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CHAPTER 4 Buildings, Inspections & Enforcement

ARTICLE I Property Maintenance

Sec. 4-101 Purpose

The purpose of this Article is to establish minimum standards governing the condition and maintenance of all structures and dwellings in the City of Rockland; establish minimum standards governing the condition of dwellings offered for rent; establish certain responsibilities and duties for owners and occupants of structures; authorize the condemnation of dwellings unfit for human habitation and the demolition of such dwellings and structures; and establish penalties for violations of said standards and responsibilities.

Sec. 4-102 Adoption of Property Maintenance Code; Amendments

1. Adoption. Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-202(B) below, the International Code Council National Property Maintenance Code, 2006 Edition, as published by the International Code Council is hereby referred to and adopted as the property maintenance code of the City of Rockland, Maine, for the control of buildings and structures as herein provided; and each and all of the regulations of the ICC National Property Maintenance Code, 2006 Edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Property Maintenance Code shall be on file and available to the public for its use, inspection, and examination in the offices of the City Clerk and Code Enforcement Officer of the City of Rockland.

State Law Reference: 30-A M.R.S. § 3003.

2. Deletions, Additions, Insertions.

- A. Section 101.1. Insert City of Rockland
- B. Delete **Section 103.5 Fees.**
- C. Amend **Section 106.4 Violation Penalties** as follows: Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$2500, and other remedies and costs set forth in 30-A M.R.S. § 4452. Each day that such violation continues after due notice has been served shall be deemed a separate violation. Service is effective upon posting notice of such violation to the violator's last known address by registered mail, return receipt requested.
- D. Amend **Section 108.2** as follows: Closing of vacant structures: if the structure is vacant and unfit for human habitation or occupancy and is not in danger of structural collapse, the Code Enforcement Officer is authorized to post a placard of condemnation on the premises and to order the structure closed and secured, so as to prevent ready entry and ensuing personal injury or property damage. Upon failure of the owner thus to secure the premises within the time specified in the order, the code official shall request that the City Manager cause the premises to be secured, whether by the municipality or by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate, and may be collected by any other legal recourse.
- E. Replace **Subsections 110.1 through 110.4** with the following: In the event that the Code Enforcement Officer or his designee finds that a structure is so old, dilapidated, unsound, and/or dangerous as to pose an imminent threat of damage or harm to person(s) or property, and the owner of such structure fails to commence demolition and removal of such structure within 24 hours of written or oral notice, the Code Enforcement Officer shall make a report of the same to the City Manager, who shall take immediate steps to secure an order from the City Council or Superior Court for the demolition and removal of the structure, at the owner's expense, pursuant to the Dangerous Buildings statute, 17 M.R.S. §§ 2851, *et seq.*
- F. Delete **Section 111.1** through **Section 111.8** (inclusive) and replace with the following:

111.1 Application for appeal. Any person affected by any notice which has been issued by the Code

Enforcement Officer in connection with the enforcement of any provision of this code, or of any rule or regulation adopted pursuant thereto, shall have the right to request and shall be granted a hearing on the matter before the Zoning Board of Appeals (the "Board"); provided that such person files, in the office of the Board, a written appeal requesting such hearing and containing the grounds therefor within 30 days after the day the notice was served.

111.2 Appeals Board. In order to protect existing structures in the jurisdiction by vigorous enforcement of the provisions of this code, the Zoning Board of Appeals established in Rockland Code, Ch. 19, Art. II shall hear the appeals described in Section PM 111.1, above.

G. **Section 302.4.** Insert 10 inches.

H. Amend **Section 302.8 Motor vehicles**, as follows: Except as provided in other regulations, not more than one currently unregistered and/or uninspected motor vehicle shall be parked, kept or stored on any property, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided such work is performed inside a structure or similarly-enclosed area designed and approved for such purposes and further provided that unless in a zone that permits such use, the activity is not done as a business.

I. **Section 304.14.** Insert (first insert) May 1, (second insert) October 15.

J. **Section 602.3.** Insert (first insert) September 1, (second insert) June 15.

K. **Section 602.4.** Insert (first insert) September 1, (second insert) June 15.

ARTICLE II Fire Prevention & Life Safety

Sec. 4-201 Adoption of Fire Prevention Code; Amendments

1. **Adoption.** Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-302(B) below, the National Fire Protection Association ("NFPA") 1, 2012 Edition, is hereby referred to and adopted as the Fire Prevention Code of the City of Rockland, Maine, establishing the minimum standards for the conditions and equipment in buildings that affect fire prevention and suppression measures; and each and all of the regulations of the NFPA 1 Fire Prevention Code, 2012 Edition, and other regulations NFPA 1 incorporates, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Fire Prevention Code shall be on file and available to the public for its use, inspection, and examination in the offices of the Fire Chief and Code Enforcement Officer of the City of Rockland. Eff: 12/10/14

State Law References: 30-A M.R.S. § 3003; 25 M.R.S. §§ 2351, et seq.

2. **Amendments.** The Rockland Fire Prevention Code is amended as set forth in the regulations of the Department of Public Safety, Title 16, Code of Maine Regulations, Part 219 – Office of the State Fire Marshal, Chapter 3 – Fire Prevention Code.

Sec. 4-202 Adoption of Life Safety Code; Amendments

A. **Adoption.** Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, and subject to the limitations set forth in Section 4-402(B) below, the National Fire Protection Association ("NFPA") 101, 2012 Edition, is hereby referred to and adopted as the Life Safety Code of the City of Rockland, Maine, establishing the minimum standards for the conditions and equipment in buildings, except one- and two-family dwellings, that protect the safety of inhabitants and firefighters in the event of a fire; and each and all of the regulations of the NFPA 101 Life Safety Code, 2012 Edition, are hereby referred to, adopted, and made a part hereof, as if fully set out in this Article. One copy of the Life Safety Code shall be on file and available to the public for its use, inspection, and examination in the offices of the Fire Chief and Code Enforcement Officer of the City of Rockland. Eff: 12/10/14

State Law References: 30-A M.R.S. § 3003; 25 M.R.S. §§ 2351, et seq.

B. Amendments.

(1) Amendment by Reference. The Rockland Life Safety Code is amended as set forth in the regulations of the Department of Public Safety, Title 16, Code of Maine Regulations, Part 219 – Office of the State Fire Marshal, Chapter 20– Code For Safety To Life From Fire In Buildings And Structures.

(2) Exceptions. The exceptions to the Life Safety Code adopted by the State Fire Marshall in Title 16, Code of Maine Regulations, Part 219, Chapter 20, are hereby amended as follows:

- (a) Extinguishment Requirements in One- And Two-Family Dwellings. Section 4.3.4.1 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland; provided, however, that a sprinkler system otherwise required pursuant to Section 4.3.4.1 shall not be mandatory if all of the following conditions are met:
 - (i) The building shall not be utilized for any purpose other than a one-family dwelling;
 - (ii) The dwelling must be located within 1000 feet of a public, pressurized fire hydrant;
 - (iii) No floor or roof system shall be constructed of trusses, web joists, TJI-joists or similar low-mass engineered products, unprotected steel or unprotected engineered carrying beams such as, but not limited to LVL, Microlam, etc.;
 - (iv) In new one-family dwellings and in existing buildings, the use of which is changed to a one-family dwelling, operational smoke alarms shall be required outside each separate sleeping area in the immediate vicinity of bedrooms; in each room used for sleeping purposes, and on each story including the basement. Smoke alarms shall be photoelectric type, where required, and shall be hard-wired with battery back-up. Smoke alarms must be interconnected such that activation of one alarm within the building shall activate all smoke alarms within the dwelling;
 - (v) At least one carbon monoxide detector shall be located in each area within, or giving access to, any bedroom in the dwelling. Carbon monoxide detectors shall be powered by the electrical service and shall have battery back-up; and
 - (vi) Building plans shall be reviewed by the Fire Department and the benefits of residential sprinkler systems shall be concisely presented to the property owner, at which time the property owner shall explicitly opt out of the NFPA 101 Life Safety Code requirements for installation of a residential sprinkler system.

Eff: 10/10/12

- (b) Building Rehabilitation. Chapter 43 of the NFPA 101 Life Safety Code is incorporated by reference in the City of Rockland.

Sec. 4-203 Fire Resistive Roofing

1. All buildings except fabric structures authorized pursuant to Section 4-604 shall have roof coverings of standard quality, such as:

- A. Brick or concrete surface
- B. Clay or Portland cement tile
- C. Tin, copper, or other metal
- D. Slate (however, the fire department shall be authorized to adjust fire suppression strategies in slate-roofed buildings, in recognition of the danger falling slate may pose to fire department personnel)
- E. Built-up coverings of not less than three layers of tar or asphalt-saturated rag. These coverings shall be surfaced with gravel, crushed stone, or slag.
- F. Asphalt or other architectural shingles, provided that there shall be no more than two layers of shingles)
- G. Other types of coverings having equivalent fire-resistive properties when approved and listed by Underwriters' Laboratories, Inc., as Classes A or B.

2. No new roofs shall be covered with wood shingles but existing wood shingle roofs may be repaired with wood shingles providing the area repaired during any period of 5 (five) years does not exceed twenty-five (25%) percent of the entire area of the roof. Otherwise the entire roof shall be replaced with material specified in paragraph I of this ordinance.

3. Dormer windows shall be covered with the same material(s) as the roof of the structure, or with other material(s) having equivalent fire-resistive properties.

Sec. 4-204 Certification of Compliance

The Fire Chief or his designee may, at his sole discretion, require a developer of a new building or facility, at his own expense, to secure certification of compliance with NFPA 101 from the State Fire Marshall or from an authorized professional as substitute evidence of compliance.

ARTICLE III Electrical Installations

Sec. 4-301 Definitions

1. **Electrical Equipment.** “Electrical equipment” means all electrical conductors, fittings, devices and fixtures.

State Law Reference: 30-A M.R.S. § 4151.

2. **Electrical Installations.** “Electrical installations” means any installation, repair, alteration, or maintenance of electrical equipment; optical fiber cable; devices and fixtures for heating, lighting, and power; and heat-activated or electrically-supervised manual fire alarms and sprinkler systems. “Electrical installations” shall not include the installation or repair of portable electrical equipment the installation of which involves only the insertion of an attachment plug into a fixed receptacle outlet.

Sec. 4-302 Adoption of Electrical Code; Amendments

Pursuant to Title 30-A, Maine Revised Statutes, Section 3003, as amended, the National Fire Prevention Association (“NFPA”) *National Electrical Code (NFPA 70)*, or other Standard(s) for electrical installation adopted by the Electricians’ Examining Board pursuant to 32 M.R.S. §1153-A, is hereby referred to, adopted, and made a part hereof as if fully set forth in this Article, for the purpose of establishing minimum standards for electrical installations in Rockland, Maine. One copy of such standards shall be on file and available to the public for its use, inspection, and examination in the office of the Code Enforcement Officer of the City of Rockland.

State Law Reference: 30-A M.R.S. § 3003; 32 M.R.S. §§ 1153-A.

Eff: 03/14/12

Sec. 4-303 Permit Required; Exceptions.

No electrical installations shall be made within or on any building, structure or premises without first securing a permit therefor from the Code Enforcement Officer, except as follows:

- A. No permit shall be required for the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed. A "suitable receptacle" is hereby defined as one having the proper wiring and capacity to fulfill the electrical requirements of the portable device;
- B. No permit shall be required for the installation, alteration or repair of wiring, devices, appliances or equipment for the operation of signals or the transmission of intelligence through the facilities of any duly chartered telephone, telegraph, or radio company;
- C. No permit shall be required for the installation, alteration, or repair of wiring, devices, appliances or equipment installed by a public utility for the use of such public utility in the generation, transmission, distribution, or metering of electrical energy; nor for the work of such utilities in installing, maintaining, and repairing on the premises of customers, service connections, meters and other apparatus and appliances remaining the property of such utilities after installation; nor for work by a public utility in connection with the lighting of public or private ways, alleys, parks, or squares; and
- D. No permit shall be required for the installation of telephone, telegraph, cable and closed-circuit television, data communication and sound equipment.

- E. No permit shall be required for electrical work involving installations of specialized industrial/manufacturing equipment and machinery other than building wiring such as lights, receptacles, outlets, emergency lights, etc.
Eff: 03/14/12

All applications for permits as specified above shall be filed with the Code Enforcement Officer, upon forms furnished by the latter, and shall contain a detail of the work contemplated, and the name, address, and license number of the electrician or other authorized person who will perform the work.

Sec. 4-304 Inspections.

The Code Enforcement Officer shall have access at all reasonable times to all wires, appliances, and apparatus in the interior of public or private buildings, which carry or are intended to carry an electric light or power current, and no person shall make any electrical installation for which a permit is required without first providing the Code Enforcement Officer with reasonable advance notice and an opportunity to inspect and approve such electrical installations.

Sec. 4-305 Penalty.

Any person, firm, corporation or other legal entity who shall commence any work for which a permit is required by this Ordinance without first having applied for a permit therefore shall pay double the permit fee fixed by this Ordinance for such work, provided, however, that this provision shall not apply to emergency work when it shall be proved to the satisfaction of the Code Enforcement Officer, or his or her designee, that such work was urgently necessary and that it was not practicable to apply for a permit therefor before the commencement of the work. A permit for emergency work shall be applied for within two (2) working days of the start of work. The Code Enforcement Officer may substitute a verbal or written warning for the doubling of the permit fee for first offenses. Nothing in this paragraph shall limit the authority of the City of Rockland to enforce the provisions of this Article, or the remedies available at law or in equity.

ARTICLE IV Plumbing Installations

Sec. 4-401 Definitions

1. Plumbing. "Plumbing means the installation, alteration, or replacement of pipes, fixtures and other apparatus for bringing in potable water, removing waste water, and the piping connections to heating systems using water. Except for the initial connection to a potable water supply and the final connection that discharges indirectly into a public sewer or waste water disposal system, the following are excluded from this definition:

- A. All piping, equipment, or material used exclusively for manufacturing or industrial processes;
- B. The installation or alteration of automatic sprinkler systems used for fire protection and standpipes connected to automatic sprinkler systems or overhead;
- C. Building drains outside the foundation wall or structure;
- D. The replacement of fixtures with similar fixtures at the same location without any alteration of pipes; or
- E. The sealing of leaks from an existing line.

2. Seasonal Dwelling. "Seasonal dwelling" means a dwelling which existed on December 31, 1981, and which was not used as a principal or year-round residence during the period from 1977 to 1981. Evidence of use as a principal or year-round residence includes, but is not limited to:

- A. The listing of that dwelling as an occupant's legal residence for the purpose of voting, filing a state tax return, or automobile registration; or
- B. The occupancy of that dwelling for a period exceeding 7 months in any calendar year.

3. Subsurface Waste Water Disposal System. "Subsurface waste water disposal system" means any system for the disposal of waste or waste water on or beneath the surface of the earth including, but not limited to, septic tanks, drainage fields, grandfathered cesspools, holdings tanks, or any other fixture, mechanism, or apparatus used for those purposes, but

does not include any discharge system licensed under 38 M.R.S. § 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waster water treatment system.

State Law Reference: 30-A M.R.S. § 4201.

Sec. 4-402 Applicable Plumbing Code

1. Adoption. Pursuant to 32 M.R.S. § 3403-B, the State of Maine has adopted a State of Maine Internal Plumbing Code, and, pursuant to 30-A M.R.S. § 4211, Subsurface Waste Water Disposal System regulations (Title 144, Code of Maine Regulations, Chapter 241). The City of Rockland Code Enforcement Officer is hereby charged with enforcing said plumbing code, subsurface waste water disposal system regulations, and any other applicable requirements adopted or imposed by the State of Maine for the regulation of plumbing installations.

State Law References: 32 M.R.S. §§ 3403-B; 30-A M.R.S. § 4211.

Cross References: 2 C.M.R. Ch. 395(4)(1); 144 C.M.R. Ch. 241.

ARTICLE V Inspections and Enforcement

Sec. 4-501 Conformity With Codes Required

In the City of Rockland, no building may be erected, moved, added to, or altered structurally, and no existing building or structure may be used, except in conformance with the provisions of this chapter and other applicable requirements of the Rockland Code of Ordinances.

Sec. 4-502 Buildings Not In Conformance A Nuisance

Any building or structure, or part thereof, that is constructed, altered, maintained, repaired, or used, and any equipment therein, thereon, or in connection therewith installed, altered, maintained, or repaired, or used contrary to any provision in Chapter 4, 7, 10, 11 or 20 of the Rockland Code of Ordinances is a nuisance, and a violation of this Code. Each day that such nonconformance continues is a separate violation. Both the owner of the property in question and, if different, the party responsible for the condition of the property, shall be subject to code enforcement proceedings brought by the City pursuant to Maine Rule of Civil Procedure 80K, and penalties and other remedies imposed by 30-A M.R.S. § 4452 or other provision of State law or of this Code.

State Law References: 25 M.R.S. § 2361; 30-A M.R.S. § 4102.

Sec. 4-503 Building and Occupancy Permits

1. Building Permit Required. Before the construction, structural alteration, or relocation of any building or structure, or any part thereof, shall be commenced, the owner or lessee or the architect contractor or builder employed by such owner or lessee in connection with such construction, alteration or relocation, shall obtain from the Code Enforcement Officer a permit covering such proposed construction, alteration or relocation. Application therefor shall be in writing to the Code Enforcement Officer on such form as he may prescribe. Such application shall include or be accompanied by a statement setting forth the exact location, shape, size, and dimensions of the lot to be built upon; details concerning the existing buildings on the lot; the lines within which the building or structure is proposed to be erected or altered; the existing and intended use of each building or part of a building; the number of families or housekeeping units the building is designed to accommodate; and such other information including plans drawn to scale or sketch as the Code Enforcement Officer may require to determine and provide for the enforcement of this Article.

The Code Enforcement Officer shall issue the building permit if he finds compliance with the applicable Building Code and that the proposed construction, structural alteration, or moving of any building or part thereof, and the plans for intended use indicate that the building and use will conform in all respects to the provisions of this Article, but not otherwise.

2. Occupancy Permit Required. After such building has been completed, structurally altered, or relocated and before it may be occupied, the owner or lessee thereof shall obtain from the Code Enforcement Officer an occupancy permit, for which there shall be no charge. No Certificate of Occupancy shall be issued until all conditions of approval are completed as shown on the building permit, and/or as shown upon the approved site plan under Chapter 16, Art. II, Section 16-202.4. If, after

inspection the Code Enforcement Officer finds that the building or structure and proposed use conform to the provisions of this Article in every respect, he shall issue the occupancy permit applied for as required by subsection 2, below, but not otherwise.

3. Change of Use. Pursuant to Chapter 19, Article III, Section 19-311, any person desiring to change the use classification but not the structure of any building or structure already erected, or the use of any land, to another allowed use, shall apply in writing on a prescribed application form to the Code Enforcement Officer for a permit. Upon receipt of an application for change of use, the Code Enforcement Officer shall notify property owners directly abutting the lot or lots described in the application. If the applicant demonstrates that the provisions of Chapter 19, Article III concerning parking, noise, lighting, odors, and minimum lot area per dwelling unit are met, and that the screening and buffering requirements in Section 19-316.H.(3) are met to the greatest extent practicable, and if the structure is in compliance with provisions of the Building and Life Safety Codes, the Code Enforcement Officer shall issue the permit.

4. Action and Notice. The Code Enforcement Officer shall act upon all such applications for permits required by this Article either by issuing such permits or refusing to do so within a reasonable time. Notice of refusal to issue any permit shall be given to the owner or his authorized representative in writing by the Code Enforcement Officer and shall state the reason or reasons therefor.

5. Permit Proviso. The Code Enforcement Officer's issuance of a building or occupancy permit shall not be construed as to allow any exceptions from the provisions of Chapter 19, Article III, unless exception has been authorized by the Zoning Board of Appeals.

6. Revocation of Permits. Whenever it shall be found that a permit has been issued in violation of this or any other ordinance of the City, or state law, or in consequence of a false statement of facts or misrepresentation of conditions by the applicant or his representative, the Code Enforcement Officer shall notify the person holding such permit to appear before him at a stated time and show cause why such a permit should not be revoked. If, after such hearing, or in the event the person notified does not appear, then after the time set forth for the hearing, it still appears that such a permit was improperly issued, the Code Enforcement Officer shall issue a written order revoking same and shall then proceed as if no permit had been issued.

Sec. 4-504 Administration

1. Responsible Officials. The City of Rockland Code Enforcement Officer and his assistants shall enforce the provisions of Articles I, III, IV, VI, and VII of this Chapter, with the assistance of the Fire Chief or his designee, as need shall require and resources permit. The City of Rockland Fire Chief or his designee shall enforce Article II of this Chapter, with the assistance of the Code Enforcement Officer or his designee as need shall require and resources permit. The City Manager may adjust code enforcement responsibilities between the departments, but may not suspend them. For the purposes of this Article, the officials responsible for any element of enforcing the provisions of this Chapter shall be referred to as "code enforcement officials."

State Law References: 25 M.R.S. §§ 2351, *et seq.*; 25 M.R.S. § 2391.

2. Inspections. To safeguard the safety, health, and welfare of the public, code enforcement officials may conduct inspections of any parcel of real estate, structure, or portion of a structure in the City of Rockland for the purpose of determining if there exist any violations of this Chapter. Code enforcement officials may conduct such inspections upon receipt of an oral or written complaint; following visual observation of potential issues affecting the safety, health, or welfare of occupants or the public; pursuant to an inspections program; or randomly. Reasonable prior notice of the inspection to the owner or operator of the property shall be provided when feasible, but is not required. When inspections are performed upon an oral or written complaint, code enforcement officials shall, but only upon the request of the complainant, keep the complainant's identity confidential to the extent permitted by state law.

State Law References: 25 M.R.S. §§ 2351-2354; 25 M.R.S. § 2392.

3. Tenants; Occupants. Every occupant of a property or structure shall provide the owner or operator thereof access to any part of such property or structure for the purposes of permitting inspections by code enforcement officials, and maintenance, repairs, or alterations by the owner or operator as are necessary to comply with provisions of this Chapter.

4. Right of Entry; Interference. Code enforcement officials are authorized to enter any parcel of real estate and

any structure within the City of Rockland at any reasonable time for the purpose of making inspections and performing their duties under the Rockland Code or state law. Any owner or occupant of a building who refuses to permit a code enforcement official to enter the building or willfully obstructs the official in the inspection of the building is in violation of this Chapter and subject to penalties set forth in 30-A M.R.S. § 4452.

State Law References: 25 M.R.S. §§ 2352, 2360; 30-A M.R.S. § 4452.

5. Credentials. Code enforcement officials shall carry proper credentials of their respective offices when inspecting any property or structure in the performance of their duties under Chapters 4, 7, 10, or 11.

6. Violations; Notice; Compliance Orders. Any owner or operator of a property or structure who fails to comply with any provision of this Chapter, any provision of a code adopted pursuant to this Chapter, or any provision of Chapters 7, 10, or 11 shall be in violation of said provision, and subject to the enforcement authority and remedies granted to municipalities by state law, including without limitation 30-A M.R.S. § 4452. A condition that violates more than one provision shall constitute one violation. Each day any violation continues shall be a separate violation. Code enforcement officials shall provide oral and/or written notice of any violation to the operator and, if different, the owner; shall order that the responsible party(ies) comply with the applicable provision(s) of the Rockland Code; and shall set a reasonable deadline for compliance, which deadline may be as soon as the same day if the violation poses an immediate danger to the health, safety, or welfare of any person. Written notices shall, where appropriate, advise the violator of his right to appeal the code enforcement official's findings and orders; the form and deadline of such an appeal; and of the consequences of a failure to appeal. Evidence of the mailing of written notice to a violator by U.S. Certified Mail, Return Receipt Requested, shall be *prima facie* evidence of the receipt of the notice by the violator. A violator's failure to appeal a lawful order of a code enforcement official may forestall said violator's legal ability to contest any finding or order contained in the notice, pursuant to the doctrine of administrative *res judicata* or other provision of law or equity.

7. Coordination of Enforcement. Inspections conducted pursuant to Chapters 4, 10, and/or 11, notices of violations, and orders to comply, shall be coordinated and unified by the responsible representatives of the Code Enforcement and Fire Departments, to the extent reasonably feasible, for the purposes of minimizing the number of visits by inspectors and eliminating duplicative notices and inconsistent compliance deadlines. Emergency orders, however, shall not be delayed merely for the purpose of achieving such coordination of enforcement.

8. Re-inspections; Fees. Following the issuance of a notice of violation and order to comply, a code enforcement official shall reinspect the property or structure, on or after the deadline for compliance, to determine whether the violation(s) have been corrected. If the violation(s) have not been corrected, the violator shall be assessed a reinspection fee, set forth in Chapter 11, Article IV, Section 11-402, Land Use Fee Schedule, for each subsequent inspection required to secure compliance. This reinspection fee is purposed to prompt compliance, and to defray the administrative burden and expense – ultimately borne by the taxpayers – associated with securing code compliance by delinquent property owners and operators.

9. Appeals. Any person found to be in violation of this Code by a code enforcement official may appeal the official's findings and/or orders to the Zoning Board of Appeals by filing written notice of such appeal with the office of the Code Enforcement Department within thirty (30) days of the finding or order that is the subject of the appeal. Notice and proceedings of such appeals shall be conducted as set forth in Chapter 19, Article II, Section 19-202 of this Code.

Cross Reference: Ch. 19, Art. II, § 19-202.

10. Civil Action. If after having been provided with written notice pursuant to subsection 4-503(F), above, a violator fails to bring the property or structure into compliance within the time specified in the notice, the code enforcement official may cause to be instituted a civil action, in the name of the City of Rockland, any and all actions and proceedings, either legal or equitable, that may be necessary or appropriate to secure compliance with the provisions of this Code. The code enforcement official shall consult with the City Attorney for that purpose or, if properly certified, initiate a code enforcement proceeding pursuant to Maine Rule of Civil Procedure 80K, as amended. In any such action, the code enforcement official shall notify the City Manager of the proceeding, and seek to collect, where available, the reimbursement of the City's costs and attorney's fees.

State Law References: 30-A M.R.S. §§ 3104, 4452.

11. Records. An official, public record shall be kept of all permits, inspections, enforcement activities, and appeals authorized or required by this Chapter by the Code Enforcement Department and/or Fire Department, as appropriate.

Sec. 4-505 Inspection of Rental Housing and Converted Condominium Units

1. In addition to inspections authorized or required elsewhere in this Code of Ordinances, any person or entity conveying a multi-family dwelling with three or more dwelling units or residential condominium units in a building containing three or more units, shall certify at closing that each multi-family dwelling unit or residential condominium, and the structure in which they are housed, have been inspected by the responsible code enforcement official(s) for compliance with the Property Maintenance Code and Life Safety Code, and that a Certificate of Habitability or Temporary and Conditional Certificate of Habitability has been issued by the code Enforcement Officer or his designee.

2. If a notice of violation is issued to the owner or manager of a rental housing unit or condominium pursuant to Section 4-504(F), the Code Enforcement Officer nonetheless may issue a temporary and conditional certificate of habitability, provided that:

A. The violations do not, in the judgment of the responsible code enforcement officials, present a condition of immediate danger or hazard to the occupants; and

B. The owner or manager, or prospective buyer, has set forth a written plan of compliance acceptable to the responsible code enforcement officials both as to deadline and measures of correction.

C. At the end of the time allowed for correction of any violations cited, the responsible code enforcement officials shall reinspect the dwelling unit(s), and if he determines that the conditions cited have not been corrected, he may issue an order suspending the temporary and conditional certificate of habitability and may initiate code enforcement proceedings against the property owner or property manager pursuant to Maine Rule of Civil Procedure 80K.

3. In order to ensure that clients of Rockland's General Assistance program have safe and decent places to live, and to ensure that City General Assistance funds are not spent on substandard housing, any housing rental unit covered under this section which is to be rented to a recipient of General Assistance shall be inspected immediately before such recipient occupies it, whether or not said unit has a current and valid certificate of habitability. If the unit does not meet the standards required for such certificate, it shall not be rented either to the General Assistance recipient or to any other tenant until it does meet these standards.

Sec. 4-506 Relief from Personal Liability.

Any municipal officer or employee who acts in good faith in performing or refraining from performing any responsibilities outlined in this Chapter or in Chapter 7, 10, or 11 shall be relieved of personal liability for any injury or damage alleged to have been caused to persons or property as a result of such acts or alleged failure to act, and such officer or employee shall be defended and held harmless by the City in any proceeding alleging such injury or damage.

Sec. 4-507 Liability

This Chapter shall not be construed so as to relieve or lessen the responsibility or liability of any party that owns, operates, or occupies any property or structure that is subject to the provisions of this Chapter, nor shall the City be deemed to have assumed any such liability by reason of the inspection or any other action authorized by this Chapter.

State Law Reference: 14 M.R.S. §§ 8103, 8104, 8111.

ARTICLE VI Miscellaneous Provisions

Sec. 4-601 Spite Fences

Any fence or other structure in the nature of a fence, unnecessarily exceeding six (6) feet in height and kept and maintained for the purpose of annoying an owner or occupant of adjoining property, shall be deemed a private nuisance, as provided by the Revised Statutes of Maine.

State Law Reference: 17 M.R.S. § 2801.

Sec. 4-602 Swimming Pools

1. **Definition.** “Swimming pool” means an outdoor body of water enclosed in an artificial receptacle or other container whether in or above the ground used or intended to be used for swimming or bathing and designed for a water depth of 24 inches or more. Eff: 11/18/85

2. **Fences.** All permanent swimming pools in the open air shall be completely enclosed by a fence no less than four feet high and of a character reasonably intended to prevent unsupervised children from gaining access to the pool. Each opening in the fence shall be made self-closing and self-latching.

3. **Filling and Drainage Facilities.** All permanent swimming pools shall be equipped with filling and drainage facilities in a manner approved by the Code Enforcement Officer and all permits for their construction or alteration shall be approved by the Code Enforcement Officer before issuance.

4. **Size of Lot.** Outdoor swimming pools accessory to dwellings, apartment houses, hotels or motels, shall be permitted if not located between a building and a street line and if no part of pool or accessory structures are closer than 10 feet to side or rear lot lines. Eff: 7/13/94

Sec. 4-603 Demolition of Buildings

1. **Permit Required.** It shall be unlawful to wreck or demolish any building or structure in excess of five hundred (500) square feet in the City without first securing a permit therefor. No permit shall be issued for the demolition of any historic public building or structure listed on, or situated within a district listed on, the U.S. Department of the Interior's National Register of Historic Places without prior approval by vote of the Rockland City Council. Eff: 8/5/94

2. **Application for Permit.** An application for a permit to wreck any building or structure in the City shall be made in writing to the Code Enforcement Officer on a form prescribed by the Code Enforcement Officer. Such application is to give the location of the building or structure, the date when wrecking or demolition is to commence, the approximate duration of such wrecking or demolition, and such other information as may be required. The applicant shall notify all utility companies serving the premises at the time of application.

3. **Deposit.** Before a permit is issued, the applicant shall place a deposit with the City Treasurer in escrow in an amount established by order of the City Council, to serve as a performance guarantee that the property shall be restored to a safe and proper condition after such wrecking or demolition is completed.

“Proper and safe condition” means that all debris is cleared away, any remaining excavation or cellar hole is either filled in and tamped down, or surrounded by a chain link fence at least six (6) feet in height if such property is not to be immediately redeveloped. If such property is to be redeveloped for any purpose within two (2) months of such wrecking or demolition, then adequate barricades, to the satisfaction of the Code Enforcement Officer, shall be installed around the perimeter of such excavation.

If the Code Enforcement Officer finds that such property has been placed in a proper and safe condition as provided for in this section, he shall instruct the Treasurer to return the deposit. If the site is not cleared or placed in a proper and safe condition or work commenced to do so within ten (10) days of the completion of the wrecking or demolition, the City may itself proceed with the work, and the cost of such work by the City shall be deducted from the deposit; or demand on the applicant or on the bonding company or bank furnishing said letter of credit for reimbursement shall be made. Any remaining balance of such deposit after the City has performed the work shall be returned to the person who deposited it.

4. **Bond.** A certificate showing that public liability insurance in the amount of five hundred thousand dollars (\$500,000) has been obtained by the applicant, shall accompany any such application.

5. **Inspection of Premises.** Before any such permit shall be approved, the Code Enforcement Officer shall inspect the premises where the wrecking and demolition work is to take place, and ascertain that provision for proper care has been made so as not to endanger any connections with the City sewer and water systems or any electrical wires or installations.

6. Approval and Issuance of Permit. If the Code Enforcement Officer finds that the applicant has fully satisfied the requirements of this section, he shall approve the application and issue a permit for such wrecking or demolition.

7. Regulations for Proceeding With Work. All work of such wrecking or demolition shall be performed in a workmanlike manner and with the least amount of noise possible. Care shall be taken to protect neighboring structures with adequate shoring, reinforcement of party walls, and other precautions as may be needed to protect such structures. Signs stating alerting the public of the danger posed by the wrecking and demolition work poses, and forbidding trespassing shall be erected on each side of the building that faces a public street or alley, and in each such right of way to alert drivers and passers-by to the demolition work. Adequate protection shall be provided to prevent injury to any City or public utility appurtenances. It shall be the duty of all persons working on or responsible for such wrecking or demolition to see that children are warned away from such premises, and are not permitted to play in or on or frequent such structures.

Sec. 4-604 Fabric Structures

1. Purpose; Exception.

A. The purpose of this section is to regulate membrane covered frame structures to ensure that such structures do not constitute a fire hazard and that they are properly secured and maintained in good condition and not detrimental to a neighborhood. The Code Enforcement Officer may apply these regulations of fabric structures that were erected without a permit prior to the effective date of this section, in lieu of requiring their removal.

B. Exception: This Section shall not apply to seasonal enclosures such as screened tents or shelters that are easily collapsible and generally used for shade or shelter from insects, occasional use of camping tents and similar structures.

2. Definitions.

MEMBRANE COVERED FRAME STRUCTURE. A non-pressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane which provides the weather barrier.

3. Non-Residential Property.

A. Procedure; Requirements. Membrane covered frame structures erected on non-residential property for a period exceeding one hundred eighty (180) days shall be subject to Section 3102 of the International Building Code as amended and must be approved by the Rockland Planning Board in accordance with Chapter 16, Article II of the Rockland Code, regardless of size. Membrane covered frame structures erected on non-residential property for a period not exceeding one hundred eighty (180) days shall require a permit from the Code Enforcement Office and approval from the Rockland Fire Department and shall be in compliance with Section 3102 of the International Building Code as amended. Any temporary structure not in compliance with space and bulk standards of the zone in which it is located shall be subject to Section 19-309.1(G) of the Rockland Code.

B. Exception. Seasonal, temporary, plastic-covered buildings/structures in any WF Zone erected for a period not exceeding one hundred eighty (180) days and used for covering boats while undergoing repairs or renovations shall not require a permit.

4. Residential Property. Membrane covered frame structures erected on residential property shall require a permit if in place for a period exceeding fourteen (14) days in any given six-month period. No membrane covered frame structure permitted under this section shall have a footprint exceeding three hundred (300) square feet. Membrane covered frame structures with a footprint exceeding three hundred (300) square feet must be approved by the Rockland Planning Board which shall take into consideration the size, location and impact on the aesthetic value of the neighborhood. Any temporary structure not in compliance with space and bulk standards of the zone in which it is located shall be subject to Section 19-309.3 of the Rockland Code.

5. Standards. All membrane covered frame structures are subject to setback requirements. No membrane covered frame structure permitted in Section 4 shall be erected closer than five (5) feet from a principle structure. Membrane covered frame structures shall be anchored in accordance with the manufacturer's specifications, and in such a way as to

eliminate the possibility of being displaced by wind. Damaged membrane covered frame structures shall be removed or replaced within fourteen (14) days of the time they sustain damage. Membrane coverings must be maintained in good condition and not be torn, tattered or worn out. Unless otherwise approved by the Code Enforcement Officer, frames of such structures without covering shall be removed or recovered within fourteen (14) days.

ARTICLE VII Property-Assessed Clean Energy (“PACE”) Program

Sec. 4-701 Title; Purpose; Enabling Legislation

A. Title. This Article shall be known and may be cited as the Rockland Property-Assessed Clean Energy Program (the “Rockland PACE Program”).

B. Purpose. The purpose of this Article is to enable citizens to participate in a Property-Assessed Clean Energy Program to be administered by the Efficiency Maine Trust (the “Trust”) that provides financing for energy-saving improvements to owners of qualifying property in Rockland.

C. Enabling Legislation. The Rockland PACE Program is established pursuant to and shall be administered and construed in conformance with Title 35-A, Maine Revised Statutes, §§ 10151, *et seq.*

Sec. 4-702 Definitions

For purposes of this Article, the following words and phrases shall have the meanings indicated. Except as specifically defined below, or in the enabling legislation, words and phrases used herein shall have their customary and ordinary meaning.

1. **Energy-Saving Improvement.** “Energy-Saving Improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A Will result in increased energy efficiency and substantially reduced energy use, and either

- (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy “Energy Star” program or similar energy efficiency standards established or approved by the Trust, or
- (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust;

or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the Trust.

2. **PACE Agreement.** “Pace Agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property to secure the owner’s repayment of funds advanced for Energy-Saving Improvements to the property.

3. **PACE Assessment.** “PACE Assessment” means an assessment made against qualifying property to repay a PACE loan.

4. **PACE Loan.** “PACE Loan” means a loan, secured by a PACE mortgage, made to owner(s) of a qualifying property pursuant to a PACE Agreement to fund Energy-Saving Improvements.

5. **PACE Mortgage.** “PACE Mortgage” means a mortgage securing a loan made pursuant to a PACE Agreement to fund Energy-Saving Improvements to qualifying property.

6. **Qualifying Property.** “Qualifying Property” means residential real property located in Rockland that is not the subject of a tax or other municipal lien.

8. **Renewable Energy Installation.** “Renewable Energy Installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

9. **Trust.** “Trust” means the Efficiency Maine Trust established pursuant to 35-A M.R.S. § 10103, and/or its authorized agent.

Sec. 4-703 Rockland PACE Program

1. **Establishment; Administration.** Rockland hereby establishes the Rockland PACE Program, which shall enable owners of qualifying property located in Rockland to access financing for Energy-Saving Improvements to their property through PACE loans administered by the Trust or its agent. The City Manager shall (A) enter into a PACE program administration contract with the Trust (the "Trust Contract"), in consultation with the City Attorney, to establish the terms and conditions of the Trust's administration of the Rockland PACE Program; (B) establish and implement a local public outreach and education plan regarding the Rockland PACE Program; and (C) perform or cause to be performed any and all acts or activities required of Rockland for the administration of the Rockland PACE Program by the Trust.

2. **Trust Contract.** The Trust Contract will set forth the terms and conditions for the Trust's administration of the Rockland PACE Program including, without limitation, that:

- A. the Trust shall enter into PACE Agreements with owners of qualifying property who seek funding from the Trust for Energy-Saving Improvements to the property;
- B. the Trust or its agent shall prepare and record on the Knox County Registry of Deeds a Notice of the PACE Agreement, thereby creating a PACE Mortgage lien on the property;
- C. the Trust or its agent shall disburse the PACE Loan to the property owner;
- D. the Trust or its agent shall provide the property owner or his designee PACE assessment statements and payment deadlines for repayment of the owner's PACE Loan;
- E. the Trust or its agent shall be responsible for collection of the PACE Assessments;
- F. the City shall record discharges of PACE Mortgages upon notice from the Trust that the PACE Loan has been fully satisfied.

3. **Education and Outreach Program.** The City Manager shall establish and implement an education and outreach program to inform owners of qualifying property about the Rockland PACE Program and other home energy saving opportunities.

4. **Supplemental or Substitute Funding.** The City Manager is hereby authorized to seek supplemental or, if necessary, substitute funding for the Rockland PACE Program, subject to acceptance and appropriation of the same by the City Council for such purpose.

5. **Rules And Standards; Conflicts.** The Rockland PACE Program shall be conducted pursuant to applicable rules, regulations, standards, or other requirements established by the Trust for the administration of PACE programs in Maine, if consistent with applicable law and the terms and conditions of the City of Rockland / Trust contract. In the event any provision in this Article shall be found to be inconsistent with applicable law or a lawfully-adopted rule or regulation of the Trust, such law, rule, or regulation shall apply, but only to the extent of any such inconsistency.

Sec. 4-704 Liability; Assessments Not A Tax.

1. **Liability of Municipal Officials, Employees.** Notwithstanding any other provision of law to the contrary, Rockland's municipal officers, assessor, tax collector, and other Rockland municipal employees or volunteers are not personally liable to the Trust or to any other person for claims, of whatsoever kind or nature, under, arising from, or in any way related to the Rockland PACE Program, or this Article, including without limitation any claims for or related to uncollected PACE Assessments.

2. **Assessments Not a Tax.** PACE Assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law. Eff: 11/12/10

ARTICLE VIII Maine Uniform Building and Energy Code

Sec. 4-801 Incorporation of Maine Uniform Building and Energy Code

1. **Adoption.** Pursuant to 5 M.R.S. § 12004-G, 5-A, the State of Maine has adopted the Maine Uniform Building and Energy Code (10 M.R.S. Chapter 1103) and said code is hereby adopted, along with any amendments thereto which may from time to time be adopted, and shall be referred to as the City of Rockland Building and Energy Code. The City of Rockland Code Enforcement Officer is hereby charged with enforcing said building and energy code, and any other applicable requirements adopted or imposed by the State of Maine.

State Law References: 5 M.R.S. § 12004-G, 5-A; 10 M.R.S. Ch. 1103. Eff: 02/09/11