

1. Agenda

Documents: [AGENDA 5-21-14.PDF](#)

2. Approval Of April 16, 2014 Meeting Minutes

Documents: [MEETING MINUTE-APRIL 16 2014.PDF](#)

3. MaineDOT And Maine Turnpike Authority- Present 2014 Project Coordination

Documents: [PRESENTATION 2014 TO CITY PORTLAND TRANS COMM MAY2114\\_1.PDF](#)

4. Metro MOU

Documents: [MEMO TO TSE ON METRO MOU STREET CLOSURE.PDF](#), [METRO AGREEMENT\\_1 A\\_3 EDITED VERSION-METRO-MB.PDF](#)

5. Traffic Schedule Amendment- Endorse/Forward To City Council  
Fore Street (Between Dana and Exchange)

Documents: [390 FORE AGENDA REQUEST\\_1.PDF](#), [390 FORE COUNCIL ORDER\\_1.PDF](#)

6. Green Packaging Task Force - Plastic Bags (No Public Comment Will Be Taken)

Documents: [BAG FEE ORDINANCE PLASTIC AND PAPER MAY AMENDMENT.PDF](#), [BAG FEE ORDINANCE PLASTIC ONLY MAY AMENDMENT.PDF](#), [FINAL PROPOSED ORDINANCE.PDF](#), [MEMO BAG ORDINANCE.PDF](#)

**CITY OF PORTLAND, MAINE**  
The Transportation, Sustainability and Energy Committee

**Transportation, Sustainability and Energy Committee**

DATE: 5/21/2014  
TIME: 5:30 PM  
LOCATION: Room – Council Chambers  
City Hall

**AGENDA**

1. Approval of April 16, 2014 Meeting Minutes
2. Committee Updates/Input Sought:
  - A. MaineDOT & Maine Turnpike Authority – Present 2014 Project Coordination
  - B. METRO MOU
3. Action Items: (Public Comment will be taken on these items)
  - A. Traffic Schedule Amendment- Endorse/forward to City Council
    1. Fore Street (Between Dana and Exchange)
  - B. Green Packaging Task Force –Plastic Bags (No Public Comment will be taken)

Councilor David A. Marshall, Chair  
Councilor Jon Hinck, Vice Chair  
Councilors Cheryl Leeman and Kevin Donoghue

**CITY OF PORTLAND, MAINE**  
Standing Committee on Transportation, Sustainability and Energy  
Councilor David Marshall (D2), Chair  
Councilor Jon Hinck (A/L), Vice Chair  
Councilor Kevin Donoghue (D1)  
Councilor Cheryl Leeman (D4)

**April 16, 2014**  
**Meeting Minutes**

**Attendees:** Chair David Marshall, Councilor Kevin Donoghue, Councilor Cheryl Leeman, Councilor Jon Hinck, Councilor Ed Suslovic, Mike Bobinsky, Melissa Graffam, Troy Moon, Jen Thompson, Kathi Earley, Jeremiah Bartlett, Bill Needleman, John Peverada

Chair David Marshall called the meeting at 5:37 pm.

**1. Approval of March 19, 2014 Meeting Minutes**

Motion made by Councilor Donoghue to approve of said meeting minutes. Seconded by Councilor Leeman. Passed 4-0.

**2. A. International Marine Terminal Expansion Update**

Communication Item.

**2. B. Street Closure – MOU with Metro**

Communication Item. Councilor Donoghue asked when staff thought that this will be completed. Staff is working with Metro on this and hopes to have it ready for the May TS&E meeting.

**2. C. State/High Street Two-way Schedule Information**

Communication Item.

**3. A. Green Packaging Task Force – Polystyrene/Plastic Bags**

Troy Moon started the topic by going over the memo that addressed the questions that were raised from last month's meeting. Councilor Hinck and Marshall both said that they have concerns with the marine life with the lack of biodegradability of the polystyrene. Councilor Leeman said that this is a problem created by humans. Feels that this does not get to the root of the problem or solve it. Everyone needs to take personal responsibility. She also mentioned that she was concerned that an economic feasibility study has not been done. She would also like to see an aggressive educational program.

Councilor Marshall asked to have the proposed ordinance change of having the City Manager hear the exemption, rather than the Director of Public Services.

The Committee took the last public comment on this topic.

Paul Poe, Resident of New Hampshire, Dart Container Company – Opposes the ordinance.

Curtis Picard, Asked- Asked the question regarding the taxation of the bags. Opposes the ordinance.

Sarah Lakeman, Portland Resident – Supports the ordinance. Recruited a volunteer to go around and survey businesses and only two promoted the use of re-useable bags.

Sally Trice, Portland Resident – Strongly in favor of the ban of polystyrene and the bag fee.

Chris O’Neil, Portland Chamber of Commerce – Opposes the ordinances. When he was at the monthly Chamber of Commerce Board meeting it was mentioned, that people all of the place are watching what we do. We are in Forbes Magazine and others getting accolades for our city.

Councilor Donoghue made a motion to pass the polystyrene ordinance, as amended to the City Council. Motion Seconded by Councilor Hinck. Motion passes with a 3-1 (Leeman) vote.

The committee then continues the discussion regarding the fee for plastic bags. Jennifer Thompson from Corporation Counsel will be contacting the Maine Revenue Service regarding the questions about the fee and any possible implications associated with the fee.

Councilor Hinck supports a fee on plastic/paper bags. Skeptical of a ban at grocery and drug stores. Councilor Donoghue would like to see the focus more on plastic bags, rather than paper. He is in favor of the fee, but questions what do we do with the fee?Chris O’Neil

Councilor Hinck proposed a fee of ten (10) cents per plastic bag and five (5) cents for paper. He said that the business would keep and report the proceeds. He said that he had talked to some businesses and they said the accounting of (keeping 60%, sending 40% to the City) would be complex.

The committee asked to have the following changes made: Remove dry cleaners and restaurants. Look at what it would involve with the fee going to the merchants/vendors. Fee for paper bags. Plastic bags do not include the veggie bags (liner bags from the grocery store).

If the fee was to go to the City, Councilor Leeman would like to see that the money was used for specific purpose (and not to go to the General Fund).

Councilor Marshall and Jen Thompson will meet prior to the next meeting to work on these changes.

Councilor Donoghue made a motion to postpone this item until the next meeting. Motion Seconded by Councilor Hinck. Motion passed 4-0.

### **3. B. Endorsement of Ordinance Amendments for Food Truck Vendors**

The Committee asked for public comment.

Perry Mogul, Perry’s Sidewalk Café- Asked if there would be a consideration to allow a push cart in a food truck area. He said that he has a utility trailer attached to his push cart.

Doug Foss, Owner Bull Feeney’s – The Food Truck Task Force meant for the trucks to be “in” the parks; not along the park (parking areas).

Jen Thompson said the RFP has a listing of the push cart locations. She didn't know if the City can deviate from the size restrictions. The Committee did not have any objections to adding Compass Park to the list.

Motion made by Councilor Leeman to send the ordinance to the Planning Board (with adding Compass Park). Motion Seconded by Councilor Donoghue. Motion passed 4-0.

#### **4. Adjourn**

Meeting adjourned at 7:58 pm.



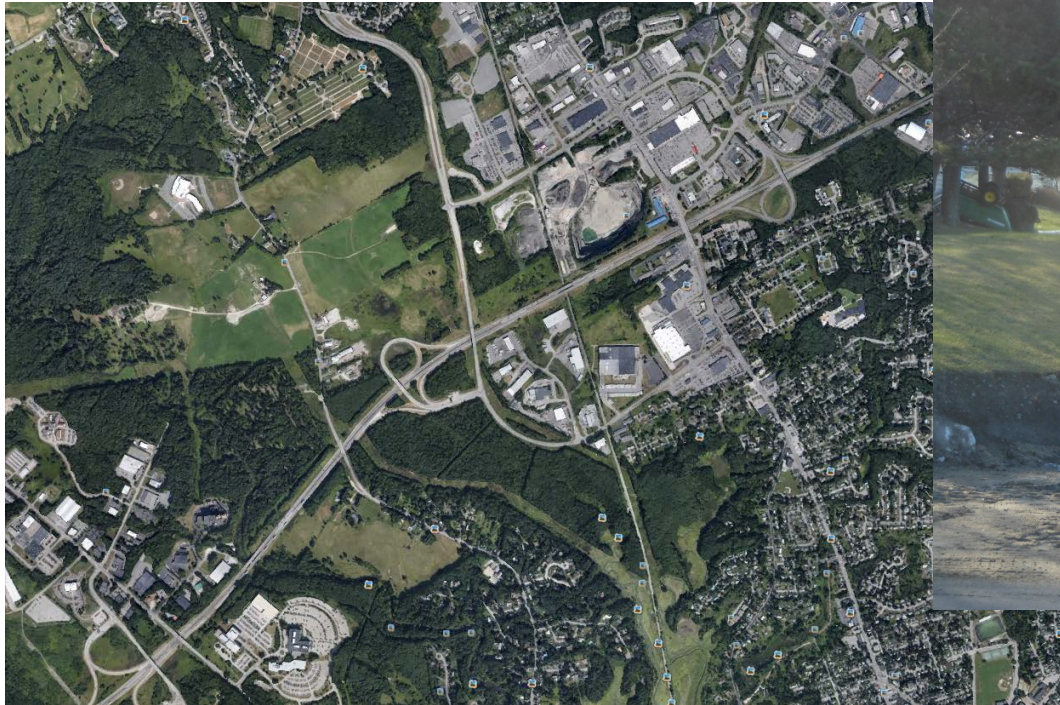
# Maine Turnpike & MaineDOT Coordinated Investments



May 21, 2014

Peter Merfeld, PE  
&  
Sara Zografos  
Maine Turnpike Authority

MaineDOT  
Jeff Tweedie



**City of Portland Transportation, Sustainability and Energy Committee**



# Introduction



- Continuous coordination between the Maine Turnpike Authority and the Department of Transportation
- MaineDOT 2014/2015/2016 projects
- Maine Turnpike Authority
  - 2014 and 2015 Bridge and Highway projects
  - Toll System upgrades
  - On-going Planning efforts



## 2014 MaineDOT Paving Projects

- **20307.00 Danforth St. – Mill/Fill**
- **20282.10 Franklin St. – Mill/Fill**
- **20252.00 Oxford St. –  $\frac{3}{4}$ " OL**
- **19122.00 Fore St. –  $\frac{3}{4}$ " OL**
- **20287.00 Route 9 –  $\frac{3}{4}$ " OL (SoPo/Port)**

# 2014 MaineDOT Reconstruction Projects

- **10557.01 Exit 6/Forest Ave. ramp safety project**

## 2015 MaineDOT Paving Projects

- **20241.00 Union St. – Mill/Fill**
- **20295.00 Temple St. –  $\frac{3}{4}$ " OL**
- **20256.00 Spring St. –  $\frac{3}{4}$ " OL**
- **20255.00 Spring St. – Mill/Fill**
- **20305.00 Middle St. – Mill/Fill**
- **20282.00 Commercial St. – Mill/Fill**
- **20303.00 Canco Rd. –  $\frac{3}{4}$ " OL**

# **2014 MaineDOT Multimodal Projects Currently in Construction**

- **Thompsons Point related projects**
  - **17336.00, Fore River Parkway**
  - **18394.00, Thompsons Point Road**
  - **18394.10, Exit 5 Improvements**
  - **18394.11, Sewall Street Sidewalk**
  - **18394.12, Congress St. striping & ADA Improvements**
  - **18394.13, Railroad Embankment Widening**
  - **18389.00, Railroad Crossing Improvements**
- **IMT Improvements (Continuous through 2016)**

## **2014 MaineDOT**

### **Intersection/Safety/Mobility Projects**

- **20200.00 Cumberland/Preble – Signal Improvements**

## **2014 MaineDOT LPA Projects -In Construction or to Be Advertised-**

- **18363.10 CBITD Building Improvements**
- **18364.00 Bayside Bike-Pedestrian Improvements,  
North Boyd Street to Bayside Trail**
- **17628.00 Somerset Street Improvements**

# **2015 MaineDOT Intersection/Safety/Mobility Projects**

- **20543.00 Woodfords Corner**

## **2015 MaineDOT LPA Projects**

- **20547.00 Neighborhood Byway Multiuse Path,  
Deering Center to Thompsons Point**



# MTA Mainline Bridges 2014

MCRR/Stroudwater- **currently under construction**





# MTA Mainline Bridges 2014

Forest Ave/Riverside St-

currently under construction





# Toll System Upgrade

- Systemwide toll equipment upgrade
- Full analysis of the entire road to determine which locations to be converted, minimizing impacts to travelers, reducing back-ups on the local roads, and maintaining toll collection.



Exit 42



Exit 47



## Exit 46 2014

- Toll system upgrade Southbound- Award contract May 22, 2014
  - Summer/Fall
  - Minimal Traffic Impacts
- City Coordination
  - City and MaineDOT coordinate signals on Skyway Drive and other signals with in the vicinity of Exit 46
  - City Paving Skyway Drive





# Exit 46 2015

- Toll system upgrade Northbound
  - Summer/Fall 2015
  - Minor traffic impacts
- Skyway Drive Bridge repairs
- North and Southbound interchange ramps paving





# Exit 48 2014/2015

- Toll system upgrade
  - Award contract May 22, 2014
- MTA to notify area businesses and the City of construction schedule





# Planning

- LD 1831- Guide Sign Legislation
- GOMAINE
- 4 Year Plan
- Gorham East-West Corridor Study
- All Electronic Toll (AET) Analysis

<http://www.mainturnpike.com/project-and-planning/Transportation-Planning/AET.aspx>



# Contact Information



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(207)871-7771x111

Thank you!



Michael J. Bobinsky  
Director of Public Services

To: Members of the Transportation, Energy and Sustainability Committee  
From: Michael J. Bobinsky, Director of Public Services  
Date: May 16, 2014  
Subject: Working Draft of the Memorandum of Understanding Between the City of Portland and Metro- Greater Portland Transit District

The Department of Public Services has been working with Metro officials on a Memorandum of Understanding (MOU) addressing steps to reduce possible impacts to transit services associated with traffic restrictions on City streets and along transit routes. We are sharing this working draft with other City Departments at this time for final comments prior to finalization with Metro officials.

I am attaching a copy of the Working Draft of the MOU for your information.

Our goals with the MOU is to eliminate the need to detour transit services or close bus stops whenever possible and mitigate the impacts of transit detours and bus stop closures when necessary. In addition, the MOU states that Metro will have an opportunity to review traffic control plans for an evaluation of potential route detours and temporary bus stop relocations if needed as part of a traffic control plan and in a non-emergency situation.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CITY OF PORTLAND AND  
GREATER PORTLAND TRANSIT DISTRICT**

The City of Portland (“City”), whose Department of Public Services (the “Department”) has offices at 55 Portland Street and Greater Portland Transit District with offices on Valley Street in Portland (“Metro”), herein enter into this Memorandum of Understanding (“Agreement”).

**Street Closure Planning Program**

**Whereas**, the City is an investor in Metro for the purpose of providing effective transit services within the city; and,

**Whereas**, Metro is a regional transit district authorized by state statute and provides transit services principally in the City of Portland but also in the communities of Falmouth, South Portland and Westbrook; and,

**Whereas**, the City and Metro have a mutual goal of increasing transit ridership; and,

**Whereas**, the City and Metro agree that preserving the accessibility, availability and continuity of transit services is necessary to support a reliable transit system; and,

**Whereas**, the City and Metro recognize that community events, construction activities and emergencies will at times require changes and restrictions to traffic flow as well as closure of bus stops; and,

**Whereas**, the City and Metro desire to as much as possible eliminate adverse impacts to transit services associated with traffic restrictions, mitigate adverse impacts to transit services when traffic restrictions are necessary, and, and manage unavoidable impacts in such a manner as to provide the least disruption possible on transit services; and

**Whereas**, the Department is assigned the responsibility for planning and coordinating street closure decisions with other City Departments and agencies including Police, Parking Enforcement, Fire, Recreation and Facilities Management, and Portland Downtown District, through its street opening/street occupancy or festival permitting process and agrees to work collaboratively with Metro on the planning process for street closures and include Metro officials with other City and Agency representatives when street closure planning occurs;

**NOW THEREFORE**, the City and Metro hereby agree as follows:

1. To address any and all traffic restrictions bus stop closures co-operatively, collaboratively and responsively.
2. To review, submission and finalization of any street closure requests in the following manner:
  - a. Follow existing procedures including the preparation and submission of a traffic control plan to the Department's Transportation Systems Engineer for approval prior to the requested closure date. The traffic detour/control plan shall be submitted to Metro for an evaluation of potential route detours and temporary bus stop relocations if needed as part of the detour plan; and said evaluation shall occur in a timely manner and recognizes possible emergency situations where the City needs to implement closure and traffic detour plans immediately.
  - b. Determine the best methods of eliminating the need to detour transit services or close bus stops whenever possible and mitigate the impacts of transit detours and bus stop closures when necessary.
  - c. In the event of bus stop closures which result from construction activities, require private or public construction organizations firms to include in their traffic control plans to erect effective safety measures to close the bus stop and effective signage to direct passengers to adjacent bus stops.
3. The following contact information for City and METRO officials shall be used when street closures are being considered or planned:

**City officials:**

|                                                      |              |
|------------------------------------------------------|--------------|
| Michael Bobinsky, Director of Public Services        | 207-874-8801 |
| Eric Labelle, Assistant Director of Public Services  | 207-874-8813 |
| Jeremiah Bartlett, Transportation Systems Engineer   | 207-874-8891 |
| Rhonda Zazzara, Construction Inspections Coordinator | 207-874-8831 |
| Ted Musgrave, Events Coordinator                     | 207-874-8826 |
| Jessica Grondin, Director of Communications          | 207-756-8173 |
| John Peverada, Director of Parking                   | 207-874-8444 |

**Contact information**

**METRO officials:**

|                                              |              |
|----------------------------------------------|--------------|
| Gregory Jordan, General Manager:             | 207-517-3025 |
| Glenn Fenton, Chief Operations Officer:      | 207-517-3029 |
| Tom Ridge, Assistant Transportation Manager: | 207-517-3026 |
| Emergency Contact or after hours Contact:    |              |

4. The parties agree that METRO officials shall be the point of contact for all other public transit providers that might be possibly impacted by a street closure in Portland, including but not limited to Regional Transportation Program (RTP) and the City of South Portland's Transit Service.
5. The parties agree to develop a collaborative public notification process to alert METRO transit users of temporary route detours and bus stop relocations and a check list of possible impacts to the systems transit services, if needed.
6. The parties agree that the Department staff shall notify METRO representatives when plans are considered for street closure (for purposes of providing notice and seeking feedback on said closure), as well as any traffic detour plans, temporary route changes, and any standard non-emergency street closure requests.
7. The parties agree to meet quarterly to review the street closing process and planning efforts and any impacts to transit operations in the City of Portland.
8. All communications and notices regarding this Memorandum shall be in writing and shall be deemed sufficiently served if mailed addressed as follows, or to such other addresses as the parties may designate in writing from time to time:

**To METRO:** Gregory Jordan, General Manager  
114 Valley Street  
Portland, ME 04102

**To CITY:** Mark H. Rees, City Manager  
389 Congress St.  
Portland, Maine 04101

**With a copy to:** Michael J. Bobinsky, Director  
Department of Public Services  
55 Portland Street  
Portland, Maine 04101

9. The parties may terminate this Memorandum at any time for cause or for their convenience on thirty (30) days prior written notice to the other party.

**IN WITNESS WHEREOF**, the City has caused this Memorandum to be signed and sealed in its corporate name by Mark H. Rees, its City Manager, thereunto duly authorized, and METRO has caused this Agreement to be signed and sealed in its corporate name by Gregory Jordan, its General Manager, thereunto duly authorized:

**City of Portland**

Witness: \_\_\_\_\_

By: \_\_\_\_\_  
Mark H. Rees, City Manager

**Greater Portland Transit District**

Witness: \_\_\_\_\_

By: \_\_\_\_\_  
Gregory Jordan, General Manager

Reviewed and Approved:

\_\_\_\_\_  
Michael J. Bobinsky, Director  
Department of Public Services

Approved as to form:

\_\_\_\_\_  
Corporation Counsel's Office

**CITY OF PORTLAND, MAINE  
CITY COUNCIL AGENDA REQUEST FORM**

**TO:** Sonia Bean, Senior Executive Assistant  
Theresa Tucker, Administrative Assistant

**FROM:** Michael Bobinsky, Director of Public Services

**CC:** John Peverada, Parking Manager  
Eric Labelle, PE, Assistant Director of Public Services/Operations Manager  
Katherine Earley, PE, Engineering Services Manager

**DATE:** May 15, 2014

1) Council Meeting at which action is requested:

1<sup>st</sup> reading: N/A  
Final action: June 2, 2014

2) Can action be taken at a later date:   X   Yes        No  
If not, why not?

3) This item is sponsored by: *The Department of Public Services and The Parking Control Division*, was reviewed by the Transportation, Sustainability and Energy Committee on May 21, 2014.

**If a memorandum addresses the following issues, you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.**

**I. SUMMARY OF ISSUE:**

The Department of Public Services and The Parking Control Division, request alterations to the Traffic Schedule for modifications of on-street parking on to benefit Fore Street and other Old Port area businesses. The change would result in a net increase in two (2) two-hour parking spaces on the south side of Fore Street west of Moulton Street.

**II. REASON FOR SUBMISSION:**

On Fore Street, area business owners have expressed an interest to have the City provide added on-street parking, which is generally at a premium in the Old Port. As such, Parking and DPS staff have begun to look at options for providing such additional parking.

**III. INTENDED RESULT:**

It is the intent that the additional two-hour spaces will provide additional opportunities for patrons in the Old Port to shop and dine without needing to provide more in the way of off-street facilities.

**IV**     **FINANCIAL IMPACT:**

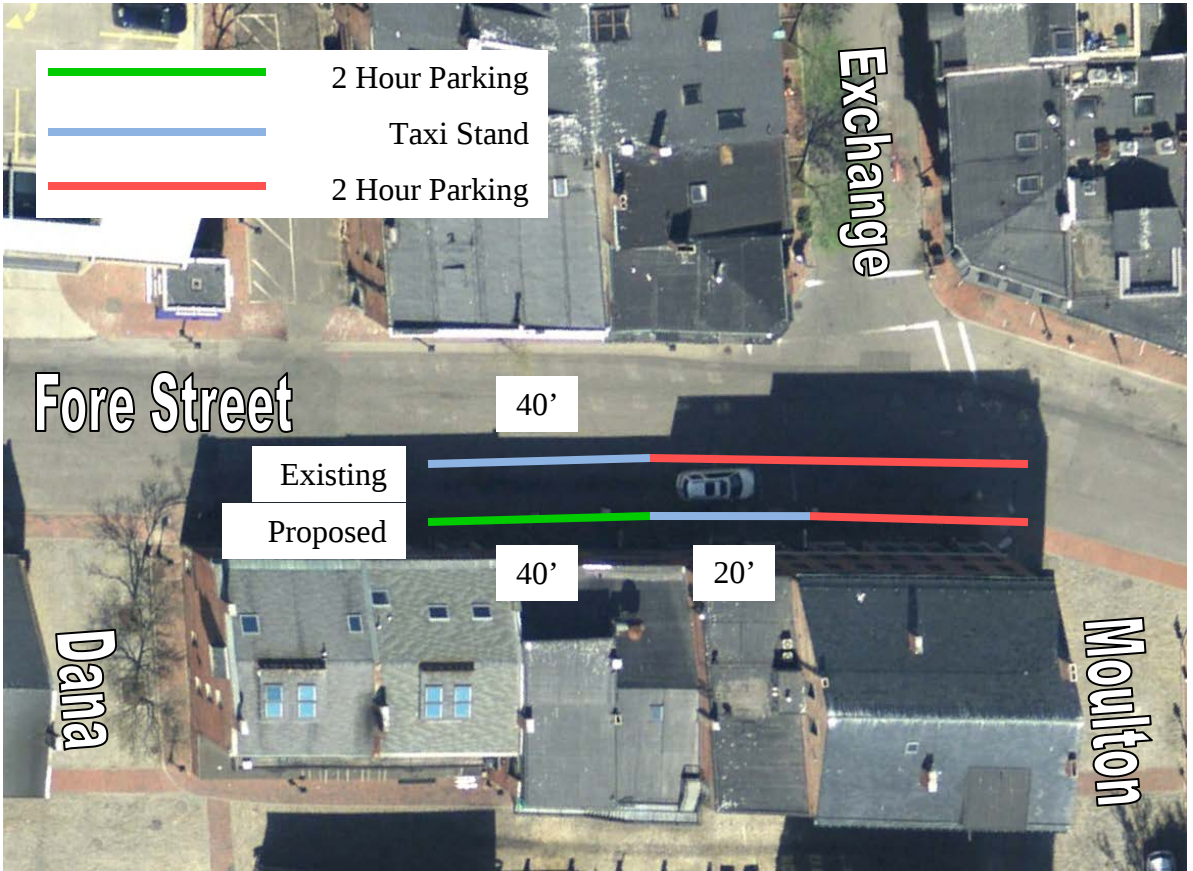
The costs of staff and equipment mobilization, plus signs and posts is estimated to be approximately \$750.00. The two metered spaces will likely generate approximately \$2,600 per year in additional revenue.

**V**     **STAFF ANALYSIS & RECOMMENDATION:**

The Department of Public Services and the Parking Control Division recommend this action to increase on street parking at this location and improve traffic flow.

**Attachments:**

- Council Order
- Exhibit B



MICHAEL F. BRENNAN (MAYOR)  
KEVIN J. DONOGHUE (1)  
DAVID A. MARSHALL (2)  
EDWARD J. SUSLOVIC (3)  
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND, MAINE**  
**IN THE CITY COUNCIL**

JOHN R. COYNE (5)  
JILL C. DUSON (A/L)  
JOHN M. ANTON (A/L)  
NICHOLAS M. MAVODONES, JR. (A/L)

**TRAFFIC SCHEDULE AMENDMENT**

**Ordered,** that the City of Portland's Traffic Schedule be and hereby is amended as follows:

**By deleting under Fore Street:**

South Side – from a point 50 feet easterly of Moulton to a point 90 feet easterly of Moulton – Schedule X – Taxi Zone

South Side – from a point 90 feet easterly of Moulton to a point 110 feet easterly of Moulton – Schedule I – No Parking

**By adding under Fore Street:**

South Side – from a point 50 feet easterly of Moulton to a point 90 feet easterly of Moulton – Schedule XXI – 2 Hour Parking (Metered)

South Side – from a point 90 feet easterly of Moulton to a point 110 feet easterly of Moulton – Schedule X – Taxi Zone

**Summary:**

**This version imposes a \$.10 fee on both plastic and paper single-use carryout bags.**

**The retailer keeps the fee without restriction on use.**

**The structure of and language of the fee (a ban on providing single use bags unless a minimum of \$.10 is charged) is taken directly from the ordinance adopted by San Jose, California in January 2011. San Jose has since adopted an outright ban (October, 2013).**

**It removes restaurants, farmers' markets, and drycleaners.**

**It makes the City Manager or his/her designee responsible for enforcement and for the grant of exemptions, rather than the Director of Public Services.**

**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 12 GARBAGE, WASTES AND JUNK  
ARTICLE IX. WASTE REDUCTION  
SECTIONS 12-230 THROUGH 12-237**

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

*That Chapter 12, Article IX, Sections 12-230 thru 12-237 of the  
Portland City Code is hereby enacted as follows:*

**12-230. Findings; purposes.**

The city council hereby finds as follows:

(1) The City Council has a duty to protect the natural environment and the health of its citizens and visitors; and

(2) The use of single-use carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and

(3) Despite recycling and voluntary solutions to control pollution from single-use carryout bags, very few single-use carryout bags are recycled; and

(4) Numerous studies have documented the prevalence of single-use carryout bags littering the environment, blocking storm drains, and endangering wildlife; and

(5) The City of Portland's taxpayers must bear costs associated with the effects of single-use carryout bags on the solid waste stream, drainage, litter, and wildlife; and

(6) The City, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-energy landfill) and supports efforts to achieve State recycle goals; and

(7) From an environmental and economic perspective, the best alternative to single-use carryout bags is to shift to reusable bags for shopping; and

(8) Whereas the City Council of the City of Portland aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and

(9) Evidence indicates that the vast majority of single-use carryout bags are used for the bagging and carryout of products purchased from Stores, as those business are defined in this Ordinance; and

(10) Studies document and participating municipalities report that prohibiting the free distribution of single-use carryout bags will dramatically reduce the use of those types of bags; and

(11) The City Council of the City of Portland believes that residents and visitors should use reusable bags and that prohibiting the free distribution of single-use carryout bags by stores is appropriate and will incentivize the use of reusable bags; and

(12) It is in the best interests of the health, safety and welfare of citizens and visitors of Portland to reduce the cost to the City of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution of single-use carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Ordinance.

#### **12-231. Definitions.**

As used in this Ordinance the following terms have the following meanings:

*Single-use carryout Bag.* Single-use Carryout Bag means a bag other than a Reusable bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term Single-Use Carryout Bag includes compostable and biodegradable bags but does not include reusable bags, produce bags, product bags or bags provided by pharmacists to contain prescription drugs.

*Produce bag or Product bag.* The terms *produce bag* or *product bag* mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from

coming into direct contact with other purchased items.

*Reusable Bag* means a bag that is:

- (a) Designed and manufactured to withstand repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) That is at least 2.25 mil thick if made from plastic;
- (d) Has a minimum lifetime of 75 uses; and
- (e) Has the capability of carrying a minimum of 18 pounds.

*Store.* The term *Store* means any of the following retail establishments located within the City of Portland:

- (a) a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- (b) a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.

"Store" does not mean:

Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be "incidental" if such sales comprise no more than 2 percent of the business's gross sales in the City as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

#### **12-232. Single-Use Carryout Bag**

- (a) No Store shall provide a Single-Use Carryout Bag to a Customer at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this

Section.

(b) A Store may make available for sale to a Customer a Single-Use Carryout Bag for a minimum charge of ten cents (\$0.10).

(c) All monies collected by a Store for Single-Use Carryout Bags under this Chapter may be used by the Store for any lawful purpose.

(d) All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout Bags.

(e) Notwithstanding this Section, no Store may make available for sale a Single-Use Carryout Bag unless the amount of the sale of the Single-Use Carryout is separately itemized on the sale receipt.

(f) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection (b).

#### **12-233. Exemptions.**

A Store shall be exempt from the provisions of this Article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public health or safety.

#### **12-234. Record Keeping and Inspection.**

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Single-Use Carryout Bag, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the City during regular business hours by any City employee authorized to enforce this Article. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store's address. The provision of false information including incomplete records or documents to the City shall be a violation of this Article.

#### **12-235. Violations and enforcement.**

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the City Manager or his/her designee(s) determines that a violation of this Article has occurred, he/she shall issue a written

warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

Violations of this Article shall be punishable by fines as follows:

- (a) A fine not exceeding \$250 for the first violation in a one-year period;
- (b) A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

**12-236. Effective Date**

The provisions of this ordinance shall become effective on April 1, 2015.

**12-237. Severability.**

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

**Summary:**

**This version imposes a \$.10 fee on plastic carryout bags. There is no restriction on paper bags.**

**The retailer keeps the fee without restriction on use.**

**The structure of and language of the fee (a ban on providing single use bags unless a minimum of \$.10 is charged) is taken directly from the ordinance adopted by San Jose, California in January 2011. San Jose has since adopted an outright ban (October, 2013).**

**It removes restaurants and drycleaners. Farmers' markets remain subject to the requirements of this ordinance.**

**It makes the City Manager or his/her designee responsible for enforcement and for the grant of exemptions, rather than the Director of Public Services.**

**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 12 GARBAGE, WASTES AND JUNK  
ARTICLE IX. WASTE REDUCTION  
SECTIONS 12-230 THROUGH 12-237**

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

*That Chapter 12, Article IX, Sections 12-230 thru 12-237 of the  
Portland City Code is hereby enacted as follows:*

**12-230. Findings; purposes.**

The city council hereby finds as follows:

(1) The City Council has a duty to protect the natural environment and the health of its citizens and visitors; and

(2) The use of plastic carryout bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and

(3) Despite recycling and voluntary solutions to control pollution from plastic carryout bags, very few plastic carryout bags are recycled; and

(4) Numerous studies have documented the prevalence of plastic carryout bags littering the environment, blocking storm drains, and endangering wildlife; and

(5) The City of Portland's taxpayers must bear costs associated with the effects of plastic carryout bags on the solid waste stream, drainage, litter, and wildlife; and

(6) The City, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-energy landfill) and supports efforts to achieve State recycle goals; and

(7) From an environmental and economic perspective, the best alternative to plastic carryout bags is to shift to reusable bags for shopping; and

(8) Whereas the City Council of the City of Portland aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and

(9) Evidence indicates that the vast majority of plastic carryout bags are used for the bagging and carryout of products purchased from Stores, as that term is defined in this Ordinance; and

(10) Studies document and participating municipalities report that prohibiting the free distribution of plastic carryout bags will dramatically reduce the use of those types of bags; and

(11) The City Council of the City of Portland believes that residents and visitors should use reusable bags and that prohibiting the free distribution of plastic carryout bags by stores is appropriate and will incentivize the use of reusable bags; and

(12) It is in the best interests of the health, safety and welfare of citizens and visitors of Portland to reduce the cost to the City of solid waste disposal, and to protect our environment and our natural resources by reducing the distribution of plastic carryout bags and incentivizing the use of reusable bags at Stores, as defined in this Ordinance.

#### **12-231. Definitions.**

As used in this Ordinance the following terms have the following meanings:

*Plastic Carryout Bag.* The term plastic carryout bag means any bag made predominantly from plastic derived from either petroleum or a biologically-based source, such as corn or other plant sources, which is provided to a customer at the point of sale. "Plastic carryout bag" includes compostable and biodegradable bags but does not include reusable bags, produce bags, product bags or bags provided by pharmacists to contain prescription drugs.

*Produce bag or Product bag.* The terms *produce bag* or *product bag* mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise to the point of sale inside a store or to prevent such items from

coming into direct contact with other purchased items.

*Store.* The term *Store* means any of the following retail establishments located within the City of Portland:

- (a) a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- (b) a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.
- (c) a vendor doing business at a farmer's market authorized under Chapter 21 of the Portland City Code.

"Store" does not mean:

Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be "incidental" if such sales comprise no more than 2 percent of the business's gross sales in the City as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

*Reusable Bag* means a bag that is:

- (a) Designed and manufactured to withstand repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) That is at least 2.25 mil thick if made from plastic;
- (d) Has a minimum lifetime of 75 uses; and
- (e) Has the capability of carrying a minimum of 18 pounds.

#### **12-232. Plastic Carryout Bag**

(a) No Store shall provide a Plastic Carryout Bag to a Customer at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this Section.

(b) A Store may make available for sale to a Customer a Plastic Carryout Bag for a minimum charge of ten cents (\$0.10).

(c) All monies collected by a Store for Plastic Carryout Bags under this Chapter may be used by the Store for any lawful purpose.

(d) All Stores must post signage clearly indicating the per bag charge for Plastic Carryout Bags.

(e) Notwithstanding this Section, no Store may make available for sale a Plastic Carryout Bag unless the amount of the sale of the Plastic Carryout Bag is separately itemized on the sale receipt.

(f) No Store shall rebate or otherwise reimburse a customer any portion of the minimum charge required in Subsection (b).

#### **12-233. Exemptions.**

A Store shall be exempt from the provisions of this Article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public health or safety.

#### **12-234. Record Keeping and Inspection.**

Every Store shall keep complete and accurate records or documents of the purchase and sale of any Plastic Carryout Bag, for a minimum period of three (3) years from the date of purchase and sale, which record shall be available for inspection at no cost to the City during regular business hours by any City employee authorized to enforce this Article. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the Store's address. The provision of false information including incomplete records or documents to the City shall be a violation of this Article.

#### **12-235. Violations and enforcement.**

The City Manager or his/her designee(s) shall have the primary responsibility for enforcement of this Article. If the City Manager or his/her designee(s) determines that a violation of this Article has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Article shall be subject to the penalties set forth below.

Violations of this Article shall be punishable by fines as follows:

- (a) A fine not exceeding \$250 for the first violation in a one-year period;
- (b) A fine not exceeding \$500 for the second and each subsequent violation in a one-year period.

**12-236. Effective Date**

The provisions of this ordinance shall become effective on April 1, 2015.

**12-237. Severability.**

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

**Summary:**

**This is the final proposed ordinance recommended by the Green Packaging Working Group – with the following amendments:**

- 1. The reference to the bag fee being subject to sales tax has been removed.**
- 2. A severability clause has been added.**

**AMENDMENT TO PORTLAND CITY CODE  
CHAPTER 12 GARBAGE, WASTES AND JUNK  
ARTICLE IX. WASTE REDUCTION  
SECTIONS 12-230 THROUGH 12-239**

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

*That Chapter 12, Article IX, Sections 12-230 thru 12-239 of the  
Portland City Code is hereby enacted as follows:*

**12-230. Findings; purposes.**

The city council hereby finds as follows:

(1) The City Council has a duty to protect the natural environment and the health of its citizens and visitors; and

(2) The use of disposable bags has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; and

(3) Despite recycling and voluntary solutions to control pollution from disposable bags, very few disposable bags are recycled; and

(4) Numerous studies have documented the prevalence of disposable bags littering the environment, blocking storm drains, and endangering wildlife; and

(5) The City of Portland's taxpayers must bear costs associated with the effects of disposable bags on the solid waste stream, drainage, litter, and wildlife; and

(6) The City, through its policies, programs, and laws, supports efforts to reduce the amount of waste that must be disposed of by supporting the waste management hierarchy (reduce, reuse, recycle, compost, waste-to-energy landfill) and supports efforts to achieve State recycle goals; and

(7) From an environmental and economic perspective, the best alternative to disposable bags is to shift to reusable bags for shopping; and

(8) Whereas the City Council of the City of Portland aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife, all of which increase the quality of life for the City's residents and visitors; and

(9) Evidence indicates that the vast majority of disposable bags are used for the bagging and carryout of products purchased from Stores and Restaurants, as those business are defined in this Ordinance; and

(10) Studies document and participating municipalities report that placing a mandatory fee on disposable bags will dramatically reduce the use of those types of bags; and

(11) The City Council of the City of Portland believes that residents and visitors should use reusable bags and that a fee on the distribution of disposable bags by stores and restaurants is appropriate to fund the City's efforts to educate residents, business, and visitors about the impact of trash on the regional environmental health and to fund the use of reusable carryout bags, City cleanup events and infrastructure and programs that reduce waste; and

(12) It is in the best interests of the health, safety and welfare of citizens and visitors of Portland to reduce the cost to the City of solid waste disposal, and to protect our environment and our natural resources by mandating a fee for disposable bags and incentivizing the use of reusable bags at Stores and Restaurants, as defined in this Ordinance.

#### **12-231. Definitions.**

As used in this Ordinance the following terms have the following meanings:

*Disposable Bag.* The term Disposable Bag means a bag that is not a Reusable Bag. Disposable Bag does not mean:

(a) Any bag without handles used exclusively to carry bulk items such as candy, small hardware items, nuts, grains, produce, meats, or other food items to the point of sale inside a store or to prevent such bulk items from coming into direct contact with other purchased items

(b) Bags used by consumers inside stores to:

- (1) contain or wrap flowers, potted plants, or other items where dampness may be a problem; or
- (2) contain unwrapped prepared foods or baker goods;
- (c) Bags provided by pharmacists to contain prescription drugs;
- (d) Newspaper bags, door-hanger bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags;

*Restaurant.* The term *restaurant* means a restaurant, take-out food establishment, food truck, food cart, or any other business, that receives ninety percent (90%) or more of its revenue from the sale of prepared food to be eaten on or off its premises.

*Store.* The term *Store* means any of the following retail establishments located within the City of Portland:

- (a) a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.
- (b) a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.
- (c) a vendor doing business at a farmer's market authorized under Chapter 21 of the Portland City Code.
- (d) a laundry or dry-cleaning business.

"Store" does not mean:

Businesses at which foodstuffs are an incidental part of the business. Food sales will be considered to be "incidental" if such sales comprise no more than 2 percent of the business's gross sales in the City as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

*Reusable Bag* means a bag that is:

- (a) Designed and manufactured to withstand repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) That is at least 2.25 mil thick if made from plastic;
- (d) Has a minimum lifetime of 75 uses; and
- (e) Has the capability of carrying a minimum of 18 pounds.

*Waste Reduction Fee.* The term Waste Reduction Fee means a City fee imposed and required to be paid by each consumer making a purchase from a Store or Restaurant for each Disposable Bag used during the purchase.

#### **12-232. Waste Reduction Fee Requirements**

- (a) Stores and Restaurants shall collect from customers, and customers shall pay, at the time of purchase, a Waste Reduction fee of \$0.10 for each Disposable Bag provided to the customer.
- (b) Stores and Restaurants shall record the number of Disposable Bags provided and the total amount of Waste Reduction Fee charged on the customer transaction receipt.
- (c) Stores and Restaurants shall not refund to the customer any part of the Waste Reduction Fee, nor shall a Store or Restaurant advertise or state to customers that any part of the Waste Reduction Fee will be refunded to the customer.
- (d) No Store or Restaurant shall exempt any part of the Waste Reduction Fee for any reason.

#### **12-233. Retention, Remittance, and Transfer of the Waste Reduction Fee.**

- (a) A Store or Restaurant may retain forty percent (40%) of each Waste Reduction Fee collected, which is the "Retained Percent."

(b) The Retained Percent may only be used by the Store or Restaurant to:

- (1) Provide educational information about the Waste Reduction Fee to customers;
- (2) Train staff in the implementation and administration of the fee;
- (3) Improve or alter infrastructure to allow for the implementation, collection, administration of the fee;
- (4) Collect, account for and remit the fee to the city;
- (5) Develop and display informational signage to inform consumers about the fee, encourage the use of reusable bags or promote recycling of disposable bags; and
- (6) Improve infrastructure to increase recycling of disposable bags.

(c) The amount of the Waste Reduction Fee collected by a Store or Restaurant in excess of the Retained Percent shall be paid to the City and shall be used only as set forth in subsection (g) to mitigate the effects of Disposable Bags in Portland.

(d) A Store or Restaurant shall pay and the City shall collect all Waste Reduction Fees over and above the Retained Percent. The City shall provide the necessary forms for Stores and Restaurants to file with the City, to demonstrate compliance with the provisions of this ordinance.

- (1) If payment of any amount due to the City is not received on or before the applicable due date, penalty and interest charges shall be added to the amount due as described in section 12-236, "Audits and Violations."

(e) The Waste Reduction Fee shall be administered by the City Manager. The City Manager is authorized to adopt interpretive rules to implement this chapter, prescribe forms and provide methods of payment and collection, due dates, and otherwise implement requirements of this chapter.

(f) Funds from the Waste Reduction Fee shall be used by the City only for the expenditures that are intended to mitigate the effects of Disposable Bags and other packaging materials, including without limitation the following:

(1) Administrative costs associated with developing and implementing the Waste Reduction Fee.

(2) Activities of the City to:

(A) Provide reusable carryout bags to residents and visitors;

(B) Educate residents, businesses, and visitors about the impact of Disposable Bags and other litter on the City's environmental health, the importance of reducing the number of single-use carryout bags entering the waste stream, and the expenses associated with mitigating the affects of single-use bags and other litter on the City's drainage system, transportation system, wildlife and environment;

(C) Fund programs and infrastructure that allow the Portland community to reduce waste associated with Disposable Bags and other packaging materials;

(D) Purchase and install equipment designed to minimize bag pollution, including, recycling containers, and waste receptacles associated with Disposable Bags;

(E) Fund community cleanup events and other activities that reduce trash associated with Disposable Bags and other litter;

(F) Mitigate the effects of Disposable Bags on the City's drainage system, transportation system, wildlife and environment;

(G) Maintain a public website that educates residents on the progress of waste reduction efforts including those associated with Disposable Bags; and

(H) Fund the administration of the Waste Reduction Fee program.

(g) No Waste Reduction Fees collected in accordance with this ordinance shall be used for general government purposes.

(h) Waste Reduction Fees collected in accordance with this chapter shall be continually available for the uses and purposes set forth in subsection (g) of this section without regard to fiscal year limitation. No Waste Reduction Fee funds shall be used for any purpose not authorized in this chapter.

#### **12-234. Required Signage for Restaurants and Stores.**

Every Store and Restaurant subject to the collection of the Waste Reduction Fee shall display a sign in a location outside or inside of the business, viewable by customers, alerting customers to the City of Portland's Waste Reduction Fee.

#### **12-235. Exemptions.**

A Restaurant or Store shall be exempt from the provisions of this Article, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public health or safety.

#### **12-236. Audits and Violations.**

(a) Each Store and Restaurant subject to the provisions of this chapter shall maintain accurate and complete records of the Waste Reduction Fees collected, the number of Disposable Bags provided to customers, the form and recipients of any notice required pursuant to this chapter, and any underlying records, including any books, accounts, invoices, or other records necessary to verify the accuracy and completeness of such records. It shall be the duty of each Store and Restaurant to keep and preserve all such documents and records, including any electronic information, for a period of three years from the end of the calendar year of such records.

(b) If requested, each Store and Restaurant shall make its records available for audit by the City Manager during regular business hours for the City to verify compliance with the provisions of this chapter. All such information shall be treated as confidential commercial documents.

(c) If any person fails, neglects, or refuses to collect the Waste Reduction Fee, or underpays the Waste Reduction Fee, the City Manager or his/her designee shall make an estimate of the fees due, based on available information, and shall add thereto

penalties, interest, and any additions to the fees. The Manager or his/her designee shall serve upon the delinquent Store or Restaurant personally, by electronic mail or by first class mail directed to the last address of the Store or Restaurant on file with the city, written notice of such estimated fees, penalties, and interest, constituting a Notice of Final Determination, Assessment, and Demand for Payment, (also referred to as "Notice of Final Determination") due and payable within 20 calendar days after the date of the notice. The Store or Restaurant may request a hearing on the assessment as provided in section 12-237, "Hearings."

(d) If payment of any amount of the Waste Reduction Fee to the City is not received on or before the applicable due date (as set by the City Manager), penalty and interest charges shall be added to the amount due in the amount of:

(1) A penalty of ten percent of total due;

(2) Interest charge of one percent of total penalty per month.

#### **12-237. Hearings.**

(a) A Store or Restaurant may request a hearing on any proposed fee imposed under this title after receiving a Notice of Final Determination, by filing a written request for hearing within 30 calendar days of the date of mailing of the Notice of Final Determination. The request for hearing shall set forth the reasons for and amount of changes in the Notice of Final Determination that the Store or Restaurant seeks and such other information as the manager may prescribe.

(b) The City Manager or his/her designee shall conduct the hearing within 10 days after the filing of the request and may affirm, reverse or modify the decision. Any decision made by the City Manager or his/her designee shall be supported by written findings of fact and conclusions of law.

(c) Appeal to the superior court. Any person aggrieved by a decision of the City Manager or his/her designee may appeal therefrom to the superior court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

#### **12-238. Effective Date**

The provisions of this ordinance shall become effective on April 1, 2015.

**12-239. Severability.**

If any part or provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of the Article, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable.

**TO:** Chairman Marshall and  
Members of Transportation, Sustainability & Energy Committee

**FROM:** Jennifer L. Thompson, Associate Corporation Counsel

**DATE:** May 16, 2014

**RE:** Proposed ordinance governing disposable bags

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At the Committee's April meeting, you asked me to follow up on a number of issues relating to your consideration of a potential ordinance either banning or imposing a fee on single-use bags in the City of Portland. This memo is intended to address those questions and issues.

1. At your request, I have communicated with Maine Revenue Service and can confirm that if an ordinance is enacted that requires vendors to charge customers a minimum price for disposable bags and allows the vendors to retain the money, that transfer will be subject to Maine State sales tax.
2. At your request, I am providing you with 4 clean versions of the proposed ordinance.

The First:

- requires vendors to charge at least \$0.10 for plastic bags provided at the point of sale;
- removes restaurants, food trucks, and dry cleaners from the list of businesses subject to the ordinance;
- retains supermarkets, grocery stores, convenience food store, drug stores, pharmacies and other stores selling food on the list of businesses subject to the ordinance.
- retains vendors in licensed farmers' markets on the list of businesses subject to the ordinance;
- makes the City Manager or his/her designee responsible for enforcement and for the grant of exemptions, rather than the Director of Public Services.

The Second:

- requires vendors to charge at least \$0.10 for both plastic bags and paper bags provided at the point of sale;
- removes restaurants, food trucks, vendors in a licensed farmers' market, and dry cleaners from the list of businesses subject to the ordinance;
- makes the City Manager or his/her designee responsible for enforcement and for the grant of exemptions, rather than the Director of Public Services.

The Third:

A clean copy of the ordinance originally proposed by the Green Packaging Working Group with the following changes: an added severability clause and removal of any reference to the taxability of bags provided to customers.

3. Permissibility of Setting Price Floor for Disposable Bags

Members of the Committee have asked whether there is any limitation on the City's authority to set a price floor for products sold in the City. Below is a non-exhaustive list of municipalities from around the country that have imposed a price floor similar to the one being contemplated by this Committee. As far as I am aware, there has been no successful legal challenge to any of these ordinances based on the fee or on a municipality's authority to set a price floor (there has, however, been litigation around the legality of some ordinances for other reasons).

- Palo Alto, California  
(See <http://www.cityofpaloalto.org/civicax/filebank/documents/34275>)
- San Jose, California (originally, a minimum charge was required. San Jose has since banned plastic bags)
- Santa Fe, New Mexico (originally a minimum charge was required. Santa Fe has since banned plastic bags)(See [http://www.santafenm.gov/reusable\\_bag\\_ordinance](http://www.santafenm.gov/reusable_bag_ordinance))
- Corvallis, Oregon (See <http://archive.corvallisoregon.gov/0/doc/368308/Electronic.aspx>)
- Eugene, Oregon (See <http://www.eugene-or.gov/plasticbags>)
- Kermit, Texas (See [http://www.kermitexas.us/re-claim\\_kermit/plastic\\_bags\\_q\\_and\\_a.php](http://www.kermitexas.us/re-claim_kermit/plastic_bags_q_and_a.php))

I find no discussion of the legality of a municipality in Maine imposing a similar price floor. I do note, however, that under the Home Rule provisions of Maine's Constitution, municipalities have the authority to enact legislation "on all matters, not prohibited by Constitution or general law, which are local and municipal in character." I find no prohibition against setting minimum prices on disposable bags in Maine State law. That is not to say, of course, that such a price floor will not be challenged.