

Order 76-10/11

Given first reading on 11/1/10

Public Hearing and Passage: 11/15/10 5-0 (Duson, Anton, Coyne and Skolnik absent)

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**CITY OF PORTLAND**  
IN THE CITY COUNCIL

JOHN R. COYNE (5)  
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**AMENDMENT TO PORTLAND CITY CODE**  
**CHAPTER 6. BUILDINGS AND BUILDING REGULATIONS**  
**ARTICLE II. BUILDING CODE**  
**RE: MAINE UNIFORM BUILDING AND ENERGY CODE**

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

*That Chapter 6, Article II of the Portland City Code is hereby amended to read as follows:*

**ARTICLE II. BUILDING CODE**

**~~Sec. 6-16. Adoption of ICC Building Code and ICC Residential Code~~  
Sec. 6-16. Maine Uniform Building and Energy Code.**

~~There is hereby adopted for the purpose of regulating t~~The construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures shall comply with the Maine Uniform Building and Energy Code ("MUBEC"). ~~, the following certain codes recommended by the International Code Council: (i) the International Building Code 2003 and (ii) the International Residential Code 2003, and the whole thereof, except for such portions as are deleted, modified or amended in this article.~~

~~State law reference(s) Authority to adopt codes by reference, 30-A M.R.S.A. § 3003.~~

**~~Sec. 6-17. Definitions.~~**

~~The International Building Code and the International Residential Code shall be construed as follows:~~

- ~~(a) Name of jurisdiction: Wherever the phrase "name of jurisdiction" appears in the code, "the City of Portland" shall be substituted.~~

- ~~(b) *Name of state:* Wherever the phrase "name of the state" appears in the code, "the State of Maine" shall be substituted.~~
- ~~(c) *Building authority:* The division of inspection services within the department of planning and urban development.~~
- ~~(d) *Building official:* Wherever the term "building official" appears in the code, it shall mean the building authority or his authorized representative.~~
- ~~(e) *Electrical Code:* Wherever the term "ICC Electrical Code" appears in the code, it shall mean the National Electrical Code as adopted by the City of Portland.~~
- ~~(f) *Fire Code:* Wherever the term "International Fire Prevention Code" appears in the code, it shall mean the NFPA Code as adopted by the City of Portland.~~
- ~~(g) *Fire chief:* Wherever the "fire chief" appears in the code, it shall mean the chief of the City of Portland fire department or his or her designee.~~
- ~~(h) *Gas code:* Wherever the term "International Fuel Gas Code" appears in the code, it shall mean the NFPA Code as adopted by the City of Portland.~~
- ~~(i) *Plumbing code:* Wherever the "International Plumbing Code" appears in the code, it shall mean the State of Maine Plumbing Code.~~
- ~~(j) *Other regulations:* Wherever the codes refers to "other regulations," "all pertinent laws," or "other provisions of law," such reference shall include, at a minimum, the Maine Revised Statutes Annotated, the Private and Special Laws of the State of Maine, regulations of administrative agencies of the State of Maine, other provisions of the code except those deleted, and all other ordinances of the city.~~

~~**Cross reference(s)** -- Definitions and rules of construction generally,~~

~~\*\*\*\*\*~~  
~~\*Editor's Note~~ Order 32-04/05 adopted 9-8-04, repealed Section 6-18  
Amendments in its entirety and replaced it with Section 6-18(A) and (B)  
Amendments to International Building Code  
~~\*\*\*\*\*~~

~~Sec. 6-18(A). Amendments to International Building Code.~~

~~— The ICC International Building Code (2003) is amended as follows:~~

~~— Section 101.4 Referenced codes, is amended by adding the following language after the words "each such reference"; "any reference to the ICC Electrical Code, International Fuel Gas Code, International Plumbing Code and International Fire Prevention Code, found in any and all locations in this code, shall be stricken and replaced with the referenced standards described in sections 101.4.1 through and including 101.4.6."~~

~~— Section 101.4.1 Electrical, is amended by deleting the words "ICC Electrical Code" and adding the words "the National Electrical Code as adopted by the City of Portland."~~

~~— Section 101.4.2 Gas, is amended by deleting the words "International Fuel Gas Code" and adding the words "the NFPA Code is adopted by the City of Portland."~~

~~— Section 101.4.4 Plumbing, is amended by deleting the words "International Plumbing Code", and adding the words "the State of Maine Plumbing Code"; and striking the words "the International Private Sewage Disposal Code" and adding the words "Maine Subsurface Waste Water Disposal Rules."~~

~~— Section 101.4.5 Property maintenance, is deleted in its entirety.~~

~~— Section 101.4.6 Fire prevention, is amended by deleting the words "International Fire Prevention Code" and adding the words "the NFPA Code as adopted by the City of Portland."~~

~~— Section 102.4 Referenced codes and standards, is amended by deleting the words "of this Code shall apply" in the last sentence and adding the words "the more restrictive codes shall apply."~~

~~— Section 102.6 Existing structures, is amended by deleting the words "the International Property Maintenance Code or the International Fire Code" and adding the words "the Minimum~~

~~Standards for Housing and the NFPA Code as adopted by the City of Portland." ; and by adding the words "and/or the Fire Chief" after the words "building official."~~

~~Section 103 Department of Building Safety, is deleted in its entirety.~~

~~Section 104.1 General, is amended by adding the following sentence at the end thereof:~~

~~"Nothing in this ordinance is intended to preempt the Chief of the Fire Department from exercising the enforcement of City Codes set forth in Chapter 10 of the City of Portland Code of Ordinance.~~

~~Sections 105.1.1 and 105.1.2 Annual permits, is deleted in its entirety.~~

~~Section 105.2(1), is amended by adding the following at the end of the section "Building permits are required for storage sheds that do not exceed 120 sq. ft. These structures are exempt for building code standards but must be reviewed for zoning compliance."~~

~~Section 105.2(2), is amended by deleting the words "not over 6 feet (1829mm) high."~~

~~Section 105.2(6), is amended by deleting the words "not more than 30 inches (762 mm) above grade and not over any basement or story below grade and which is not part of an accessible route."~~

~~Section 105.2 Electrical, gas and plumbing (work exempt from permits), is deleted in its entirety.~~

~~Section 107.3 Temporary power, is amended by deleting the words "ICC Electrical Code" and substituting therefore "the National Electrical Code as adopted by the City of Portland."~~

~~Section 108.2 Fee schedule, is deleted in its entirety and replaced with the following:~~

#### ~~"FEE SCHEDULE~~

~~The applicant submits cost of work. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company,~~

~~Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees.~~

~~"I. Construction work:~~

~~"A. Cost of work fees:~~

~~Up to \$1,000.00 . . . . . \$30.00~~  
~~\$1,000.00 or more . . . . . \$30.00 + \$10.00 per~~  
~~\$1,000.00 above \$1,000.00~~

~~"B. Belated fees:~~

~~Below \$30.00 permit fee . . \$50.00 additional~~  
~~Above \$30.00 permit fee . . \$100.00 additional~~

~~"C. Amendments to application:~~

~~Up to \$1,000.00 . . . . . \$30.00~~  
~~\$1,000.00 or more . . . . . \$30.00 + \$10.00 per~~  
~~\$1,000.00 above \$1,000.00~~

~~"II. Fees for specific items (additional to cost of work fees above):~~

~~"A. Air conditioning and ventilation systems . . . . .~~  
~~\$30.00~~  
~~+ \$10.00 per \$1,000.00~~  
~~cost~~

~~"B. Change of use permit . . . . \$30.00 + \$10.00 per~~  
~~\$1,000.00 cost~~

~~"C. Demolitions:~~

~~Structures . . . . . \$30.00 + \$10.00 per~~  
~~\$1,000.00 cost~~

~~"D. Heating systems All types . \$30.00 + \$10.00 per~~  
~~\$1,000.00 cost~~

~~"E. Oil and gas burner replacement \$30.00 + \$10.00 per~~  
~~\$1,000.00 cost~~



~~— "Except as otherwise provided herein, permit fee shall be based upon the estimated or the actual cost of the work for which the permit is required, whichever is greater, including towers, permanent swimming pools and any other structures altered, constructed or demolished. Ten (10) percent of any fee, or ten dollars (\$10.00), whichever is greater, shall be nonrefundable to cover the administrative costs.~~

~~— Section 110.0 Certificate of occupancy, is amended by addition of a new subsection (5):~~

~~"Section 110.5 Issuance of certificate: No certificate of occupancy nor temporary certificate of occupancy shall be issued under the provisions of this code where any condition of the building or the property is not in compliance with any other section of the Portland City Code."~~

~~Section 112.0 Board of Appeals, is hereby repealed and replaced with the following language:~~

~~— "Section 112.0 Waiver and Appeals~~

~~— "112.1 Waivers: The building official may review and approve a waiver of any of the provisions of this code upon written application by the owner or lessee, or his or her duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of this code which create an undue hardship, provided that such waiver is not inconsistent with the purpose of this code. The recommendation and the reasons therefore shall be entered upon the records of the department.~~

~~— "112.2 Rulings: The building official may issue interpretative rulings on the meanings or applicability of this code, and any such ruling may be appealed as in the case of the denial of a permit.~~

~~— "112.3 Application to use new methods, materials or equipment: To afford opportunity for development and use of materials, units, systems, equipment and methods not covered in the text of this code, a written application for permission to use such materials, methods or equipment may be submitted to the building official. Such applications should be accompanied by evidence of properly authenticated tests, investigations or practical use that shows the quality and adaptability of the material, method or equipment.~~

~~—— "112.4 Granting of permission: When evidence has established that such a material, method or equipment is equivalent to that for which it would be substituted, the building official may allow its use, with or without conditions which are deemed necessary to protect the public interest.~~

~~"112.5 Appeals: Whenever the building official shall disapprove an application or refuse to grant a permit applied for under this code or when it is claimed that the provisions of this code do not apply, or the true intent and meaning of this code have been misconstrued or wrongly interpreted, any person aggrieved thereby may appeal from the decision of the building official to the board of Appeals within ten (10) days from the action of the building official. The Board of Appeals may reverse an incorrect decision of the building official and may permit exceptions to or variances from the specific provisions of this code where it is established that strict application of the provisions of this code will result in undue hardship, and where the purpose of this code, in promoting the public health, safety and welfare, is not adversely affected thereby."~~

~~—— Section 113.4 Violation penalties is deleted and replaced with the following:~~

~~—— "113.4 Violation penalties: Any person, firm or corporation who violates any of the provisions of this code or fails to comply with the standards for performance set forth herein, or who violates or fails to comply with any lawful order made pursuant hereto, or who builds inconsistently with any statement of specifications or plans submitted and approved hereunder or in violation of any certificate or permit in force hereunder, shall be punished, jointly and severally, for each and every violation by a penalty, as provided in section 6-1 of the Code of Ordinances of the City of Portland. The imposition of one (1) penalty for any violation shall not excuse the violation nor permit it to continue, and all such persons, firms, or corporations shall correct or remedy such violations within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.~~

~~—— Section 114.3 Unlawful continuance, is hereby amended by deleting the words "shall be subject to penalties as prescribed by law"; and by adding the following language at the end of the subsection "shall be subject to action pursuant to Section 113.3 and penalties pursuant to Section 113.4."~~

~~Section 310.1 R 3, is amended by deleting the word "five" following the phrase "accommodations for" and substituting therefore the word "twelve (12)."~~

~~Section 1004.0 Occupant load, is amended by adding the following sections:~~

~~"Section 1004.10 Occupant load limits: The building authority shall have the authority to determine the maximum acceptable occupant load for each place of assembly. Such limit shall either be contained on the certificate of occupancy for the assembly use or on a separate certificate. The certificate containing the maximum acceptable occupant load shall be permanently posted in a conspicuous place in the place of assembly near the entrance.~~

~~"Section 1004.10.1 Exceeding occupant load limits: Any establishment that is determined by the building authority or the Fire Chief or his/her designee to have exceeded the posted occupant limit shall be considered to be in violation of this section. Notwithstanding Sections 6 21, or 1 15, or any other section of the Portland City Code, upon written notice to the owner or the manger of the establishment by the building authority or the Fire Chief or his/her designee, the following penalties shall be due and payable to the City by the owner of the establishment:~~

~~"First violation: Two hundred fifty dollars (\$250.00)~~

~~"Second violation within twelve (12) months of prior violation: Five hundred dollars (\$500.00).~~

~~"Third violation and/or any subsequent violation within twelve (12) months of a prior violation: One thousand dollars (\$1,000.00).~~

~~"Determination of violations under this section shall be appealable to the City Manager or his/her designee.~~

~~"Section 1004-10.2 Stopping of performance by Building Authority or Fire Chief or his/her designee: The Building Authority, or the Fire Chief or his/her designee, upon finding any establishment to have exceeding its maximum occupancy load limit, shall order any performance, presentation, spectacle or entertainment to be stopped until the condition is corrected."~~

~~Table 1505.1(a)(b) Minimum Roof Covering Classification, shall be amended by deleting footnotes "b" and "c".~~

~~The following chapters of the ICC International Building Code (2003 edition) will be deleted in their entirety:~~

~~"Chapter 11 Accessibility~~

~~"Chapter 27 Electric Wiring, Equipment and Systems~~

~~"Chapter 29 Plumbing Systems"~~

~~Section 3108 Radio and Television Towers, is hereby amended by adding the following subsection:~~

~~"3108.6 Existing Towers: Existing towers shall be maintained and inspected in accordance with TIA/EIA 222 Annex E and F. The Building Official may request inspection reports to be filed in accordance with inspections performed pursuant to this standard. Required periodic inspections shall be performed by a registered design professional."~~

~~Section 3303 Demolition, is hereby amended by adding the following subsections:~~

~~"3303.7 Dust prevention: The person to whom a permit is issued shall dampen or cause to be dampened all debris resulting from the demolition operation to the extent necessary to prevent dust therefrom circulating in the surrounding area.~~

~~"3303.8 Expiration of permit: A permit to demolish or remove a structure shall expire thirty(30) days after the date of its issuance, provided that, for good cause, the Building Official may extend the permit for periods of not more than fifteen (15) days.~~

~~"3303.9 Removal and disposal of asbestos: Before a permit to demolish or remove a structure is issued, the Building Authority shall inspect the premises for the presence of friable asbestos material. For the purposes of this subsection, "friable asbestos material" means any material that contains more than one (1) percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry by hand pressure. No permit shall be issued until the applicant has removed and disposed of all such material in accordance with applicable state and federal regulations.~~

~~"3303.10 Demolition of certain structures: Except as provided in the Historic Preservation Ordinance (§§14-601, et~~

~~seq.) of the Portland City Code, no permit shall be issued for the demolition of any structure subject to the provisions of that Article.~~

~~"3303.11 Removal and disposal of demolition debris: Before a permit either to demolish or remove a structure or a part thereof or to remove or dispose of existing demolition debris, as defined herein, is issued, the applicant will satisfy the building official that:~~

~~"a. All such debris on the island will be removed therefrom and transported to the mainland for disposal prior to the expiration of the permit.~~

~~"b. Debris will be removed to the Regional Waste System Construction and Demolition Debris Disposal Facility, as required by Section 12-103 of the Portland City Code.~~

~~"c. The disposal of the debris at such facility will be in accordance with all applicable federal and state rules, requirements and regulations relating to the transportation and disposition of such material.~~

~~"3303.12 Demolition debris: Demolition debris includes, but is not limited to, materials which are created by site preparation, clearing land, or erection of a structure. It also includes, but is not limited to, brush, tree limbs, stumpage, building materials, and the waste products of building activity, such as: clay, brick, masonry, concrete, plaster, glass, wood and wood products, asphalt, rubber, metal; and plumbing, electrical and heating fixtures, appurtenances thereto and parts thereof.~~

~~"3303.13 Storage of demolition debris: No demolition debris shall either be disposed of or stored on any of the islands."~~

#### ~~Sec.6-18(B). Amendments to the International Residential Code.~~

~~The International Residential Code (2003 Edition) is amended as follows:~~

~~Section (EB)R102.7 Existing structures, is amended by deleting the words "the International Property Maintenance Code or the International Fire Code" and inserting "the Minimum~~

~~Standards for Housing and the NFPA Code as adopted by the City of Portland", and adding the words "or the Fire Chief" after the words "Building Official."~~

~~Section R103 Department of Building Safety is deleted in its entirety.~~

~~Section R105.2(1) is amended by adding the following at the end of the section "Building permits are required for storage sheds that do not exceed 120 sq. ft. These structures are exempt for building code standards but must be reviewed for zoning compliance."~~

~~Section R105.2(6) is amended by deleting the language "not more than 30 inches (762 mm) above grade and not over any story below grade and which is not part of an accessible route."~~

~~Section R105.2 Electrical, plumbing and Gas is deleted in its entirety.~~

~~Section R105.3.1.1 Substantially improved or substantially damaged existing structures in areas prone to flooding, is deleted in its entirety.~~

~~Section R106.1 Information for construction in areas prone to flooding, is deleted in its entirety.~~

~~Section R108.0 Fees, is hereby repealed and replaced with the following language:~~

~~"Permit fees shall be assessed in accordance with Section 108 of the ICC International Building Code (2003 edition) adopted by the City of Portland."~~

~~Section R109.1.1 Footing/Building Location and Foundation Inspection, is amended by adding the following language before the words "Inspection of the foundation":~~

~~"Inspection for the building location, relative to the approved site or plot plan, shall be made after the construction area is excavated and any required forms are erected and any required reinforcing steel is in place, and prior to the placing of concrete. All property lines shall be identified for the purpose of determining zoning district setback compliance."~~

~~Section R112.0 Board of Appeals, is hereby repealed and replaced with the following language:~~

~~"Appeals shall be conducted in accordance with Section 112 of the ICC International Building Code (2003 edition) as adopted for use by the City of Portland."~~

~~Section 113.4 Violation penalties is repealed and replaced with the following:~~

~~"113.4 Violation penalties: Any person, firm or corporation who violates any of the provisions of this code or fails to comply with the standards for performance set forth herein, or who violates or fails to comply with any lawful order made pursuant hereto, or who builds inconsistently with any statement of specifications or plans submitted and approved hereunder or in violation of any certificate or permit in force hereunder, shall be punished, jointly and severally, for each and every violation by a penalty as provided in section 6-1 of the Code of Ordinances of the City of Portland. The imposition of one (1) penalty for any violation shall not excuse the violation nor permit it to continue, and all such persons, firms, or corporations shall correct or remedy such violations within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense."~~

~~Section R114.2 Unlawful Continuance, is hereby amended by deleting the words: "shall be subject to penalties as prescribed by law," and adding the following language "shall be subject to action pursuant to Section R113.3 and penalties pursuant to Section R113.4."~~

~~Section R309.2 Separation required, is amended by adding the phrase: "All penetrations shall be protected in accordance with Section 317.3.1.2 of the International Residential Code."~~

~~Section R310.1.1 Minimum opening area, is amended by deleting the following exception: "Exception: Grade floor openings shall have a minimum not clear opening of 5 square feet (0.465 m<sup>2</sup>)."~~

~~Section R311.4.3 Landing at doors, is amended by adding the following exception: "Exception: A landing is not required at the top of a flight of stairs, provided the door does not swing over the stairs."~~

~~Section R323 Flood Resistant Construction, is deleted in its entirety.~~

~~The following chapters are deleted in their entirety:~~

~~"Chapter 33, through and including Chapter 42 Electric Systems.~~

~~"Chapter 25, through and including 32 Plumbing Systems.~~

~~"Chapter 24 Fuel Gas."~~

~~Appendix G Swimming Pools, Spas and Hot tubs, is adopted in its entirety as set forth below:~~

## ~~SWIMMING POOLS, SPAS AND HOT TUBS~~

### ~~SECTION AG101 GENERAL~~

#### ~~AG101.1 General.~~

~~The provisions of this appendix shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a one and two family dwelling.~~

### ~~SECTION AG102 DEFINITIONS~~

#### ~~AG102.1 General.~~

~~For the purposes of these requirements, the terms used shall be defined as follows and as set forth in Chapter 2.~~

~~"Above Ground/On Ground Pool" — See "Swimming pool."~~

~~"Barrier" — A fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.~~

~~"Hot Tub" — See "Swimming pool."~~

~~"In Ground Pool" — See "Swimming pool."~~

~~"Residential" — That which is situated on the premises of a detached one or two family dwelling or a one family townhouse not more than three stories in height.~~

~~"Spa, Nonportable" — See "Swimming pool."~~

~~"Spa, Portable" — A nonpermanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.~~

~~"Swimming Pool" — Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.~~

~~"Swimming Pool — Indoor" — A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.~~

~~"Swimming Pool — Outdoor" — Any swimming pool which is not an indoor pool.~~

#### ~~SECTION AG103 SWIMMING POOLS~~

~~AG103.1 In-ground pools.~~

~~In-ground pools shall be designed and constructed in conformance with ANSI/NSPI-5 as listed in Section AG107.~~

~~AG103.2 Above-ground and on-ground pools.~~

~~Aboveground and on-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Section AG107.~~

#### ~~SECTION AG104 SPAS AND HOT TUBS~~

~~AG104.1 Permanently installed spas and hot tubs.~~

~~Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3 as listed in Section AG107.~~

~~AG104.2 Portable spas and hot tubs.~~

~~Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6 as listed in Section AG107.~~

#### ~~SECTION AG105 BARRIER REQUIREMENTS~~

#### ~~AG105.1 Application.~~

~~The provisions of this chapter shall control the design of barriers for residential swimming pools, spas and hot tubs. These design controls are intended to provide protection against potential drownings and near drownings by restricting access to swimming pools, spas and hot tubs.~~

#### ~~AG105.2 Outdoor swimming pool.~~

~~An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:~~

~~1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).~~

~~2. Openings in the barrier shall not allow passage of a 4-inch diameter (102 mm) sphere.~~

~~3. Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.~~

~~4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not~~

~~exceed 1.75 inches (44 mm) in width.~~

~~5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.~~

~~6. Maximum mesh size for chain link fences shall be a 2.25-inch (57 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).~~

~~7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).~~

~~8. Access gates shall comply with the requirements of Section AG105.2, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:~~

~~8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and~~

~~8.2. The gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.~~

~~9. Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:~~

~~9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F1346; or~~

~~9.2. All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or~~

~~9.3. Other means of protection, such as self-closing doors with self latching devices, which are approved by the governing body, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.~~

~~10. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:~~

~~10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access, or~~

~~10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section AG105.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch diameter (102 mm) sphere.~~

~~AG105.3 Indoor swimming pool.~~

~~All walls surrounding an indoor swimming pool shall comply with Section AG105.2, Item 9.~~

~~AG105.4 Prohibited locations.~~

~~Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to~~

~~climb the barriers.~~

~~AG105.5 Barrier exceptions.~~

~~Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in Section AG107, shall be exempt from the provisions of this appendix.~~

## ~~SECTION AG106 ENTRAPMENT PROTECTION FOR SWIMMING POOL AND SPA SUCTION OUTLETS~~

~~AG106.1 General.~~

~~Suction outlets shall be designed to produce circulation throughout the pool or spa. Single outlet systems, such as automatic vacuum cleaner systems, or other such multiple suction outlets whether isolated by valves or otherwise shall be protected against user entrapment.~~

~~AG106.2 Suction fittings.~~

~~All Pool and Spa suction outlets shall be provided with a cover that conforms with ANSI/ASME A112.19.8M, or a 12" x 12" drain grate or larger, or an approved channel drain system.~~

~~**Exception:** Surface skimmers~~

~~AG106.3 Atmospheric vacuum relief system required.~~

~~All pool and spa single or multiple outlet circulation systems shall be equipped with atmospheric vacuum relief should grate covers located therein become missing or broken. Such vacuum relief systems shall include at least one approved or engineered method of the type specified herein, as follows:~~

- ~~1. Safety vacuum release system conforming to ASME A112.19.17, or~~
- ~~2. An approved gravity drainage system~~

~~AG106.4 Dual drain separation.~~

~~Single or multiple pump circulation systems shall be provided with a minimum of two (2) suction outlets of the approved type. A minimum horizontal or vertical distance of three (3) feet shall separate such outlets. These suction~~

~~outlets shall be piped so that water is drawn through them simultaneously through a vacuum relief protected line to the pump or pumps.~~

~~AG106.5 Pool cleaner fittings.~~

~~Where provided, vacuum or pressure cleaner fitting(s) shall be located in an accessible position(s) at least (6) inches and not greater than twelve (12) inches below the minimum operational water level or as an attachment to the skimmer(s).~~

#### ~~SECTION AG107 ABBREVIATIONS~~

~~AG107.1 General.~~

~~ANSI American National Standards Institute 11 West 42nd Street, New York, NY 10036~~

~~ASTM American Society for Testing and Materials 1916 Race Street, Philadelphia, PA 19103~~

~~NSPI National Spa and Pool Institute 2111 Eisenhower Avenue, Alexandria, VA 22314~~

#### ~~SECTION AG108 STANDARDS~~

~~AG108.1 General.~~

~~ANSI/NSPI~~

~~ANSI/NSPI 3-99 Standard for Permanently Installed Residential Spas AG104.1~~

~~ANSI/NSPI 4-99 Standard for Above-ground/On-ground Residential Swimming Pools AG103.2~~

~~ANSI/NSPI 5-99 Standard for Residential In-ground Swimming Pools AG103.1~~

~~ANSI/NSPI 6-99 Standard for Residential Portable Spas AG104.2~~

~~ANSI/ASME A112.19.8M 1987 Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs and Whirlpool  
ASTM~~

~~ASTM F 1346-91 (1996) Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs AG105.2, AG105.5 ASME~~

~~ASME A112.19.17 Manufacturers Safety Vacuum Release Systems~~

~~(SVRS) for Residential and Commercial Swimming Pool, Spa, Hot~~

~~Tub and Wading Pool AG106.301 Bathing Appliances AG106.2~~

~~Sec. 6-19. Standards mandatory.~~

~~Except as otherwise expressly provided, all general provisions of this article and the codes incorporated herein are mandatory. Exceptions to general prohibitions or requirements shall be narrowly construed and narrowly applied. Any person asserting that failure to comply with a general prohibition or requirement is authorized by an exception to such general prohibition or requirement shall bear the burden of proof as to such exception.~~

Sec. 6-17. Fee Schedule

The applicant shall submit the cost of work in order to determine the permit fee. If the construction cost submitted is less than that as indicated by national standards such as BOCA International or the R.S. Means Company, Inc., the City of Portland reserves the right to reevaluate the proposed project cost based on the referenced national standard and assess the larger of the fees. All building permit applications shall be accompanied by the appropriate fee as established below:

(a) Construction work:

1. Cost of work fees:

<u>Up to \$1,000.00 . . . . .</u>	<u>\$30.00</u>
<u>\$1,000.00 or more . . . . .</u>	<u>\$30.00 + \$10.00 per</u> <u>\$1,000.00 above \$1,000.00</u>

2. Belated fees:

<u>Below \$30.00 permit fee . .</u>	<u>\$50.00 additional</u>
<u>Above \$30.00 permit fee . .</u>	<u>\$100.00 additional</u>

3. Amendments to application:

<u>Up to \$1,000.00 . . . . .</u>	<u>\$30.00</u>
<u>\$1,000.00 or more . . . . .</u>	<u>\$30.00 + \$10.00 per</u> <u>\$1,000.00 above \$1,000.00</u>

(b) Fees for specific items (additional to cost of work fees above):

1. Air conditioning and ventilation systems . . . .  
\$30.00 + \$10.00 per \$1,000.00 cost

2. Change of use permit . . . .\$30.00 + \$10.00 per  
\$1,000.00 cost

3. Demolitions:

Structures . . . . .\$30.00 + \$10.00 per  
\$1,000.00 cost

4. Heating systems-All types . \$30.00 + \$10.00 per  
\$1,000.00 cost

5. Oil and gas burner replacement \$30.00 + \$10.00 per  
\$1,000.00 cost

6. Stop work order removal . . \$100.00

7. Certificate of Occupancy . \$75.00 for each  
inspection

8. Home occupation . . . . . \$150.00 plus cost of  
work

9. Re-inspections . . . . . \$75.00 for each

(c) Fees in lieu of cost of work:

1. Signs . . . . . \$30.00 + \$2.00/sq.ft.

2. Tanks: propane gas, gasoline and fuel oil:

Under 300 gals . . . . . \$30.00

300 gallons or more . . . . . \$35.00

Removal . . . . . \$30.00

3. Tent Use . . . . . \$30.00

4. Parking lots . . . . . \$100.00

5. Subdivision fee . . . . . \$500.00 base fee plus  
\$25.00 per lot or dwelling  
unit

- 6. Hoods, commercial cooking . . . . \$30.00 + \$10.00  
per  
\$1,000.00 cost
- 7. Commercial cooking appliances . . . \$30.00 + \$10.00  
per  
\$1,000.00 cost
- 8. Fire alarm and sprinkler systems . \$30.00 + \$10.00  
per  
\$1,000.00 cost
- 9. Moving building . . . . . \$30.00 + \$10.00  
per  
\$1,000.00 cost
- 10. Metalbestos chimney . . . . . \$30.00 +  
\$10.00 per  
\$1,000.00 cost

Except as otherwise provided herein, permit fee shall be based upon the estimated or the actual cost of the work for which the permit is required, whichever is greater, including towers, permanent swimming pools and any other structures altered, constructed or demolished. Ten (10) percent of any fee, or ten dollars (\$10.00), whichever is greater, shall be nonrefundable to cover the administrative costs.

**Sec. 6-1820. ~~Other code and statutory provisions~~Approval of fire chief.**

~~Where any other provisions of this Code contain more stringent requirements, compliance with the more stringent requirements shall be required. Where approval of the fire chief, environmental health director or any other specified city official is required by any provision of this Code as to the subject matter of the permit application, such approval shall be a condition precedent to issuance of the permit under this article.~~ Whenever there is an application for a permit for any structure, other than a single or two-family dwelling, such permit shall not be issued without the written certificate of the fire chief or his authorized representative that the work described is in compliance with other requirements of this Code or of state law as to fire prevention or exiting.

**Sec. 6-19. Certificate of occupancy.**

No certificate of occupancy nor temporary certificate of occupancy shall be issued under the provisions of this Article where any condition of the building or the property is not in compliance with any other section of this Code.

**Sec. 6-20. Appeals.**

Whenever the building official shall disapprove an application or refuse to grant a permit applied for under the MUBEC or when it is claimed that the provisions of the MUBEC do not apply, or the true intent and meaning of the MUBEC have been misconstrued or wrongly interpreted, any person aggrieved thereby may appeal from the decision of the building official to the board of Appeals within ten (10) days from the action of the building official. The Board of Appeals may reverse an incorrect decision of the building official and may permit exceptions to or variances from the specific provisions of the MUBEC where it is established that strict application of the provisions of this code will result in undue hardship, and where the purpose of the MUBEC, in promoting the public health, safety and welfare, is not adversely affected thereby.

**Sec. 6-21. Violations.**

~~Violations of the applicable provisions of either the ICC Building or the ICC Residential Code shall be subject to the penalty provisions of section 6-1.~~

Any person, firm or corporation who violates any of the provisions of the MUBEC or fails to comply with the standards for performance set forth herein, or who violates or fails to comply with any lawful order made pursuant hereto, or who builds inconsistently with any statement of specifications or plans submitted and approved hereunder or in violation of any certificate or permit in force hereunder, shall be punished, jointly and severally, for each and every violation by a penalty, as provided in section 6-1 of this Code. The imposition of one (1) penalty for any violation shall not excuse the violation nor permit it to continue, and all such persons, firms, or corporations shall correct or remedy such violations within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

**Sec. 6-22. Occupant Load Limits.**

- (a) The building authority shall determine the maximum acceptable occupant load for each place of assembly in accordance with the MUBEC. Such limit shall either be contained on the certificate of occupancy for the assembly use or on a separate certificate. The certificate containing the maximum acceptable occupant load shall be permanently posted in a conspicuous place in the place of assembly near the entrance.
- (b) Any establishment that is determined by the building authority or the fire chief or his/her designee to have exceeded the posted occupant limit shall be considered to be in violation of this section. Notwithstanding Sections 6-21, or 1-15, or any other section of the Portland City Code, upon written notice to the owner or the manger of the establishment by the building authority or the fire chief or his/her designee, the following penalties shall be due and payable to the City by the owner of the establishment:
1. First violation: Two hundred-fifty dollars (\$250.00)
  2. Second violation within twelve (12) months of prior violation: Five hundred dollars (\$500.00).
  3. Third violation and/or any subsequent violation within twelve (12) months of a prior violation: One thousand dollars (\$1,000.00).
  4. Determination of violations under this section shall be appealable to the City Manager or his/her designee.
- (c) The building authority, or the fire chief or his/her designee, upon finding any establishment to have exceeding its maximum occupancy load limit, shall order any performance, presentation, spectacle or entertainment to be stopped until the condition is corrected.

**Sec. 6-23. Demolition requirements.**

- (a) The person to whom a permit is issued shall dampen or cause to be dampened all debris resulting from the

demolition operation to the extent necessary to prevent dust therefrom circulating in the surrounding area.

- (b) A permit to demolish or remove a structure shall expire thirty(30) days after the date of its issuance, provided that, for good cause, the building official may extend the permit for periods of not more than fifteen (15) days.
- (c) Before a permit to demolish or remove a structure is issued, the Building Authority shall inspect the premises for the presence of friable asbestos material. For the purposes of this subsection, "friable asbestos material" means any material that contains more than one (1) percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry by hand pressure. No permit shall be issued until the applicant has removed and disposed of all such material in accordance with applicable state and federal regulations.
- (d) Except as provided in the Historic Preservation Ordinance (§§14-601, et seq.) of this Code, no permit shall be issued for the demolition of any structure subject to the provisions of that Article.
- (e) Before a permit either to demolish or remove a structure or a part thereof or to remove or dispose of existing demolition debris, as defined herein, is issued, the applicant will satisfy the building official that:
  - 1. All such debris on the island will be removed therefrom and transported to the mainland for disposal prior to the expiration of the permit.
  - 2. Debris will be removed to the Regional Waste System Construction and Demolition Debris Disposal Facility, as required by Section 12-103 of this Code.
  - 3. The disposal of the debris at such facility will be in accordance with all applicable federal and state rules, requirements and regulations relating to the transportation and disposition of such material.

- (f) Demolition debris includes, but is not limited to, materials which are created by site preparation, clearing land, or erection of a structure. It also includes, but is not limited to, brush, tree limbs, stumpage, building materials, and the waste products of building activity, such as: clay, brick, masonry, concrete, plaster, glass, wood and wood products, asphalt, rubber, metal; and plumbing, electrical and heating fixtures, appurtenances thereto and parts thereof.
- (g) No demolition debris shall either be disposed of or stored on any of the islands.

**Sec. 6-24. Swimming Pools, spas and hot tubs.**

- (a) Definitions.
  - 1. Barrier shall mean a fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.
  - 2. Swimming Pool shall mean any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.
- (b) An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be provided with a barrier which shall comply with the following:
  - 1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom

of the barrier shall be 4 inches (102 mm).

2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.
3. Solid barriers which do not have openings, such as masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.
5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches (44 mm) in width.
6. Maximum mesh size for chain link fences shall be a 2.25-inch (57 mm) square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1.75 inches (44 mm).
7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches (44 mm).
8. Access gates shall comply with the above standards and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching

device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

- 8.1. The release mechanism shall be located on the pool side of the gate at least 3 inches (76 mm) below the top of the gate, and
  - 8.2. The gate and barrier shall have no opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.
9. Where a wall of a dwelling serves as part of the barrier one of the following conditions shall be met:
- 9.1. The pool shall be equipped with a powered safety cover in compliance with accepted industry safety standards; or
  - 9.2. All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of 30 seconds immediately after the door is opened and be capable of being heard throughout the house during normal house-hold activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or
  - 9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the building authority, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by section

9.1 or 9.2 above.

10. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then:

10.1 The ladder or steps shall be capable of being secured, locked or removed to prevent access, or

10.2 The ladder or steps shall be surrounded by a barrier which meets the requirements set forth above. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.

11. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

(c) Spas or hot tubs with a safety cover which complies with accepted industry safety standards shall be exempt from the provisions of this section.

**Sec. 6-252. Municipal plumbing inspection and permit fees.**

In addition to all other fees hereunder or under any state law, the city shall charge a ten-dollar (\$10.00) base fee for plumbing inspections and the following fees for plumbing permits:

(a) *Internal plumbing code fees:*

Fixture fee:

1-3 Fixtures:	\$24.00
Each additional:	\$6.00

Reinspection fee: Twenty dollars (\$20.00). A reinspection fee shall be charged when a reinspection is required as a result of improper or incomplete work.

(b) *Septic system fee:*

1. Complete system:
  - a. Non-engineered system: One Hundred dollars (\$100.00).
  - b. Primitive disposal system (includes one alternative toilet): One hundred dollars (\$100.00).
  - c. Engineered system (includes one disposal area): Two hundred dollars (\$200.00).
  - d. Separate laundry disposal field: Thirty-five dollars (\$35.00).
  - e. Seasonal conversion permit: Fifty dollars (\$50.00).
  - f. Variance: Twenty dollars (\$20.00).
2. Individual components:
  - a. Treatment tank:
    - i. Non-engineered system: Eighty dollars (\$80.00).
    - ii. Engineered system: One hundred dollars (\$100.00).
  - b. Holding tank: Twenty dollars (\$20.00).
  - c. Alternative toilet (only): Fifty dollars (\$50.00).
  - d. Disposal field:
    - i. Non-Engineered system: Seventy-five dollars (\$75.00).
    - ii. Engineered system: One hundred fifty dollars (\$150.00).
  - e. Variance: Twenty dollars (\$20.00).
  - f. Other system components (e.g. pump station, etc.): Twenty dollars (\$20.00).

(c) Late fee for work done without a permit (internal or

septic): Double fee.