental housing market.
- (iii) If a Covered Unit is registered with the City as of January 1, 2018, but is subsequently removed from the rental housing market for a period of five (5) or more Rental Years, the Base Rent for such a Covered Unit upon reentry into the rental housing market shall be set by the Landlord.

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

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit. For example, if the Banked Rent for the larger Covered Unit was \$1,500 per month, and after consolidation the floor area of the larger Covered Unit was increased by twenty (20) percent, the Base Rent for the consolidated Covered Unit would be no more than \$1,800 per month.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2018, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage and the Tax Rate Rent Adjustment for the following calendar year.

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

- (i) Annual Increase Percentage¹. Unless a Landlord qualifies for an additional increase as further described below, Rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.

- (ii) Tax Rate Rent Adjustment. If the mil rate within the City of Portland is increased for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.
- (iii) Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.
- (iv) Additional Rent Board Approved Increases. In addition to the above rent adjustments, the Rent Board may approve additional rent increases properly demonstrated by the Landlord, attributable to:
 - i. Capital improvement costs, including financing costs;
 - ii. Uninsured repair costs;
 - iii. Increased housing service costs; and
 - iv. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.

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

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

(e) A Tenant who receives notice of a rent increase that he or she believes does not conform with this Section may file an appeal of said rent increase with the Rent Board within the time limits provided by Section 6-240 below. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the

increased rent is allowable. If such an increase is more than is allowed by this Article, the Board may impose such fines as are allowed by this Article.

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

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

For example, if a Landlord was entitled to Rent Stabilization Allowances totaling four (4) percent in Year 1, but does not raise the rent of the Covered Unit, he or she may raise rent in Year 2 by a total of four (4) percent plus any Rent Stabilization Allowances to which the Landlord is entitled in Year 2.

Sec. 6-236. Exemptions from rent increase limitations.

The following categories of Covered Units are not subject to the rent increase limitations contained in Section 6-234 above.

(a) A Covered Unit where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency.

(b) A Covered Unit within a single-family residence, where the Landlord shares kitchen or sanitary facilities with the Tenant(s), and where the Landlord occupies a portion in the residence.

(c) A Covered Unit that is owned by a Landlord who owns no more than five (5) Covered Units within the City.

Sec. 6-237. Evictions.

To properly evict a Tenant within a Covered Unit, who is subject to an existing Rental Agreement, a Landlord must serve the Tenant(s) with a written notice to terminate tenancy. Such a notice must contain the name(s) of the Tenants, the date by which the Rental Unit must be vacated, and the permissible ground(s) for eviction, as found in this Article.

Sec. 6-238. Service of the notice to terminate tenancy.

To properly evict a Tenant within a Covered Unit, the notice to terminate tenancy must be personally delivered to the Tenant, or another person of reasonable age and discretion within the Tenant's household, as defined in Rule 4 of the Maine Rules of Civil Procedure. If after three (3) good faith attempts to deliver in person, the Landlord is unable to do so, said notice may be left in a conspicuous place on or in the rental unit, consistent with where the Landlord would typically leave notices of importance, or be sent by first-class mail to the Tenant's last known mailing address. Should the Tenant challenge the eviction in a proceeding before the Rent Board, the Landlord shall bear the burden of proving that service was properly completed under this article.

Regardless of the means of service, service of a notice to terminate tenancy must be successfully completed no fewer than sixty (60) days before the Covered Unit must be vacated, except in the case of eviction for failure to pay rent, in which case the applicable time limits for notice shall be controlled by 14 M.R.S. § 6002, as amended.

In all cases, a copy of this notice must then be filed with the Rent Board no more than ten (10) days after service upon the Tenant(s) has been completed.

Sec. 6-239. Permissible grounds for eviction.

No Rental Agreement may state, nor may any tenancy established under such a Rental Agreement be terminated for any ground other than:

(a) Failure to pay rent. Failure to pay rent to which the Landlord is lawfully entitled under the rental agreement. This provision should not be read to materially alter, restrict, or otherwise affect the rights and obligations of Tenants and landlords pursuant to 14 M.R.S. § 6002, et seq., as amended.

(b) Substantial breach. Substantial breach of a material term of the Rental Agreement, followed by a Tenant's failure to cure such a breach within thirty (30) days of receiving notice of such a breach.

(c) Nuisance, waste, or illegal conduct. Nuisance, waste, or illegal conduct caused by the Tenant or Tenant's guests and/or licensees, that in the opinion of the Landlord interferes with the health, safety, or quiet enjoyment of the Landlord or surrounding Tenant(s). Having five (5) or more complaints substantiated by the

Portland Police Department within a period of sixty (60) days shall be prima facie evidence of this condition.

(d) Opening rental unit for qualified family member. The intention of the Landlord to remove the Tenant in order to allow the owner or a Qualified Family Member of the owner to inhabit the rental unit, provided that such a person must begin to inhabit the rental unit within sixty (60) days of the Tenant's eviction. Failure of such a Qualified Family Member to inhabit the vacated unit within sixty (60) days, without receiving an extension of time from the Rent Board, shall constitute a violation of this Article.

(e) Withdrawal from rental housing market. Landlord's desire to permanently withdraw the unit from the rental housing market. Subsequent rental of the Covered Unit within eighteen (18) months of a Tenant's vacation shall constitute a violation of this Article.

(f) Remedy existing code violation. Landlord's need to vacate the premises for health or safety reasons, including the Landlord's receipt of a notice of violation from the City's Permitting and Inspections Department.

(g) Capital improvements. The Landlord's intent to recover temporary possession of the rental unit in order to carry out necessary capital improvements or rehabilitation of the building. The Landlord must offer the rental unit back to the Tenant within thirty (30) days of the date on which the Landlord receives a certificate of occupancy for the rental unit from the City Code Enforcement Officer, unless said period of time is extended by the Rent Board.

Sec. 6-240. Appeal of eviction to rent board.

A Tenant may appeal his or her eviction from a Covered Unit to the Rent Board. Such an appeal must be filed with the Board no more than thirty (30) days following the Tenant's receipt of a notice to terminate tenancy, or if no such notice was received, within thirty (30) days of the Tenant's vacation of the Rental Unit.

In such an appeal, the Tenant may raise issues related to: (1) insufficient notice to terminate tenancy under Section 6-238; (2) or eviction for an impermissible reason under Section 6-239.

In hearing the appeal, the Rent Board may consider oral and documentary evidence from both the Tenant and the Landlord, as well as additional witnesses who, in the opinion of the Board, have relevant knowledge on the matter. If the Board finds that the

landlord in question has violated any portion of this Article, it shall impose fines consistent with this Article.

Sec. 6-241. Notice of ordinance to tenants.

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

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

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

(d) Landlords of buildings containing six (6) or more Covered Units shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

Sec. 6-242. Non-waiver of rights.

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

Sec. 6-243. Enforcement and remedies.

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

Sec. 6-244. Limitation of Liabilities

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

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

Sec. 6-245. Severability.

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

Sec. 6-246. Sunset Clause.

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

Sec. 6-247. - Sec. 6-249. Reserved.

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

ARTICLE XIII. RENT BOARD

Sec. 6-250. Creation; composition.

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

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

The City shall take reasonable steps, but is not required, to appoint to the Rent Board at least one (1) Landlord and at least four (4) tenants.

Sec. 6-251. Appointment; terms.

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

Sec. 6-252. Vacancies.

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

Sec. 6-253. Removal of members.

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

Sec. 6-254. Compensation.

Members of the Rent Board shall serve without compensation.

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

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

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

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

The Housing Safety Office shall designate a member of its staff to serve as staff secretary of the Rent Board and attend all its proceedings. The staff secretary shall keep the minutes of the proceedings of the Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the board, as

required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

Sec. 6-257. Quorum and necessary vote.

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

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

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

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

Sec. 6-259. Public hearings.

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

Sec. 6-260. Record and decisions.

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

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

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

Sec. 6-261. Conflicts.

No member of the Rent Board shall participate in the hearing or disposition of any matter in which he or she has an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended. Any question of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined; where such vote results in a tie, the subject member shall be disqualified.

Sec. 6-262. Appeals to Superior Court.

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

Sec. 6-263. Jurisdiction and authority.

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

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

(b) To hear, review, and approve or deny Landlord applications for increases in Base Rent due to the renovation or reconfiguration of existing Covered Units, as provided for in Section 6-233 above.

(c) To review notices terminating tenancy provided by a Landlord of a Covered Units within the meaning of the Rent Stabilization Ordinance. Such review may include, but is not limited to, issues related to whether the grounds for termination of tenancy were proper and/or whether the Landlord effectively served the affected Tenant(s) with notice of termination of tenancy, all within the meaning of this Chapter.

(d) To hear, review, and grant or deny appeals from Tenants regarding allegations of evictions inconsistent with the requirements of the Rent Stabilization Ordinance.

(e) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to: (1) move a Qualified Family Member into a vacated Covered Unit; or (2) reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed.

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

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

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

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

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

Sec. 6-264. Sunset Provision

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

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

Sec. 6-151. Registration required.

...

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

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

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

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

Sec. 6-152. Registration Fees.

...

(b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay sixty-five dollars (\$65.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars (\$30) from each registration fee shall be appropriated to Housing Safety Office to cover the administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

Proposed Ordinance Summary

The proposed ordinance enacts rent stabilization in the City of Portland. The ordinance applies to most rental units within the City, except for those constructed after January 1, 2017, units owned by small-scale landlords (five units or less), subsidized units, in-law units, and public accommodations such as hospitals. Under the ordinance, annual rent increases are capped to an amount equal to the increase in the cost of living and any increase in city property tax. Additionally, landlords are provided the opportunity to make further increases to recoup costs associated with capital expenditures or to ensure a fair rate of return. Finally, the Ordinance creates an appointed rent board, comprised of both landlords and tenants from across the city, and is tasked with enforcing the ordinance, collecting and analyzing data regarding the City's rental market, and proposing changes to the Ordinance from time to time.

Order 39-17/18
Tab 30 8-21-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
CITIZEN INITIATIVE AMENDMENT
TO CHAPTER 6 OF THE PORTLAND CITY CODE
RE: RENT STABILIZATION AND PROTECTION OF TENANTS' RIGHTS**

ORDERED, that pursuant to Sections 9-36(f) and 9-39 of the Portland City Code, the citizen initiative amendment to Chapter 6 of the Portland City Code called, "Rent Stabilization and Protection of Tenants' Rights," shall be submitted to the voters of the City on November 7, 2017 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to provide the summary on the ballot in place of the entire proposed ordinance, both of which are substantially in the form attached hereto.

ARTICLE XII. RENT STABILIZATION

Sec. 6-230. Purpose.

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

Sec. 6-231. Applicability.

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

- (a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;
- (b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;
- (c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;
- (d) Rental Units within a building originally designed and constructed to contain only two (2) or three (3) dwelling units, one of which the Landlord currently occupies as his or her principal residence.
- (e) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code; and
- (f) Any rental unit constructed on or after January 1, 2017.

Sec. 6-232. Definitions.

Allowable increase percentage means the amount that the rent of a Covered Unit may be raised within a Rental Year, unless a Landlord is entitled to additional increases as laid out in Section 6-233 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2018, and shall be equal to 100 percent of the

change in the Consumer Price Index for the Portland-South Portland-Biddeford Metro Area, as published by the United States Bureau of Labor Statistics or its designee.

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

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not charged to a Tenant during a particular Rental Year. For example, if the Base Rent for the Covered Unit was \$1,500 per month and for the subsequent Rental Year the Allowable Increase Percentage was two (2) percent and the Tax Rate Rent Adjustment was two (2) percent then the maximum allowable rent for the subsequent Rental Year, would be \$1,560 per month. If the Landlord did not raise the rent of the Covered Unit for the subsequent Rental Year, then the Banked Rent would equal \$1,560 per month. Such Banked Rent is reported by the Landlord as part of the annual registration of the Covered Unit, pursuant to Section 6-151(c).

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

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

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2018.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2018 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

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

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

Rent means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in

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

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

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

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

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

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

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2018, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tax rate rent adjustment means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City increases the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit. For example, if property taxes for a building increase by \$100 per year, and the building has four Covered Units, the Tax Rate Rent Adjustment may not exceed \$25 per year.

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

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2018, each Covered Unit shall be registered with the City in accordance with Section 6-151(c). Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of November 1, 2017 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance.

(b) Base rent for Discontinued Covered Units.

- (i) If a Covered Unit is not registered with the City as of January 1, 2018, but is registered with the City after such date, the Base Rent shall be set by the Landlord.
- (ii) If a Covered Unit is registered with the City as of January 1, 2018, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the Rental Year in which the Covered Unit was removed from the rental housing market.
- (iii) If a Covered Unit is registered with the City as of January 1, 2018, but is subsequently removed from the rental housing market for a period of five (5) or more Rental Years, the Base Rent for such a Covered Unit upon reentry into the rental housing market shall be set by the Landlord.

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

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a

single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit. For example, if the Banked Rent for the larger Covered Unit was \$1,500 per month, and after consolidation the floor area of the larger Covered Unit was increased by twenty (20) percent, the Base Rent for the consolidated Covered Unit would be no more than \$1,800 per month.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2018, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage and the Tax Rate Rent Adjustment for the following calendar year.

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

- (i) Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, Rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.
- (ii) Tax Rate Rent Adjustment. If the mil rate within the City of Portland is increased for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.
- (iii) Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.
- (iv) Additional Rent Board Approved Increases. In addition to the above rent adjustments, the Rent Board may approve additional rent increases properly demonstrated by the Landlord, attributable to:
 - i. Capital improvement costs, including financing costs;
 - ii. Uninsured repair costs;
 - iii. Increased housing service costs; and

iv. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.

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

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

(e) A Tenant who receives notice of a rent increase that he or she believes does not conform with this Section may file an appeal of said rent increase with the Rent Board within the time limits provided by Section 6-240 below. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. If such an increase is more than is allowed by this Article, the Board may impose such fines as are allowed by this Article.

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

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

For example, if a Landlord was entitled to Rent Stabilization Allowances totaling four (4) percent in Year 1,

but does not raise the rent of the Covered Unit, he or she may raise rent in Year 2 by a total of four (4) percent plus any Rent Stabilization Allowances to which the Landlord is entitled in Year 2.

Sec. 6-236. Exemptions from rent increase limitations.

The following categories of Covered Units are not subject to the rent increase limitations contained in Section 6-234 above.

(a) A Covered Unit where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency.

(b) A Covered Unit within a single-family residence, where the Landlord shares kitchen or sanitary facilities with the Tenant(s), and where the Landlord occupies a portion in the residence.

(c) A Covered Unit that is owned by a Landlord who owns no more than five (5) Covered Units within the City.

Sec. 6-237. Evictions.

To properly evict a Tenant within a Covered Unit, who is subject to an existing Rental Agreement, a Landlord must serve the Tenant(s) with a written notice to terminate tenancy. Such a notice must contain the name(s) of the Tenants, the date by which the Rental Unit must be vacated, and the permissible ground(s) for eviction, as found in this Article.

Sec. 6-238. Service of the notice to terminate tenancy.

To properly evict a Tenant within a Covered Unit, the notice to terminate tenancy must be personally delivered to the Tenant, or another person of reasonable age and discretion within the Tenant's household, as defined in Rule 4 of the Maine Rules of Civil Procedure. If after three (3) good faith attempts to deliver in person, the Landlord is unable to do so, said notice may be left in a conspicuous place on or in the rental unit, consistent with where the Landlord would typically leave notices of importance, or be sent by first-class mail to the Tenant's last known mailing address. Should the Tenant challenge the eviction in a proceeding before the

Rent Board, the Landlord shall bear the burden of proving that service was properly completed under this article.

Regardless of the means of service, service of a notice to terminate tenancy must be successfully completed no fewer than sixty (60) days before the Covered Unit must be vacated, except in the case of eviction for failure to pay rent, in which case the applicable time limits for notice shall be controlled by 14 M.R.S. § 6002, as amended.

In all cases, a copy of this notice must then be filed with the Rent Board no more than ten (10) days after service upon the Tenant(s) has been completed.

Sec. 6-239. Permissible grounds for eviction.

No Rental Agreement may state, nor may any tenancy established under such a Rental Agreement be terminated for any ground other than:

(a) *Failure to pay rent.* Failure to pay rent to which the Landlord is lawfully entitled under the rental agreement. This provision should not be read to materially alter, restrict, or otherwise affect the rights and obligations of Tenants and landlords pursuant to 14 M.R.S. § 6002, et seq., as amended.

(b) *Substantial breach.* Substantial breach of a material term of the Rental Agreement, followed by a Tenant's failure to cure such a breach within thirty (30) days of receiving notice of such a breach.

(c) *Nuisance, waste, or illegal conduct.* Nuisance, waste, or illegal conduct caused by the Tenant or Tenant's guests and/or licensees, that in the opinion of the Landlord interferes with the health, safety, or quiet enjoyment of the Landlord or surrounding Tenant(s). Having five (5) or more complaints substantiated by the Portland Police Department within a period of sixty (60) days shall be prima facie evidence of this condition.

(d) *Opening rental unit for qualified family member.* The intention of the Landlord to remove the Tenant in order to allow the owner or a Qualified Family Member of the owner to inhabit the rental unit, provided that such a person must begin to inhabit the rental unit within sixty (60) days of the Tenant's eviction. Failure of such a Qualified Family Member to inhabit the vacated unit within sixty (60) days, without receiving an extension of time from the Rent Board, shall constitute a violation of this Article.

(e) Withdrawal from rental housing market. Landlord's desire to permanently withdraw the unit from the rental housing market. Subsequent rental of the Covered Unit within eighteen (18) months of a Tenant's vacation shall constitute a violation of this Article.

(f) Remedy existing code violation. Landlord's need to vacate the premises for health or safety reasons, including the Landlord's receipt of a notice of violation from the City's Permitting and Inspections Department.

(g) Capital improvements. The Landlord's intent to recover temporary possession of the rental unit in order to carry out necessary capital improvements or rehabilitation of the building. The Landlord must offer the rental unit back to the Tenant within thirty (30) days of the date on which the Landlord receives a certificate of occupancy for the rental unit from the City Code Enforcement Officer, unless said period of time is extended by the Rent Board.

Sec. 6-240. Appeal of eviction to rent board.

A Tenant may appeal his or her eviction from a Covered Unit to the Rent Board. Such an appeal must be filed with the Board no more than thirty (30) days following the Tenant's receipt of a notice to terminate tenancy, or if no such notice was received, within thirty (30) days of the Tenant's vacation of the Rental Unit.

In such an appeal, the Tenant may raise issues related to: (1) insufficient notice to terminate tenancy under Section 6-238; (2) or eviction for an impermissible reason under Section 6-239.

In hearing the appeal, the Rent Board may consider oral and documentary evidence from both the Tenant and the Landlord, as well as additional witnesses who, in the opinion of the Board, have relevant knowledge on the matter. If the Board finds that the landlord in question has violated any portion of this Article, it shall impose fines consistent with this Article.

Sec. 6-241. Notice of ordinance to tenants.

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

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

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

(d) Landlords of buildings containing six (6) or more Covered Units shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

Sec. 6-242. Non-waiver of rights.

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

Sec. 6-243. Enforcement and remedies.

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

Sec. 6-244. Limitation of Liabilities

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

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

Sec. 6-245. Severability.

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

Sec. 6-246. Sunset Clause.

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

Sec. 6-247. - Sec. 6-249. Reserved.

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

ARTICLE XIII. RENT BOARD

Sec. 6-250. Creation; composition.

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

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

The City shall take reasonable steps, but is not required, to appoint to the Rent Board at least one (1) Landlord and at least four (4) tenants.

Sec. 6-251. Appointment; terms.

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

Sec. 6-252. Vacancies.

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

Sec. 6-253. Removal of members.

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

Sec. 6-254. Compensation.

Members of the Rent Board shall serve without compensation.

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

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

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

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

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

Sec. 6-257. Quorum and necessary vote.

As to any matter requiring a hearing, no business shall be transacted by the Rent Board without a quorum, consisting

of four (4) members being present. The concurring vote of at least four (4) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three (3) weeks at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

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

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

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

Sec. 6-259. Public hearings.

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

Sec. 6-260. Record and decisions.

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

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

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

Sec. 6-261. Conflicts.

No member of the Rent Board shall participate in the hearing or disposition of any matter in which he or she has an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended. Any question of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined; where such vote results in a tie, the subject member shall be disqualified.

Sec. 6-262. Appeals to Superior Court.

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

Sec. 6-263. Jurisdiction and authority.

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

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

(b) To hear, review, and approve or deny Landlord applications for increases in Base Rent due to the renovation or reconfiguration of existing Covered Units, as provided for in Section 6-233 above.

(c) To review notices terminating tenancy provided by a Landlord of a Covered Units within the meaning of the Rent Stabilization Ordinance. Such review may include, but is not limited to, issues related to whether the grounds for termination of tenancy were proper and/or whether the Landlord effectively served the affected Tenant(s) with notice of termination of tenancy, all within the meaning of this Chapter.

(d) To hear, review, and grant or deny appeals from Tenants regarding allegations of evictions inconsistent with the requirements of the Rent Stabilization Ordinance.

(e) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to: (1) move a Qualified Family Member into a vacated Covered Unit; or (2) reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed.

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

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

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

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

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

Sec. 6-264. Sunset Provision

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

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

Sec. 6-151. Registration required.

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

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

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

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

Sec. 6-152. Registration Fees.

...
(b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay **sixty-five dollars (\$65.00)** to the City by January 1st of each year. **Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars (\$30) from each registration fee shall be appropriated to Housing Safety Office to cover the**

administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

SUMMARY

Proposed Ordinance Summary

The proposed ordinance enacts rent stabilization in the City of Portland. The ordinance applies to most rental units within the City, except for those constructed after January 1, 2017, units owned by small-scale landlords (five units or less), subsidized units, in-law units, and public accommodations such as hospitals. Under the ordinance, annual rent increases are capped to an amount equal to the increase in the cost of living and any increase in city property tax. Additionally, landlords are provided the opportunity to make further increases to recoup costs associated with capital expenditures or to ensure a fair rate of return. Finally, the Ordinance creates an appointed rent board, comprised of both landlords and tenants from across the city, and is tasked with enforcing the ordinance, collecting and analyzing data regarding the City's rental market, and proposing changes to the Ordinance from time to time.

Order 40-17/18
Tab 31 8-21-17

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER ENACTING CITIZEN INITIAIVE AMENDMENTO CHAPTER 6
OF THE PORTLANT CITY CODE
RE: RENT STABILIZATION AND PROTECTION OF TENANTS' RIGHTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE, IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

*That Chapter 6 of the Portland City Code is hereby amended
as follow:*

ARTICLE XII. RENT STABILIZATION

Sec. 6-230. Purpose.

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

Sec. 6-231. Applicability.

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

- (a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;
- (b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;
- (c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;
- (d) Rental Units within a building originally designed and constructed to contain only two (2) or three (3)

- dwelling units, one of which the Landlord currently occupies as his or her principal residence.
- (e) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code; and
 - (f) Any rental unit constructed on or after January 1, 2017.

Sec. 6-232. Definitions.

Allowable increase percentage means the amount that the rent of a Covered Unit may be raised within a Rental Year, unless a Landlord is entitled to additional increases as laid out in Section 6-233 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2018, and shall be equal to 100 percent of the change in the Consumer Price Index for the Portland-South Portland-Biddeford Metro Area, as published by the United States Bureau of Labor Statistics or its designee.

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

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not charged to a Tenant during a particular Rental Year. For example, if the Base Rent for the Covered Unit was \$1,500 per month and for the subsequent Rental Year the Allowable Increase Percentage was two (2) percent and the Tax Rate Rent Adjustment was two (2) percent then the maximum allowable rent for the subsequent Rental Year, would be \$1,560 per month. If the Landlord *did not* raise the rent of the Covered Unit for the subsequent Rental Year, then the Banked Rent would equal \$1,560 per month. Such Banked Rent is reported by the Landlord as part of the annual registration of the Covered Unit, pursuant to Section 6-151(c).

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

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

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2018.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2018 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

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

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

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

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

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

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

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

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

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2018, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tax rate rent adjustment means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City increases the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit. For example, if property taxes for a building increase by \$100 per year, and the building has four Covered Units, the Tax Rate Rent Adjustment may not exceed \$25 per year.

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

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2018, each Covered Unit shall be registered with the City in accordance with Section 6-151(c). Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of November 1, 2017 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance.

(b) Base rent for Discontinued Covered Units.

- (i) If a Covered Unit is not registered with the City as of January 1, 2018, but is registered with the City after such date, the Base Rent shall be set by the Landlord.
- (ii) If a Covered Unit is registered with the City as of January 1, 2018, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the Rental Year in which the Covered Unit was removed from the rental housing market.
- (iii) If a Covered Unit is registered with the City as of January 1, 2018, but is subsequently removed from the rental housing market for a period of five (5) or more Rental Years, the Base Rent for such a Covered Unit upon reentry into the rental housing market shall be set by the Landlord.

(c) Base rent following renovation or reconfiguration of Covered Units. Upon the renovation or reconfiguration of a Covered Unit, the Landlord may charge no more than the Banked Rent for that unit, or may apply to the Rent Board for determination of the

appropriate increase in rent. When determining the appropriate increase in rent, the Rent Board may consider factors including the increase in floor area, the addition or upgrade of amenities, and any other factor determined relevant in the opinion of the Rent Board.

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit. For example, if the Banked Rent for the larger Covered Unit was \$1,500 per month, and after consolidation the floor area of the larger Covered Unit was increased by twenty (20) percent, the Base Rent for the consolidated Covered Unit would be no more than \$1,800 per month.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2018, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage and the Tax Rate Rent Adjustment for the following calendar year.

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

- (i) Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, Rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.
- (ii) Tax Rate Rent Adjustment. If the mil rate within the City of Portland is increased for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.
- (iii) Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.
- (iv) Additional Rent Board Approved Increases. In addition to the above rent adjustments, the Rent Board may approve additional rent increases properly demonstrated by the Landlord, attributable to:

- i. Capital improvement costs, including financing costs;
- ii. Uninsured repair costs;
- iii. Increased housing service costs; and
- iv. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.

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

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

(e) A Tenant who receives notice of a rent increase that he or she believes does not conform with this Section may file an appeal of said rent increase with the Rent Board within the time limits provided by Section 6-240 below. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. If such an increase is more than is allowed by this Article, the Board may impose such fines as are allowed by this Article.

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

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

For example, if a Landlord was entitled to Rent Stabilization Allowances totaling four (4) percent in Year 1, but does not raise the rent of the Covered Unit, he or she may raise rent in Year 2 by a total of four (4) percent plus any Rent Stabilization Allowances to which the Landlord is entitled in Year 2.

Sec. 6-236. Exemptions from rent increase limitations.

The following categories of Covered Units are not subject to the rent increase limitations contained in Section 6-234 above.

(a) A Covered Unit where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency.

(b) A Covered Unit within a single-family residence, where the Landlord shares kitchen or sanitary facilities with the Tenant(s), and where the Landlord occupies a portion in the residence.

(c) A Covered Unit that is owned by a Landlord who owns no more than five (5) Covered Units within the City.

Sec. 6-237. Evictions.

To properly evict a Tenant within a Covered Unit, who is subject to an existing Rental Agreement, a Landlord must serve the Tenant(s) with a written notice to terminate tenancy. Such a notice must contain the name(s) of the Tenants, the date by which the Rental Unit must be vacated, and the permissible ground(s) for eviction, as found in this Article.

Sec. 6-238. Service of the notice to terminate tenancy.

To properly evict a Tenant within a Covered Unit, the notice to terminate tenancy must be personally delivered to the Tenant, or another person of reasonable age and discretion within the Tenant's household, as defined in Rule 4 of the Maine Rules of Civil Procedure. If after three (3) good faith attempts to deliver in person, the Landlord is unable to do so, said notice may be left in a conspicuous place on or in the rental unit, consistent with where the Landlord would typically leave notices of importance, or be sent by first-class mail to the Tenant's last known mailing address. Should the Tenant challenge the eviction in a proceeding before the Rent Board, the Landlord shall bear the burden of proving that service was properly completed under this article.

Regardless of the means of service, service of a notice to terminate tenancy must be successfully completed no fewer than

sixty (60) days before the Covered Unit must be vacated, except in the case of eviction for failure to pay rent, in which case the applicable time limits for notice shall be controlled by 14 M.R.S. § 6002, as amended.

In all cases, a copy of this notice must then be filed with the Rent Board no more than ten (10) days after service upon the Tenant(s) has been completed.

Sec. 6-239. Permissible grounds for eviction.

No Rental Agreement may state, nor may any tenancy established under such a Rental Agreement be terminated for any ground other than:

(a) Failure to pay rent. Failure to pay rent to which the Landlord is lawfully entitled under the rental agreement. This provision should not be read to materially alter, restrict, or otherwise affect the rights and obligations of Tenants and landlords pursuant to 14 M.R.S. § 6002, et seq., as amended.

(b) Substantial breach. Substantial breach of a material term of the Rental Agreement, followed by a Tenant's failure to cure such a breach within thirty (30) days of receiving notice of such a breach.

(c) Nuisance, waste, or illegal conduct. Nuisance, waste, or illegal conduct caused by the Tenant or Tenant's guests and/or licensees, that in the opinion of the Landlord interferes with the health, safety, or quiet enjoyment of the Landlord or surrounding Tenant(s). Having five (5) or more complaints substantiated by the Portland Police Department within a period of sixty (60) days shall be prima facie evidence of this condition.

(d) Opening rental unit for qualified family member. The intention of the Landlord to remove the Tenant in order to allow the owner or a Qualified Family Member of the owner to inhabit the rental unit, provided that such a person must begin to inhabit the rental unit within sixty (60) days of the Tenant's eviction. Failure of such a Qualified Family Member to inhabit the vacated unit within sixty (60) days, without receiving an extension of time from the Rent Board, shall constitute a violation of this Article.

(e) Withdrawal from rental housing market. Landlord's desire to permanently withdraw the unit from the rental housing market. Subsequent rental of the Covered Unit within eighteen (18) months of a Tenant's vacation shall constitute a violation of this Article.

(f) Remedy existing code violation. Landlord's need to vacate the premises for health or safety reasons, including the Landlord's receipt of a notice of violation from the City's Permitting and Inspections Department.

(g) Capital improvements. The Landlord's intent to recover temporary possession of the rental unit in order to carry out necessary capital improvements or rehabilitation of the building. The Landlord must offer the rental unit back to the Tenant within thirty (30) days of the date on which the Landlord receives a certificate of occupancy for the rental unit from the City Code Enforcement Officer, unless said period of time is extended by the Rent Board.

Sec. 6-240. Appeal of eviction to rent board.

A Tenant may appeal his or her eviction from a Covered Unit to the Rent Board. Such an appeal must be filed with the Board no more than thirty (30) days following the Tenant's receipt of a notice to terminate tenancy, or if no such notice was received, within thirty (30) days of the Tenant's vacation of the Rental Unit.

In such an appeal, the Tenant may raise issues related to: (1) insufficient notice to terminate tenancy under Section 6-238; (2) or eviction for an impermissible reason under Section 6-239.

In hearing the appeal, the Rent Board may consider oral and documentary evidence from both the Tenant and the Landlord, as well as additional witnesses who, in the opinion of the Board, have relevant knowledge on the matter. If the Board finds that the landlord in question has violated any portion of this Article, it shall impose fines consistent with this Article.

Sec. 6-241. Notice of ordinance to tenants.

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

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

(c) An acknowledgement of receipt of the document described above must be signed by all Tenants, and a copy of the acknowledgement kept on file by the Landlord for at least three (3)

years and made available for inspection at the request of the City of Portland.

(d) Landlords of buildings containing six (6) or more Covered Units shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

Sec. 6-242. Non-waiver of rights.

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

Sec. 6-243. Enforcement and remedies.

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

Sec. 6-244. Limitation of Liabilities

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

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

Sec. 6-245. Severability.

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

Sec. 6-246. Sunset Clause.

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

Sec. 6-247. - Sec. 6-249. Reserved.

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

ARTICLE XIII. RENT BOARD

Sec. 6-250. Creation; composition.

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

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

The City shall take reasonable steps, but is not required, to appoint to the Rent Board at least one (1) Landlord and at least four (4) tenants.

Sec. 6-251. Appointment; terms.

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

Sec. 6-252. Vacancies.

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

Sec. 6-253. Removal of members.

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

Sec. 6-254. Compensation.

Members of the Rent Board shall serve without compensation.

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

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

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

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

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

Sec. 6-257. Quorum and necessary vote.

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

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

(a) Regular meetings of the Rent Board shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any three

(3) members of the Board or at the request of the city council. All meetings and hearings of the board shall be open to the public.

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

Sec. 6-259. Public hearings.

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

Sec. 6-260. Record and decisions.

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

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

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

Sec. 6-261. Conflicts.

No member of the Rent Board shall participate in the hearing or disposition of any matter in which he or she has an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended. Any question of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined; where such vote results in a tie, the subject member shall be disqualified.

Sec. 6-262. Appeals to Superior Court.

An appeal from any final decision of the Rent Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior

Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Sec. 6-263. Jurisdiction and authority.

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

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

(b) To hear, review, and approve or deny Landlord applications for increases in Base Rent due to the renovation or reconfiguration of existing Covered Units, as provided for in Section 6-233 above.

(c) To review notices terminating tenancy provided by a Landlord of a Covered Units within the meaning of the Rent Stabilization Ordinance. Such review may include, but is not limited to, issues related to whether the grounds for termination of tenancy were proper and/or whether the Landlord effectively served the affected Tenant(s) with notice of termination of tenancy, all within the meaning of this Chapter.

(d) To hear, review, and grant or deny appeals from Tenants regarding allegations of evictions inconsistent with the requirements of the Rent Stabilization Ordinance.

(e) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to: (1) move a Qualified Family Member into a vacated Covered Unit; or (2) reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed.

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

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

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

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

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

Sec. 6-264. Sunset Provision

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

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

Sec. 6-151. Registration required.

...

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

1. The current rent charged at the time of registration;

2. The increase in rent (if any) when compared to the previous Rental Year's rent;

3. Whether the increase (if any) is attributable to: (1) the Allowable Increase Percentage and Tax Rate Rent Adjustment, as defined in Section 6-232; or (2) also includes Banked Rent, as defined in Section 6-232;

4. The amount of Banked Rent, if any, accumulated in the previous Rental Year;

5. The amount of security deposits or other payments demanded in addition to rent for each Covered Unit; and

6. The number of bedrooms, number of bathrooms, and the presence or absence of a kitchen from each Covered Unit.

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

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

Sec. 6-152. Registration Fees.

...
(b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay sixty-five dollars (\$65.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars (\$30) from each registration fee shall be appropriated to Housing Safety Office to cover the administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

*Order 40 -17/18
Tab 32 8/21/17*

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

**ORDER SETTING ELECTION DATE ON AMENDMENT TO CHAPTER 6
OF THE PORTLAND CITY CODE RE: RENT STABILIZATION AND
PROTECTION OF TENANTS' RIGHTS
AND SENDING A COMPETING MEASURE TO THE VOTERS**

ORDERED, that pursuant to Sections 9-36(f) and 9-39 of the Portland City Code, the amendment to Chapter 6 of the Portland City Code called, "Rent Stabilization and Protection of Tenants' Rights," shall be submitted to the voters of the City in substantially the form attached hereto on November 7, 2017 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the attached competing measure shall also be submitted to the voters of the City on November 7, 2017 at the regularly scheduled election; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to provide a summary of the proposed ordinance and of the competing measure on the ballot.

ARTICLE XII. RENT STABILIZATION

Sec. 6-230. Purpose.

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

Sec. 6-231. Applicability.

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

- (a) Rental Units owned, operated, or otherwise managed by municipal housing authorities, as defined in 30-A M.R.S. §4721(1), as amended;
- (b) Accommodations provided in a hospital, convent, church, religious facility, or extended care facility;
- (c) Dormitories owned and operated by an institution of higher education, or by Portland Public Schools;
- (d) Rental Units within a building originally designed and constructed to contain only two (2) or three (3) dwelling units, one of which the Landlord currently occupies as his or her principal residence.
- (e) Accessory dwelling units, as defined and understood in Chapter 14 of this Portland City Code; and
- (f) Any rental unit constructed on or after January 1, 2017.

Sec. 6-232. Definitions.

Allowable increase percentage means the amount that the rent of a Covered Unit may be raised within a Rental Year, unless a Landlord is entitled to additional increases as laid out in Section 6-233 below. The allowable increase percentage shall be determined on September 1 of each year beginning on September 1, 2018, and shall be equal to 100 percent of the

change in the Consumer Price Index for the Portland-South Portland-Biddeford Metro Area, as published by the United States Bureau of Labor Statistics or its designee.

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

Banked rent means the Base Rent for a Covered Unit, plus any increase in rent to which the Landlord was entitled under Sections 6-233 and 6-234 below, but that was not charged to a Tenant during a particular Rental Year. For example, if the Base Rent for the Covered Unit was \$1,500 per month and for the subsequent Rental Year the Allowable Increase Percentage was two (2) percent and the Tax Rate Rent Adjustment was two (2) percent then the maximum allowable rent for the subsequent Rental Year, would be \$1,560 per month. If the Landlord did not raise the rent of the Covered Unit for the subsequent Rental Year, then the Banked Rent would equal \$1,560 per month. Such Banked Rent is reported by the Landlord as part of the annual registration of the Covered Unit, pursuant to Section 6-151(c).

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

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

Current covered unit means a Covered Unit that is occupied by a Tenant on January 1, 2018.

Discontinued covered unit means a Covered Unit that is not occupied on January 1, 2018 and has not been registered with the City of Portland under Section 6-151 of this Chapter.

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

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

Rent means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in

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

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

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

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

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

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

Rental year means a period of twelve (12) consecutive months beginning on January 1, 2018, or the date on which a Covered Unit enters the rental housing market, whichever is earlier.

Tax rate rent adjustment means the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. The Tax Rate Rent Adjustment may be added to the Allowable Increase Percentage if and only if the City increases the mil rate as compared to the previous Rental Year. In this case, the tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit. For example, if property taxes for a building increase by \$100 per year, and the building has four Covered Units, the Tax Rate Rent Adjustment may not exceed \$25 per year.

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

Sec. 6-233. Establishment of base rent.

(a) Base Rent for Current Covered Units. Beginning on January 1, 2018, each Covered Unit shall be registered with the City in accordance with Section 6-151(c). Such registration must include proof of the rent charged by the Landlord for each Covered Unit as of November 1, 2017 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City). This amount shall be the Base Rent for purposes of the Rent Stabilization Ordinance.

(b) Base rent for Discontinued Covered Units.

- (i) If a Covered Unit is not registered with the City as of January 1, 2018, but is registered with the City after such date, the Base Rent shall be set by the Landlord.
- (ii) If a Covered Unit is registered with the City as of January 1, 2018, but is removed from the rental housing market, the Base Rent for such a Covered Unit upon reentry to the rental housing market shall be the Banked Rent, as measured from the Rental Year in which the Covered Unit was removed from the rental housing market.
- (iii) If a Covered Unit is registered with the City as of January 1, 2018, but is subsequently removed from the rental housing market for a period of five (5) or more Rental Years, the Base Rent for such a Covered Unit upon reentry into the rental housing market shall be set by the Landlord.

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

(d) Base rent following consolidation of Covered Units. When two (2) or more Covered Units are consolidated to create a

single Covered Unit, the Base Rent for the resulting Covered Unit shall be equal to the Banked Rent of the larger of the two previously-existing Covered Units, increased by a percentage equal to the increase in square footage of the new Covered Unit. For example, if the Banked Rent for the larger Covered Unit was \$1,500 per month, and after consolidation the floor area of the larger Covered Unit was increased by twenty (20) percent, the Base Rent for the consolidated Covered Unit would be no more than \$1,800 per month.

Sec. 6-234. Rent increase limitations.

(a) Beginning on September 1, 2018, and occurring no later than September 1 of each subsequent year, the Housing Safety Office shall establish and publish the Allowable Increase Percentage and the Tax Rate Rent Adjustment for the following calendar year.

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

- (i) Annual Increase Percentage. Unless a Landlord qualifies for an additional increase as further described below, Rent for a Covered Unit may not be increased by more than the Allowable Increase Percentage.
- (ii) Tax Rate Rent Adjustment. If the mil rate within the City of Portland is increased for the subsequent fiscal year a Landlord may, in addition to the Allowable Increase Percentage, increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year.
- (iii) Banked Rent. If the Landlord has banked additional rent increases, in accordance with Section 6-235 below, this banked amount, in whole or in part, may be added to the increases permitted by subsections (i) and (ii) above.
- (iv) Additional Rent Board Approved Increases. In addition to the above rent adjustments, the Rent Board may approve additional rent increases properly demonstrated by the Landlord, attributable to:
 - i. Capital improvement costs, including financing costs;
 - ii. Uninsured repair costs;
 - iii. Increased housing service costs; and

- iv. Any additional increase, within the opinion of the Rent Board, required to allow the Landlord to receive a fair rate of return.

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

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

(e) A Tenant who receives notice of a rent increase that he or she believes does not conform with this Section may file an appeal of said rent increase with the Rent Board within the time limits provided by Section 6-240 below. Upon receipt of the appeal, the Rent Board shall schedule a public hearing to be held no more than twenty-one (21) days after the filing of the completed appeal application. At the public hearing, the Board will consider the rent charged under the existing Rental Agreement, the amount of the proposed new rent, and the factors which may or may not allow such an increase in accordance with this Article. Upon consideration of such evidence, the Board will render a decision as to whether the increased rent is allowable. If such an increase is more than is allowed by this Article, the Board may impose such fines as are allowed by this Article.

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

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

For example, if a Landlord was entitled to Rent Stabilization Allowances totaling four (4) percent in Year 1,

but does not raise the rent of the Covered Unit, he or she may raise rent in Year 2 by a total of four (4) percent plus any Rent Stabilization Allowances to which the Landlord is entitled in Year 2.

Sec. 6-236. Exemptions from rent increase limitations.

The following categories of Covered Units are not subject to the rent increase limitations contained in Section 6-234 above.

(a) A Covered Unit where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency.

(b) A Covered Unit within a single-family residence, where the Landlord shares kitchen or sanitary facilities with the Tenant(s), and where the Landlord occupies a portion in the residence.

(c) A Covered Unit that is owned by a Landlord who owns no more than five (5) Covered Units within the City.

Sec. 6-237. Evictions.

To properly evict a Tenant within a Covered Unit, who is subject to an existing Rental Agreement, a Landlord must serve the Tenant(s) with a written notice to terminate tenancy. Such a notice must contain the name(s) of the Tenants, the date by which the Rental Unit must be vacated, and the permissible ground(s) for eviction, as found in this Article.

Sec. 6-238. Service of the notice to terminate tenancy.

To properly evict a Tenant within a Covered Unit, the notice to terminate tenancy must be personally delivered to the Tenant, or another person of reasonable age and discretion within the Tenant's household, as defined in Rule 4 of the Maine Rules of Civil Procedure. If after three (3) good faith attempts to deliver in person, the Landlord is unable to do so, said notice may be left in a conspicuous place on or in the rental unit, consistent with where the Landlord would typically leave notices of importance, or be sent by first-class mail to the Tenant's last known mailing address. Should the Tenant challenge the eviction in a proceeding before the

Rent Board, the Landlord shall bear the burden of proving that service was properly completed under this article.

Regardless of the means of service, service of a notice to terminate tenancy must be successfully completed no fewer than sixty (60) days before the Covered Unit must be vacated, except in the case of eviction for failure to pay rent, in which case the applicable time limits for notice shall be controlled by 14 M.R.S. § 6002, as amended.

In all cases, a copy of this notice must then be filed with the Rent Board no more than ten (10) days after service upon the Tenant(s) has been completed.

Sec. 6-239. Permissible grounds for eviction.

No Rental Agreement may state, nor may any tenancy established under such a Rental Agreement be terminated for any ground other than:

(a) Failure to pay rent. Failure to pay rent to which the Landlord is lawfully entitled under the rental agreement. This provision should not be read to materially alter, restrict, or otherwise affect the rights and obligations of Tenants and landlords pursuant to 14 M.R.S. § 6002, et seq., as amended.

(b) Substantial breach. Substantial breach of a material term of the Rental Agreement, followed by a Tenant's failure to cure such a breach within thirty (30) days of receiving notice of such a breach.

(c) Nuisance, waste, or illegal conduct. Nuisance, waste, or illegal conduct caused by the Tenant or Tenant's guests and/or licensees, that in the opinion of the Landlord interferes with the health, safety, or quiet enjoyment of the Landlord or surrounding Tenant(s). Having five (5) or more complaints substantiated by the Portland Police Department within a period of sixty (60) days shall be prima facie evidence of this condition.

(d) Opening rental unit for qualified family member. The intention of the Landlord to remove the Tenant in order to allow the owner or a Qualified Family Member of the owner to inhabit the rental unit, provided that such a person must begin to inhabit the rental unit within sixty (60) days of the Tenant's eviction. Failure of such a Qualified Family Member to inhabit the vacated unit within sixty (60) days, without receiving an extension of time from the Rent Board, shall constitute a violation of this Article.

(e) Withdrawal from rental housing market. Landlord's desire to permanently withdraw the unit from the rental housing market. Subsequent rental of the Covered Unit within eighteen (18) months of a Tenant's vacation shall constitute a violation of this Article.

(f) Remedy existing code violation. Landlord's need to vacate the premises for health or safety reasons, including the Landlord's receipt of a notice of violation from the City's Permitting and Inspections Department.

(g) Capital improvements. The Landlord's intent to recover temporary possession of the rental unit in order to carry out necessary capital improvements or rehabilitation of the building. The Landlord must offer the rental unit back to the Tenant within thirty (30) days of the date on which the Landlord receives a certificate of occupancy for the rental unit from the City Code Enforcement Officer, unless said period of time is extended by the Rent Board.

Sec. 6-240. Appeal of eviction to rent board.

A Tenant may appeal his or her eviction from a Covered Unit to the Rent Board. Such an appeal must be filed with the Board no more than thirty (30) days following the Tenant's receipt of a notice to terminate tenancy, or if no such notice was received, within thirty (30) days of the Tenant's vacation of the Rental Unit.

In such an appeal, the Tenant may raise issues related to: (1) insufficient notice to terminate tenancy under Section 6-238; (2) or eviction for an impermissible reason under Section 6-239.

In hearing the appeal, the Rent Board may consider oral and documentary evidence from both the Tenant and the Landlord, as well as additional witnesses who, in the opinion of the Board, have relevant knowledge on the matter. If the Board finds that the landlord in question has violated any portion of this Article, it shall impose fines consistent with this Article.

Sec. 6-241. Notice of ordinance to tenants.

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

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

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

(d) Landlords of buildings containing six (6) or more Covered Units shall post a copy of the document referenced above in at least one (1) conspicuous common area within the building housing the Covered Units.

Sec. 6-242. Non-waiver of rights.

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

Sec. 6-243. Enforcement and remedies.

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

Sec. 6-244. Limitation of Liabilities

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

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

Sec. 6-245. Severability.

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

Sec. 6-246. Sunset Clause.

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

Sec. 6-247. - Sec. 6-249. Reserved.

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

ARTICLE XIII. RENT BOARD

Sec. 6-250. Creation; composition.

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

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

The City shall take reasonable steps, but is not required, to appoint to the Rent Board at least one (1) Landlord and at least four (4) tenants.

Sec. 6-251. Appointment; terms.

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

Sec. 6-252. Vacancies.

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

Sec. 6-253. Removal of members.

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

Sec. 6-254. Compensation.

Members of the Rent Board shall serve without compensation.

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

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

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

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

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

Sec. 6-257. Quorum and necessary vote.

As to any matter requiring a hearing, no business shall be transacted by the Rent Board without a quorum, consisting

of four (4) members being present. The concurring vote of at least four (4) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three (3) weeks at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

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

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

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

Sec. 6-259. Public hearings.

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

Sec. 6-260. Record and decisions.

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

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

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

Sec. 6-261. Conflicts.

No member of the Rent Board shall participate in the hearing or disposition of any matter in which he or she has an interest, as defined by 30-A M.R.S.A. § 2604(4), as amended. Any question of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined; where such vote results in a tie, the subject member shall be disqualified.

Sec. 6-262. Appeals to Superior Court.

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

Sec. 6-263. Jurisdiction and authority.

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

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

(b) To hear, review, and approve or deny Landlord applications for increases in Base Rent due to the renovation or reconfiguration of existing Covered Units, as provided for in Section 6-233 above.

(c) To review notices terminating tenancy provided by a Landlord of a Covered Units within the meaning of the Rent Stabilization Ordinance. Such review may include, but is not limited to, issues related to whether the grounds for termination of tenancy were proper and/or whether the Landlord effectively served the affected Tenant(s) with notice of termination of tenancy, all within the meaning of this Chapter.

(d) To hear, review, and grant or deny appeals from Tenants regarding allegations of evictions inconsistent with the requirements of the Rent Stabilization Ordinance.

(e) To hear, review, and approve or deny any requests from Landlords for an extension of time in which to: (1) move a Qualified Family Member into a vacated Covered Unit; or (2) reinstate Tenants temporarily displaced due to the Landlord's performance of necessary capital improvements to the Covered Unit and/or the building in which said unit is housed.

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

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

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

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

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

Sec. 6-264. Sunset Provision

One-hundred eighty (180) days prior to January 1, 2025, the Portland City Council shall hold a public hearing to determine whether this Article should be renewed, modified, or terminated. Unless expressly renewed by a subsequent action of the City Council, this Article shall automatically expire on January 1, 2025.

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

Sec. 6-151. Registration required.

...

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

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

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

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

Sec. 6-152. Registration Fees.

...

(b) Long Term Rental Registration Fee. The registrant of a long term rental shall pay sixty-five dollars (\$65.00) to the City by January 1st of each year. Regardless of any discount a Landlord may be entitled to under subsection (d) below, thirty dollars (\$30) from each registration fee shall be appropriated to Housing Safety Office to cover the

administrative expenses of the Rent Board, including the hiring of additional administrative staff if necessary.

SUMMARY

Proposed Ordinance Summary

The proposed ordinance enacts rent stabilization in the City of Portland. The ordinance applies to most rental units within the City, except for those constructed after January 1, 2017, units owned by small-scale landlords (five units or less), subsidized units, in-law units, and public accommodations such as hospitals. Under the ordinance, annual rent increases are capped to an amount equal to the increase in the cost of living and any increase in city property tax. Additionally, landlords are provided the opportunity to make further increases to recoup costs associated with capital expenditures or to ensure a fair rate of return. Finally, the Ordinance creates an appointed rent board, comprised of both landlords and tenants from across the city, and is tasked with enforcing the ordinance, collecting and analyzing data regarding the City's rental market, and proposing changes to the Ordinance from time to time.