

# CHAPTER 63

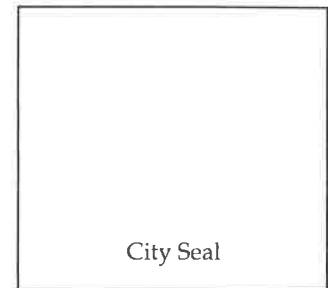
## CITY OF PRESQUE ISLE

### *Lodging Establishment License Ordinance*



Adopted: January 4, 2023

Attest: Kimberly A. Finnemore  
Kim Finnemore, City Clerk



## Table of Contents

LODGING ESTABLISHMENT LICENSE ORDINANCE .....	2
Section I Purpose .....	2
Section II Definitions .....	2
Section III Application for License .....	3
Section IV City Council as Licensing Board .....	4
Section V Standards for denial, suspension or revocation .....	5
Section VI Posting and Transferability of License .....	7
Section VII Renewal of License .....	7
Section VIII Administration of Enforcement & Violations.....	7
Section IX Sunset Provision .....	7

## CHAPTER 63

### LODGING ESTABLISHMENT LICENSE ORDINANCE

#### Section I Purpose

The purpose of this Ordinance is to protect the health, well being and safety of the public and community regarding the operations of license lodging establishments within the City of Presque Isle. Therefore, the City shall regulate the following lodging establishments with a license as follows on an annual basis.

#### Section II Definitions

Except where specifically defined herein, all words used in this Code shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular.

**Employee:** shall mean a person employed or compensated by the Lodging Establishment licensee

**Hotel** A building in which lodging or boarding and lodging capabilities are provided for more than 20 persons, offered to the public for compensation and in which ingress and egress to and from rooms and made primarily through and inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public on contradistinction to a lodging house or a motel, which are herein separately defined.

**License:** shall mean revocable official permission to operate a business or commit an act not otherwise permitted under State law or local ordinance.

**Licensee:** shall mean any holder of a license issued by this or any other city, or a holder of a license or permit under State law.

**Lodging Establishment:** shall include a Hotel, Motel, or Rooming House as defined herein

**Motel:** A building or group of detached or connected buildings designed or intended or used primarily for the providing of sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed to be a motel.

**Municipality:** shall include, but not be limited to, the following: City, town and village.

**Person:** shall mean any individual natural person, partnership, joint venture, society, association, club, trustee, trust or corporation; or any officer, agent, employee, or personal representative of any thereof, in any capacity acting either for her or himself or for any other person under either personal appointment or pursuant to law.

**Premises:** shall include all lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

**Rooming House:** shall include any dwelling in which more than three persons, whether individually or as families are housed in single rooms without self-contained cooking facilities for compensation with or without meals.

**Unresolved Incident:** Shall mean activity by person(s) on the premises that is in violation of federal or state statute or of local ordinances which after being reported to local law enforcement has not been remedied by the licensee to either:

- Remove suspected person(s) from the premises or
- Change operational policies to correct future incidents

This definition shall not include reported activity where no suspect is identified, or trespassing by person(s) against the expressed permission of the licensee.

### **Section III Application for License**

All lodging establishment applications under this Chapter shall be made on a form prescribed by the City Clerk.

Applicants seeking a license granted by the City Council shall file completed applications with the City Clerk no later than 4:30 p.m. of the Monday that precedes the next regular meeting of the City Council by at least fourteen (14) business days. If said Monday falls on a holiday, the deadline shall be 4:30 p.m. of the preceding Friday. No application shall be deemed complete and ready for hearing before the applicant has paid the application processing fee and all costs of advertising and notice. Applicants seeking licenses granted by the City Council should allow five (5) business days for review and final action by the City Clerk.

Applicants seeking licenses for lodging establishments should allow at least forty-five (45) calendar days from the date a completed application is submitted for review and final action by the City Council. Unless otherwise provided in this Chapter, notice of a City Council public hearing on an application shall be mailed to the applicant and published in a newspaper having general circulation in the City at least seven (7) days prior to said hearing. The cost of said publication shall be paid by the applicant.

All lodging establishments required to be licensed by this Chapter shall provide emergency contact information to the Presque Isle Police Department on or by January 1 and July 1 of each year on forms provided by that department.

Upon receipt of initial application or upon renewal, the City's Code Enforcement Officer shall conduct an inspection for compliance with the City's adopted life safety codes.

The fee for a lodging establishment license shall be as specified in the Schedule of License, Permit and Application Fees established by City Council order.

#### **Section IV City Council as Licensing Board**

- A. The City Council shall act as the City's licensing board and shall have the authority to grant, deny, suspend or revoke any license in accordance with State law. In addition to the complying with requirements for licensure contained in State law, any licensee must comply with the following:
1. The licensee may utilize video recording equipment on the licensed premises. If video recording equipment is used, the licensee shall keep secured all security recordings preserved for at least one week for access by the Presque Isle Police Department. Such access by the Presque Isle Police Department shall be in accordance with applicable State of Maine and Federal law and the Hotel reserves the right to require a warrant for said access.
  2. All employees of licensee shall use reasonable efforts to determine the identity of each guest in whose name a room is registered. For purposes of this Section, "reasonable efforts" means, with respect to a given goal, the efforts that a reasonable person in the position of the lodging establishment manager or employee would use so as to achieve that goal as expeditiously as possible.
  3. All employees of licensee shall use reasonable efforts to report suspected illegal activities (for example, illegal substance abuse or sales, terrorist activity, and prostitution/ human trafficking) to the Police Department as soon as reasonably possible, but no later than when the reporting employee goes off duty, or no later than 8 hours after the activity is observed, whichever is earlier. Reports by employees may be made to a manager on duty, provided the report is made to the Police Department as soon as reasonably possible and not later than 8 hours after the reported activity is observed.
  4. All employees of licensee shall use reasonable efforts to cooperate with the Police Department in its response to and/or investigation of any illegal activities suspected or alleged to have occurred on the licensed premises, including, without limitation, making the lodging establishment's security recordings and guest register available to the Police Department upon request. Such access by the Presque Isle Police Department shall be in accordance with applicable State of Maine and Federal law and the Hotel reserves the right to require a warrant for said access.
  5. A licensee's compliance with these requirements will be considered by the licensing board in future licensing decisions.

## Section V Standards for denial, suspension or revocation

- A. Generally applicable standards. In addition to any other specific provision of this chapter authorizing action, a license or permit may be denied, suspended or revoked upon a determination of the existence of one or more of the following grounds:
1. There has been a failure to fully complete the application forms or to pay any fee required hereunder; an incorrect statement of material fact has been made knowingly on such form; or there has been a knowing omission of material fact or additional documentation required or reasonably necessary to determine whether such license should be issued;
  2. Failure to notify the City Council in writing of any change of material fact set forth in the license application;
  3. Noncompliance of the licensed premises or its use with the City's Ordinances, including any land use ordinances, or the applicant/licensee has violated one of more provisions of this Chapter or other City ordinances, including, without limitation, the City's zoning life safety, and licensing ordinances;
  4. Two or more unresolved incidents recorded by a governmental entity for a non-hotel lodging establishment and Five (5) or more unresolved incidents in the preceding year for hotels with forty (40) rooms or more. during the immediately preceding year of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing, visiting or employed by the licensed premises that have been found to be valid by the Police Chief
  5. Two or more unresolved incidents recorded by a governmental entity for a non-hotel lodging establishment and Five (5) or more unresolved incidents in the preceding year for hotels with forty (40) rooms or more. during the immediately preceding year where the licensee's business operations endangered the safety of persons in or on areas surrounding the place of business that have been found to be valid by the Police Chief;
  6. The applicant's or licensee's real or personal property taxes, plus any and all accounts of the applicant or licensee, payable to the City, do not comply with **C below** of this Section;

- B. The process for revoking or suspending a non-compliance licensed lodging establishment shall be as follows:
1. When the City has identified a violation of Section 5.A, the City shall send a violation letter to the licensee outlining the violations
  2. The Licensee shall have ten (10) calendar days to submit a written plan of action to remedy the status of non-compliance with this ordinance.
  3. Failure to supply an appropriate plan of action deemed sufficient by City Staff shall result in a petition to the Council to schedule a suspension/revocation of license hearing at their next available Council meeting
  4. A ten (10) calendar day notice of the hearing shall be sent to the licensee to the address supplied on their license application with the date, time and location of the hearing
  5. The City Council will review evidence submitted by City staff and licensee to determine if licensee is in non-compliance of provisions of this ordinance and that efforts to remedy non-compliance have been offered by staff
    - i. If City staff submit sufficient evidence of violations by the licensee and records of attempt to remedy non-compliance with the licensee, the burden of proof shall shift to the licensee's representatives
  6. Upon hearing the evidence, the City Council may decide to suspend, revoke, or take no action on the pending case by the majority of City Councilors present at the hearing.
    - i. Order to suspend a license shall require the licensee to cease operations until a plan of action is implemented and found satisfactory for the City staff and Council
    - ii. In the case of an order to suspend or revoke of license, the City shall give the lodging establishment thirty (30) calendar day notice to cease operations
    - iii. Lodging establishments that continue to operate without a license shall be deemed to be in violation of this ordinance. For each room in operation will be considered a separate violation per day.
- C. Licenses shall be issued by the City Council provided that all of the applicant's real and personal property taxes, plus any and all other accounts of the applicant, payable to the City have been paid in full at the time such license or permit shall be issued; and provided, further, that all of the real and personal property taxes payable to the City on account of the premises for which said license or permit is requested have been paid in full at the time such license shall be issued. The requirement that all taxes and accounts be paid prior to issuance of a license may be:
1. Satisfied by the execution of an agreement (s)he may determine, provided that payment in full is made in or within twelve (12) months from the date of said agreement; or
  2. Waived in whole or in part by the City Council upon good cause shown and upon such terms and conditions as are agreeable to the applicant.

3. Failure to abide by the terms and conditions under either subsection (1) or (2) above shall be sufficient cause for revocation of the license or modification of said terms and conditions, after notice and hearing, by the City Council.

## **Section VI Posting and Transferability of License**

- A. The holder of a permit, license or other identifying badge or plate shall conspicuously post the same.
- B. Except as may otherwise be provided, no license shall be transferred. Upon the transfer of a business or occupation which is governed by this Chapter, the transferee shall make new application for a license.

## **Section VII Renewal of License**

For renewal applications acted on by the City Council, it will consider compliance from prior years, and based upon that review, may add conditions to any future license to correct, abate or limit past problems. The process for renewal applications shall be the same as initial application. All lodging establishment licenses shall be renewed by the City Council at their April General Meeting each year regardless of their original issuance date.

## **Section VIII Administration of Enforcement & Violations**

- A. Administration of Enforcement: It shall be the duty of any designated official under the authority of the Presque Isle City manager to include, but not limited to the Chief of Police, the Code Enforcement Office, the City Health Officer or any other authorized designee to enforce the provisions of this section.
- B. Violations: In addition to any action that may be taken by the City manager or the City Council with respect to the suspension or revocation of a license, violation of this Chapter, or of any licensing provisions of the City governed by this Chapter, shall be a civil violation subject to a fine. Except as otherwise expressly provided herein, the fine for a violation of this Chapter shall be not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation and every day that any such violation shall occur shall constitute a separate offense. In addition to the fines provided herein, the City may enjoin or abate any violation of this Chapter by appropriate action.

## **Section IX Sunset Provision**

This Ordinance shall be in force for the term of four (4) years from its effective date. This Ordinance shall become null and void upon the completion of four (4) years from said effective date, unless recommended and required by the City Council to remain effective prior to such expiration date.