

**AMENDMENT 3 OF ORDER 153-19/20
PREPARED BY CORPORATION COUNSEL
FOR COUNCILOR COOK
RE: PROHIBIT SHORT TERM RENTALS**

ORDERED , that the Proclamation Declaring the Continued State of Emergency and Requirement to Stay at Home, issued by the City Manager Jon P. Jennings on March 24, 2020, is hereby renewed and amended to be in effect for twenty-eight days, from March 30, 2020 through 12:00 a.m. on April 27, 2020 in substantially the form attached hereto; and

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

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

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

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

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

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

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

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

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

WHEREAS, as of March ~~30~~²⁴, 2020, there are ~~118~~²⁷⁵ cases in the State of Maine, and 74 cases in Cumberland County of COVID-19; and

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

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

WHEREAS, COVID-19 is easily transmitted, especially in group settings, and it is

essential that the spread of the virus be slowed to protect the ability of public and private health care providers to handle the influx of new patients and safeguard public health and safety; and

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

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

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

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

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

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

NOW THEREFORE, ~~pursuant to the powers vested in me through the statutes of the State of Maine; the Portland City Code, Chapter 2, sections 2-406 and 2-408; the City Charter; and common law authority to protect the public's health, safety and welfare in the event of an emergency, I, Jon P. Jennings, City Manager for the City of Portland, in consultation with the~~ **BE IT ORDERED**, that the Mayor and City Council of the City of Portland, do hereby declare and order as follows:

1. A civil state of emergency continues to exist within the City of Portland.
2. This Proclamation is issued in accordance with, and incorporates by reference, the March 15, 2020 Executive Order issued by Governor Janet T. Mills. More specifically, the following provisions should still be complied with within the City of Portland:
 - A. Gatherings of more than ten (10) people are prohibited throughout the State. Gatherings subject to the Governor's Executive Order are those that are primarily social, personal, and discretionary events other than employment. Such gatherings include, without limitation,

community, civic, public, leisure, and faith-based events; social clubs; sporting events with spectators; concerts, conventions, fundraisers, parades, fairs, and festivals; and any similar event or activity in a venue such as an auditorium, stadium, arena, large conference room, meeting hall, theatre, gymnasium, fitness center or private club; and

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

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

9. All businesses providing COVID-19 Essential Services are strongly encouraged to remain open. To the greatest extent feasible, COVID-19 Essential Services shall comply with social distancing protocols by maintaining at least six (6) feet of physical distance from other people, including other employees and members of the public, including, but not limited to, when any customers are standing in line, and allow and encourage remote working where practical.
10. This proclamation shall be effective as of **March 25³⁰, 2020 57:00 p.m.**
11. ~~As per Chapter 2, section 2-407, this~~ This order shall remain in effect for ~~five-~~ (5)Twenty-Eight (28) days ~~unless and until it is renewed by the Portland City Council.~~
12. Effective immediately, renting, letting, advertising for rent, or entering into an agreement for the rent of any Short Term Rental, as defined in Sec. 6-150 of the Portland City Code, is hereby prohibited. Any individual(s) currently occupying a Short-Term Rental on or before March 30, 2020, may continue such occupancy, but all such rental agreements or arrangements for such Short-Term Rentals shall be terminated by operation of this paragraph on or before April 6, 2020. Nothing in this paragraph shall be construed, however, to bar or preclude a Short-Term Rental from being used to provide housing to medical/healthcare professionals or first responders, if such housing is funded by the Maine Emergency Management Association; or to provide emergency housing to an individual experiencing homelessness through the operation of the State of Maine's General Assistance program.
- ~~13.~~ 13. Violation of or failure to comply with this Order is punishable by a fine of \$500.00 per occurrence plus the costs of prosecution.
- ~~14.~~ 14. If any provision of this Proclamation or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Proclamation are severable.

Dated: March 24, 2020

Jon P. Jennings, City Manager

EXHIBIT A

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

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

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