

Order 174-09/10

Given first reading on 3/1/10

Public Hearing & Passage: 3/15/10 8-0 (Mavodones absent)

NICHOLAS M. MAVODONES (MAYOR)  
KEVIN J. DONOGHUE (1)  
DAVID A. MARSHALL (2)  
DANIEL S. SKOLNIK (3)  
CHERYL A. LEEMAN (4)

CITY OF PORTLAND  
IN THE CITY COUNCIL

JOHN R. COYNE (5)  
JOHN M. ANTON (A/L)  
JILL C. DUSON (A/L)  
DORY RICHARDS WAXMAN (A/L)

AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 2, ARTICLE II  
RE: OFFICERS  
AND  
CHAPTER 18, ARTICLE IV AND ARTICLE V  
RE: WATERFRONT AND TRANSPORTATION FACILITIES

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

1. That Chapter 2 (Administration) Section 2-17(g) (Director of Waterfront and Transportation Facilities) of the Portland City Code is hereby repealed in its entirety.

~~(g) Director of Waterfront and Transportation Facilities:~~

~~1. The department of waterfront and transportation facilities shall be headed by a director waterfront and transportation facilities who shall be appointed by the city manager, subject to confirmation by the city council. The director of waterfront and transportation facilities shall have the responsibility for the direction and control the Portland International Jetport, the International Ferry Terminal, the Fish Pier, the Maine State Pier and such additional powers as are set forth in article IV of chapter 18 and article II of chapter 30.~~

~~2. Reserved.~~

2. That Chapter 18 (Parks, Recreation and Public Buildings and Grounds) of the Portland City Code is hereby amended to read as follows:

Art. I. In General, §§ 18-1--18-15

Art. II. Regulations for Parks and Public Grounds, §§ 18-16--18-65

Art. III. Public Landings, §§ 18-66--18-80

Art. IV. ~~Waterfront and Transportation Airport~~ Facilities §§ 18-81-85

Art. V. ~~Waterfront Facilities §§ 18-96--18-99~~

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

1. That Chapter 18, Article IV, of the Portland City Code is hereby amended to read as follows:

ARTICLE IV. ~~WATERFRONT AND TRANSPORTATION AIRPORT~~ FACILITIES

Sec. 18-81. Responsibility of airport director ~~of waterfront and transportation facilities~~.

The airport director ~~of waterfront and transportation facilities~~ shall have the responsibility for the direction and control of aviation and all other activities, whether commercial or noncommercial, at the Portland International Jetport ~~and all activities, whether commercial or noncommercial, at the International Ferry Terminal, the Fish Pier and the Maine State Pier~~. He or she shall have responsibility for the care, maintenance and control of all property comprising the Jetport, Ferry Terminal, Fish Pier and the Maine State Pier, including all fixtures, equipment, runways, roadways, ramps, ~~slips, dolphins~~ and of all property owned by the city contiguous to the Jetport such properties.

(Code 1968, § 503.1; Ord. No. 417-79, 12-17-79; Ord. No. 311-80, 11-3-80; Ord. No. 124-89, § 2, 10-2-89; Ord. No. 57-91, 7-15-91)

Sec. 18-82. Off-airport motor vehicle rental businesses operating on the Portland International Jetport.

(a) *Purpose.* This section is enacted for the purpose of reasonably regulating the business use of public airport facilities by private motor vehicle rental companies which are located off airport property; preserving good order and peace at the airport; providing for the public health, safety and welfare; helping to defray the costs of constructing, operating, maintaining and improving the public airport facilities through the imposition of reasonable user fees; and regulating the use of public facilities in the furtherance of private commercial activities.

(b) *Definitions.*

*Airport customer* is any person who arrives at the airport by aircraft and is transported from the airport to the location

Formatted: Font: Bold

Formatted: Font: Bold

Formatted: Right: 0.25"

of an off-airport motor vehicle rental business in its courtesy vehicle.

*Courtesy vehicle* is a motor vehicle which carries permittee's airport customers to or from the airport.

*Off-airport motor vehicle rental business* is an individual, corporation, partnership, or other entity or person offering and providing to the public rental motor vehicles, including without limitation, automobiles and other four-wheel passenger vehicles, for hire, to be driven by the lessee.

*Permittee* is an individual, corporation, partnership, or other entity or person operating at, entering on or exiting from airport property under a permit issued by the director of waterfront and transportation facilities pursuant to subsection (c) below. Permittee includes the officers, employees, agents or anyone acting on behalf of or with permission of permittee.

(c) *Permit required.* No person engaging in an off-airport motor vehicle rental business shall operate at, enter upon or use airport property for the purpose of providing pickup or dropoff service for airport customers except under an executed, written contract with the city specifically permitting the operation of such services at the airport. Without limiting the authority granted elsewhere in this article, the airport director ~~of waterfront and transportation facilities~~ is authorized to enter into off-airport business permit agreements which authorize such permittees to conduct certain business operations on airport property in exchange for the payment of a reasonable user fee. Said agreements shall provide for the payment of annual user fees based upon a percentage of the gross revenues from its airport customers, as follows:

- (1) Effective July 1, 1995, through June 30, 1998, or the date upon which occupancy is allowed to all successful bidders, whichever is later:
  - a. Zero percent on the first two hundred thousand dollars (\$200,000.00) in gross revenues; and
  - b. Four (4) percent on the gross revenues above two hundred thousand dollars (\$200,000.00).
- (2) Effective July 1, 1998, or the date upon which occupancy is allowed to all successful bidders, whichever is later:

Formatted: Right: 0.25"

- a. Zero percent on the first two hundred thousand dollars (\$200,000.00) in gross revenues; and
- b. Six (6) percent on the gross revenues above two hundred thousand dollars (\$200,000.00).

(d) *Rules and regulations.* The airport director ~~of waterfront and transportation facilities~~ may issue such rules and regulations as may be necessary to implement this section, such rules and regulations to be issued pursuant to section 18-83. Permittees shall comply with all existing applicable airport rules and regulations, as they may be amended from time to time, including without limitation, mandatory minimum insurance requirements.

(Ord. No. 164-95, § 1, 2-6-95)

**Sec. 18-83. Rules and regulations authorized.**

(a) The airport director ~~of waterfront and transportation facilities~~ shall have the authority to prescribe reasonable rules and regulations not inconsistent with this article, the Charter or contractual obligations of the city or with the laws or regulations of the state or the United States of America to effectuate the responsibilities and duties set forth in section 18-81 ~~or under section 2-17(g)~~. Such rules and regulations, when duly promulgated in accordance with the provisions of this article, shall govern, control and establish conditions applicable to the activities of all lessees, licensees, business invitees, and all other persons physically present at the aforesaid properties. Such rules and regulations may include a schedule of reasonable commercial charges, which may be revised from time to time, payable to the city, for the privilege of transacting business other than by lease or contract, at or upon the Portland International Jetport, ~~ferry terminal and fish pier~~. Such charges may include a percentage of either gross or net revenue derived from commercial activities at ~~each of the Jetport premises~~. Rules, regulations and schedules of fees shall be promulgated by the airport director ~~of waterfront and transportation facilities~~. He or she shall transmit copies of such proposed rules or regulations or fees to the city manager and to the clerk of the city and shall within one (1) day thereafter display a notice at a prominent place in the Portland International Jetport to the effect that a rule or rules or regulations covering certain specified types of activity, or affecting certain classes of persons, is being proposed, that such rule or regulation will be effective fifteen (15) business

Formatted: Right: 0.25"

days from the date appearing on the notice unless otherwise ordered by the city manager, that written comments or objection should be filed with the city manager no later than ten (10) business days from the date of the notice; and that the full text of the proposed rule or rules or regulations may be seen at the office of the airport director ~~of waterfront and transportation facilities~~ or at the office of the city clerk during normal business hours during the ten-day period. Required notice for such rule or regulation will also be posted on the city of Portland website.

(b) At the end of the fifteen-day period provided above, if the city manager has not disapproved such proposed rule or rules or regulations, the rule or rules or regulations shall be then effective, but if the city manager shall have noted his or her disapproval of it, the rule or rules or regulations shall not take effect. Once a rule or regulation has taken effect as provided hereinbefore, it shall continue in full force and effect until changed by subsequent rule or regulation or until, and to the extent that it later conflicts with an applicable statute, ordinance or rule or regulation. In emergency situations, as declared by the city manager with reference to this article, any rule or regulation so designated shall be effective immediately upon being displayed at the Portland International Jetport. Such emergency rule or regulation shall terminate at the expiration of sixty (60) days or upon a declaration of the end of the emergency, whichever occurs first, unless it has then been made effective in accordance with the procedure set forth above for new rules and regulations. Notice of such rule or regulation will also be posted on the City of Portland website.

(c) All rules or regulations shall be kept in the possession of the clerk ~~airport director~~ and shall be available for inspection during all normal business hours.

(Code 1968, §§ 503.2, 503.3; Ord. No. 417-79, 12-17-79; Ord. No. 311-80, 11-3-80; Ord. No. 124-89, § 3, 10-2-89)

#### **Sec. 18-84. Violations.**

(a) Any person violating this article or any rule or regulation made hereunder, including violations of a rule or regulation requiring payment of a charge to do business at the Jetport premises described herein, shall be ordered to leave the premises by the airport director ~~of waterfront and transportation facilities~~, his or her duly authorized deputy, any authorized security officer, or by any peace officer of the

Formatted: Right: 0.25"

state. The person so ordered shall immediately leave the premises. Any person failing to obey such an order shall be deemed a trespasser and shall be removed from the premises forthwith. No person charged with the enforcement of this article and acting for the city in the discharge of his or her duties as set forth in this article shall render himself or herself personally liable for any damage that may occur to any person or property as a result of his or her acts or duties.

(b) Any violation of this article, or any rule or regulation made pursuant hereto, other than a rule or regulation requiring payment of a charge to do business on the city property, shall be punishable by a fine as provided in section 1-15.

(Code 1968, §§ 503.4, 503.5; Ord. No. 417-79, 12-17-79; Ord. No. 311-80, 11-3-80)

**Sec. 18-85. Enforcement.**

The airport director ~~of waterfront and transportation facilities~~, his or her authorized representative, and any authorized law enforcement officer may, prior to commencement of court action, issue a notice of violation to any person charged with a violation of this article or any rule or regulation made pursuant hereto. Such notice shall be in a form approved by the city manager and shall provide a method to be established from time to time by order of the city council by which a person charged with a violation of this article or any such rule or regulation may waive court action with respect to the violation by payment of a specified fee within a stated period of time.

(Ord. No. 307-82, § 503.7, 1-4-82)

**Sec. 18-86 through 18-95. Reserved.**

**4.** *That Chapter 18, Article V, of the Portland City Code is hereby created to read as follows:*

**ARTICLE V. WATERFRONT FACILITIES**

**Sec. 18-96. Responsibility for waterfront facilities.**

Except as otherwise provided by lease, the city manager, or his or her designee, shall have the responsibility for the direction and control of all activities, whether commercial or noncommercial, at the International Marine Terminal, the Fish Pier, the Maine State Pier and the Ocean gateway Facility. He or she shall have the responsibility for the care, maintenance and

Formatted: Justified, Indent: Left: 0"

Formatted: Font: Bold

Formatted: Indent: Left: 0.25"

Formatted: Right: 0.25"

control of all property comprising the International Marine Terminal, Fish Pier, the Maine State Pier and the Ocean Gateway Facility, including all fixtures, equipment, runways, roadways, ramps, slips, dolphins and of all property owned by the city contiguous to such properties.

(Code 1968, § 503.1; Ord. No. 417-79, 12-17-79; Ord. No. 311-80, 11-3-80; Ord. No. 124-89, § 2, 10-2-89; Ord. No. 57-91, 7-15-91)

**Sec. 18-97. Rules and regulations authorized.**

(a) The city manager, or his or her designee, shall have the authority to prescribe reasonable rules and regulations not inconsistent with this article, the Charter or contractual obligations of the city or with the laws or regulations of the state or the United States of America to effectuate the responsibilities and duties set forth in section 18-896. Such rules and regulations, when duly promulgated in accordance with the provisions of this article, shall govern, control and establish conditions applicable to the activities of all lessees, licensees, business invitees, and all other persons physically present at the aforesaid properties. Such rules may include a schedule of reasonable commercial charges, which may be revised from time to time, payable to the city, for the privilege of transacting business other than by lease or contract, at or upon the International Marine Terminal, Fish Pier, the Maine State Pier and/or the Ocean Gateway Facility. Such charges may include a percentage of either gross or net revenue derived from commercial activities at each of the premises. Rules, regulations and schedules of fees shall be promulgated by the city manager or his/her designee ~~director of waterfront and transportation facilities~~. He or she shall transmit copies of such proposed rules and regulations or fees to the clerk of the city and shall within one (1) day thereafter display a notice at a the affected facility or facilities and in city hall to the effect that a rule or rules or regulations covering certain specified types of activity, or affecting certain classes of persons, is being proposed, that such rule or regulation will be effective fifteen (15) business days from the date appearing on the notice unless otherwise ordered by the city manager, that written comments or objection should be filed with the city manager no later than ten (10) business days from the date of the notice; and that the full text of the proposed rule or rules or regulations may be seen at the office of the of the city clerk during normal business hours during the ten-day period. Notice of such rule or regulations, the rule or rules or regulations shall be then effective, but if the city manager shall have noted his or her disapproval of it, the rule or rules or regulations shall not take effect. Once a rule or regulation

Formatted: Right: 0.25"

has taken effect as provided hereinbefore, it shall continue in full force and effect until changed by subsequent rule or regulation or until, and to the extent that it later conflicts with an applicable statute, ordinance or rule or regulation. In emergency situations, as declared by the city manager with reference to this article, any rule or regulation so designated shall be effective immediately upon being displayed at the affected facility or facilities. Such emergency rule or regulation shall terminate at the expiration of sixty (60) days or upon a declaration of the end of the emergency, whichever occurs first, unless it has then been made effective in accordance with the procedure set forth above for new rules and regulations. Required notice for such rule or regulation will also be posted on the City of Portland website.

(c) All rules or regulations shall be kept in the possession of the city manager or his or her designee and shall be available for inspection during all normal business hours. (Code 1968, §§ 503.2, 503.3; Ord. No. 417-79, 12-17-79; Ord. No. 311-80, 11-3-80; Ord. No. 124-89, § 3, 10-2-89)

#### Sec. 18-98. Violations.

(a) Any person violating this article or any rule or regulation made hereunder, including violations of a rule or regulation requiring payment of a charge to do business at the premises described herein, shall be ordered to leave the premises by the city manager, his or her duly authorized deputy, any authorized security officer, or by any peace officer of the state. The person so ordered shall immediately leave the premises. Any person failing to obey such an order shall be deemed a trespasser and shall be removed from the premises forthwith. No person charged with the enforcement of this article and acting for the city in the discharge of his or her duties as set forth in this article shall render himself or herself personally liable for any damage that may occur to any person or property as a result of his or her acts or duties.

(b) Any violation of this article, or any rule or regulation made pursuant hereto, other than a rule or regulation requiring payment of a charge to do business on the city property, shall be punishable by a fine as provided in section 1-15.

(Code 1968, §§ 503.4, 503.5; Ord. No. 417-79, 12-17-79; Ord. No. 311-80, 11-3-80)

#### Sec. 18-99. Enforcement.

The city manager, or his or her authorized representative, and any authorized law enforcement officer may, prior to commencement of court action, issue a notice of violation to any person charged with a violation of this article or any rule or regulation made pursuant hereto. Such notice shall be in a form approved by the city manager and shall provide a method to be established from time to time by order of the city council by which a person charged with a violation of this article or any such rule or regulation may waive court action with respect to the violation by payment of a specified fee within a stated period of time.

(Ord. No. 307-82, § 503.7, 1-4-82)

*5. These amendments to Chapter 2 and Chapter 18 shall be effective retroactively to May 19, 2008.*

Formatted: Justified, Indent: Left: 0", First line: 0.5"

Formatted: Left

Formatted: Font: Not Italic

Formatted: Right: 0.25"