

1. Agenda

Documents: [10.7.15 AGENDA.PDF](#)

2. Approval Of July 15, 2015 Meeting Minutes

Documents: [TSE MEETING NOTES 7 15 15.PDF](#)

3. Action Items: (Public Comment Will Be Taken On These Items)

3.I. Traffic Schedule Amendment- Endorse/Forward To City Council

1. Hemlock/Valley Streets On-street Parking

Documents: [CONGRESS VALLEY A STREETS MEMO.PDF](#), [CONGRESS, VALLEY A STREETS COUNCIL ORDER.PDF](#), [PARKING CHANGE REQUEST TO JUDY HARRIS SEPT 28 2015.PDF](#)

3.II. Private Parking Lot Ordinance

Documents: [MEMO PRIVATE PARKING LOTS.PDF](#), [PARKING LOT ORDINANCE CHICAGO IL.PDF](#), [28-284 ARTICLE VIII. LICENSING OF BOOTING OF MOTOR VEHICLES.PDF](#)

4. Communication Items: (No Public Comment Will Be Taken)

4.I. Complete Streets Policy Implementation Update

4.II. Transportation Planning Initiatives Status Report

Documents: [TRANSPORTATIONPLANNINGSTUDIESSTATUSREPORT.PDF](#)

4.III. Stormwater Utility Sample Billing

Documents: [STORMWATER BILLING.PDF](#)

4.IV. Update On Polystyrene And Plastic/Paper Bag Ordinance

5. Committee Updates/Input Sought:

5.I. Pesticides

Documents: [APPLICATIONSDISTRICTING.PDF](#), [MEMO HERBICIDES 10 2 2015.PDF](#), [SCHOOL GROUND.PDF](#), [UPDATED PESTICIDE AND HERBICIDE USAGE ON CITY OWNED PROPERTY.PDF](#)

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

Transportation, Sustainability and Energy Committee

DATE: 10/7/2015
TIME: 5:30 PM
LOCATION: Room – Council Chambers
City Hall

AGENDA

1. Approval of July 15, 2015 Meeting Minutes
2. Action Items: (Public Comment will be taken on these items)
 - A. Traffic Schedule Amendment- Endorse/forward to City Council
 1. Hemlock/Valley Streets On-street Parking
 - B. Private Parking Lot Ordinance
3. Communication Items: (No Public Comment will be taken)
 - A. Complete Streets Policy Implementation Update
 - B. Transportation Planning Initiatives Status Report
 - C. Stormwater Utility Sample Billing
 - D. Update on Polystyrene and Plastic/Paper Bag Ordinance
4. Committee Updates/Input Sought:
 - A. Pesticides

Councilor David A. Marshall, Chair
Councilor Jon Hinck, Vice Chair
Councilors Justin Costa 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 Justin Costa (D4)

July 15, 2015

Meeting Minutes

Attendees: Councilor David Marshall, Councilor Kevin Donoghue, Councilor Jon Hinck, Michael Bobinsky, Bruce Hyman, Melissa Graffam, Troy Moon, Jeremiah Bartlett, Doug Roncarati, John Perverada, Michael Goldman

1. Approval of June 17, 2015 Meeting Minutes

Motion made by Councilor Donoghue to approve said meeting minutes. Seconded by Councilor Hinck. Motion Passed 3-0.

2. A. Middle and India Streets (Parking Meters to be installed)

Communication Item

3. A. Solid Waste Study

The Department of Public Services with Kessler Consulting looked at key elements of the present operations, existing curbside collection services and recommendations to modernize the existing service level with new equipment. The report provided an assessment of program improvement opportunities and cost implications. Peter Engle from Kessler Consulting went through the presentation.

Councilor Donoghue asked about non-recyclable trash considerations. Troy Moon replied that the technology would be the same application for the waste collection. Councilor Donoghue also asked about recycling with a bag versus a bin. Peter Engle replied that they have found that homeowners are finding it more complicated to recycle with a bag than with a bin as there is an issue as where to put them in your home.

The Committee took public comment.

Roseanne Graef, Salem Street Resident- Concerned about safety issues. How dangerous of a job it is for people. Incentive program is not the greatest way to go. Rewards for quickness and not correctly doing the job. Safety issues for going too fast. When during a hurried job, stuff gets all over the street. Also issue with open bins, cans/cardboard have food on them and animals get in it. Composting should be an option. In regards to out sourcing, it needs to remain a municipal function.

Carrie Lord, Deering Street Resident – Ditto to what Roseanne Graef stated. Safety is an issue. Guy in the back of the truck is jumping off before the truck has stopped. Trying to pick up too much at a time. In the winter, the recycling bins are fragile. If the City is going to make us pay for them, they need to be more careful with them. Concerned about recycling bins for tenants.

Robert Hains, Holm Avenue Resident – Incentive to go home early instead of doing a good job. Prom is the immediate supervisors. He never sees them and they get little or no training. Mentioned another area in the country where they have different colored lids for trash/recycling and collection is every other week, the other week is heavy item pick-up. There is never trash all around.

Mike Bobinsky mentioned that staff shares the same concerns about the incentive. Currently, it is a contractual feature in that union. Staff will be looking at this in the future.

Councilor Donoghue asked what improves the customer experience for someone/how is it easier to use a cart? Troy Moon said that it reduces litter. Makes more room to recycling and gives them more curbside recycling opportunities to recycle more.

Councilor Hinck asked the following questions; if dog waste could go in the compost and how much waste do the plastic recycling bags produce? Peter Engle replied that it regarding composting dog waste it depends on the community. Regarding how much trash the recycling bags would make, he is not sure.

Other incentives could be the size of the cans. Paying for certain sized cans, such as smaller trash can would promote more composting/recycling. Councilor Hinck mentioned that research seems to show that across the country there are more cans with lids than with bags. Peter Engle said that he is not quite sure about that information, but in New England a tagged bag or a colored bag is used more often.

Councilor Hinck also asked how much more assessments do we intend to do in Solid Waste? He also suggested adding South Portland as a resource since they report a lower recycling rate. Troy Moon mentioned that ecomaine and the University of Southern Maine is currently during a character waste study with student interns. They are going through and categorizing and weighing out trash and recycling throughout the city. Troy also mentioned that they are doing a vehicle assessment and looking at different options.

This would all need to be FY17 budget considerations as staff would need time to order vehicles and carts, etc.

Councilor Marshall would like to see a more in depth analysis regarding to options for PAYT and move away from the plastic bags. Councilor Hinck would be more comfortable to see the report/page about PAYT out of the report.

Councilor Marshall is not comfortable moving this forward until more information is given.

Councilor Hinck made a motion to move this item to September's meeting. Seconded by Councilor Donoghue. Motion passed 3-0.

3. B. State and High Streets (One-way to Two-way Conversion)

Tom Errico from TY Lin presented the Committee with their presentation.

The Committee took public comment.

David Lacasse, High Street Resident - Supports the change.

Ian Jacob, State Street Resident – Support the change.

Anne Pringle, Friends of Deering Oaks and Resident – Supports restoring the two-way traffic. Hopes that the Committee recommends forwarding to council. Quality of life for residents, pedestrian and bicyclists will increase. Cost is lower to for this project than the Franklin or Spring Street projects.

Chris Cantwell, Portland Society of Architects – Supports the two-way change. Would remove the negative impact of pedestrians crossing and bicyclists. The change would help strive to understand the history and architecture of State and High Streets. Would reunite the West End to the Peninsula.

Brian Peterson, Gorham Resident- It is not true that speed causes accidents with vehicles, bicyclists and pedestrians. That is not true, only one was due to speeding. You will have to raise taxes to pay for this project. No MaineDOT funding that he knows of. He does not support this project.

Carrie Lord, Deering Street Resident- This project was proposed 25 years ago. Appropriate signage was not placed around the Fore River Bridge arterial. This bridge/area was designed to divert traffic from High and State Street; the signage does not tell people where/how to go. These are pedestrian areas and it is hard to cross the street.

Pandora Lacasse, High Street Resident- Supports the change. Neighborhood connectors are not arterial connectors. Need traffic flow that is pedestrian and vehicle friendly.

Marie Gray, State Street Resident – Parkside Representative on the task force. Would have supported this at the June 3, 2015 meeting had she been able to attend.

Robert Hains, Holm Avenue Resident – Has lived in the west end for 30 plus years. Doesn't know how publicized these meetings were, as he didn't attend. A Maine saying "If it ain't broke, don't fix it". Ban cars and car ownership on the west end, let's go back 90 years to horse and buggies, but we can't its 2015. City has a need for monetary funds for other projects. Pedestrians don't follow the rules, more so than drivers. They push the button and just go when there is an opening. We have great needs in this city. This is a fantasy project. I'm in the majority since I don't live on State and/or High Streets.

Councilor Hinck asked what the estimated cost increase change would be for snow removal. Mike Bobinsky that the snow removal cost increase would be for snow removal. We bring in hired contractors and need to haul the snow away. This anticipating we would need to keep these lanes open and clear. Currently, we don't remove snow unless it's a hazard.

Committee members support more wayfinding signs at the Fore River Parkway.

Motion made by Councilor Donoghue to recommend forwarding this to City Council. Seconded by Councilor Hinck. Motion passed 3-0.

3. C. Warren Avenue Purchase and Sales Agreement

Motion made by Councilor Donoghue to forward this item to City Council for full consideration. Seconded by Councilor Hinck. Motion passed 3-0.

3. D. Commercial Street at Long Wharf – Removal of Two Parking Meters

Motion made by Councilor Hinck to remove two parking meters. Seconded by Councilor Donoghue. Motion passed 3-0.

4. A. Pesticide Task Force

To be discussed at a future meeting.

Meeting adjourned at 7:40pm.

MEMORANDUM
Agenda request

TO: Mayor Michael Brennan & City Councilors

FROM: Jeremiah Bartlett, PE, PTOE, Transportation Systems Engineer

DATE: October 2, 2015

DISTRIBUTION: Jon Jennings, City Manager
Michael Brennan, Mayor
Anita LaChance, Assistant City Manager
Bob Leeman, Acting Director of Public Services
Sonia Bean, Executive Assistant
Danielle West-Chuta, Corporation Counsel
Nancy English, Paralegal
Julie Sullivan, Chief of Staff
John Peverada, Parking Manager
Katherine Earley, PE, Engineering Services Manager
Bruce Hyman, Transportation Program Manager

SUBJECT: Endorse Amendment to Traffic Schedule – Congress, Valley & A Streets

SPONSORS: Jon Jennings, City Manager
Councilor David Marshall, Chair, Transportation, Sustainability and Energy Committee

If approved by the TS & E committee at their October 7, 2015 meeting, this proposal will be forwarded to the full City Council for action on the dates below.

COUNCIL MEETING DATE ACTION IS REQUESTED:

1ST Reading: October 21, 2015 Final Action: TBD

Can this Action be taken at a later date? Yes No (if no, why not) –.

PRESENTATION: None

I. SUMMARY OF ISSUE

The Department of Public Services, supported by Parking Division and the St. John Valley Street Neighborhood Association wish to convert parking in the St. John, Valley and Congress Street area to limit the parking to 2 hours (there are additional restrictions for street cleaning already in place, which will remain the same.)

II. REASON FOR SUBMISSION

As stated in the letter from the neighborhood association and confirmed by Traffic Section staff, parking in the area has become difficult as employees of Maine Medical Center and other businesses are using the street parking for entire days.

III. INTENDED RESULT

Employees of neighboring businesses will relocate to lots and garages in place for long term parking and street parking will turn over on a more regular basis.

IV. COUNCIL GOAL ADDRESSED

This proposed change will further the goals of greater parking turnover in neighborhoods providing for greater opportunity for all residents.

V. FINANCIAL IMPACT

Sign Changes: \$1000

Staff Time (Equivalent): \$600

Total: \$1,600

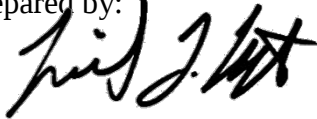
VI. STAFF ANALYSIS & RECOMMENDATION

The Departments of Public Services and the Traffic Division have reviewed this change and formally support this action.

LIST ATTACHMENTS

- Exhibit A: Council Order
- Exhibit B: Graphic
- Letter of Support from neighborhood association

Prepared by:



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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID BRENERMAN (5)
JILL C. DUSON (AIL)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (AIL)

TRAFFIC SCHEDULE AMENDMENTS

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

- Deleted:** **A Street** - Northside - from a point 43 easterly of Valley Street to a Point 25 feet westerly of Valley Street. **Schedule I - No Parking Anytime**
- Deleted:** **A Street** – Northside From a point 21 feet westerly of Gilman to a point 43 feet easterly of Valley – **Schedule VII – 1 hour parking**
- Added:** **A Street** –Northside – from a point 20 feet easterly of Valley Street to a point 20 feet westerly of Valley Street. **Schedule I – No Parking**
- Added:** **A Street** – Northside – from a point 102 feet from the intersection of A Street and Gilman and running westerly to a point 20 feet westerly of Valley – **Schedule XVIII – 2 hour Parking**
- Added:** **A Street** – Northside – from St. John Street and running easterly to a point 82 feet From the intersection of St. John and A Street – **Schedule I No parking**
- Added:** **A Street** – Northside – from a point 102 feet from the intersection of St. John and Valley and running easterly to a point 112 feet from the same intersection – **Schedule I – No Parking**
- Added:** **A Street** – Northside – From a point running 112 feet from intersection of St. John and A Street and running easterly to a point 20 feet from the intersection of Valley and A Streets. **Schedule XVIII – 2 hour parking**
- Added:** **A Street** – Northside - from a point the Intersection of A Street and Gilman and running 102 feet westerly – **Schedule 1 – No parking**
- Added:** **A Street** – Southside – from the intersection of St. John Street and Valley Streets and running 20 feet easterly – **Schedule 1 – No Parking**
- Added:** **A Street** – Southside – from a point 20 feet from the intersection of St. John and A Streets And running to a point 80 westerly of the intersection of Valley and A Streets. – **Schedule XVIII 2 hour Parking**
- Added:** **A Street** – Southside - From the intersection of Valley and A Streets and running 80 feet westerly **Schedule I – No Parking**

- Added: A Street – Southside – From the intersection of Valley & A Streets and running 20 westerly – Schedule 1 – No Parking**
- Added: A Street – Southside - From a point 20 feet from the intersection of Valley and A Streets and running 80 feet easterly – Schedule XVIII – 2 Hour Parking**
- Added: A Street; - Southside - From a point 80 feet from the intersection of Valley and A Streets and running easterly 40 feet – Schedule 1 – No Parking**
- Added: A Street – Southside - From a point 120 feet from the intersection of Valley and A Streets and running easterly 60 feet – Schedule XVIII – 2 Hour Parking**
- Added: A Street – Southside - From the intersection of Gilman and A Streets and running 20 feet – Schedule I – No Parking**
- Added: Valley Street – Westside – from the intersection of Congress and Valley Streets and running southerly 20 feet on Valley Street – Schedule I – No parking**
- Added: Valley Street – Westside - from a point 20 feet southerly of the intersection of Congress and Valley and running to 60 feet – Schedule XVI – 30 Minute Parking**
- Added: Valley Street - Westside – from a point 60 feet from the Intersection of Congress and Valley Streets and running westerly 300 feet to the curb cut for parking – Schedule XVIII - 2 Hour Parking**
- Added: Valley Street – Westside – from a point 360 feet from the intersection Congress and Valley and running to the Intersection of Valley and A Streets – Schedule I – No Parking**
- Added: Valley Street – Eastside – from the intersection of Congress and Valley and running southerly 420 feet. – Schedule I – No Parking**
- Added: Valley Street – Eastside – from a point 420 feet southerly of the intersection of Congress and Valley and running southerly to a point 20 feet from the intersection of Valley & A Streets – Schedule XVIII – 2 Hour Parking**
- Added: Valley Street – Eastside – from the intersection of Valley and A Streets and running northerly to a point 20 feet from the intersection, - Schedule I – No Parking**
- Added: Congress Street – Southside – from the intersection of Congress and Valley Streets and running westerly 20 feet – Schedule I – No Parking**
- Added: Congress Street – Southside – from 20 feet from the intersection of Congress and Valley Streets and running to 40 feet from the intersection – Schedule XVI – 30 Minute Parking**
- Added: Congress Street – Southside – from 40 feet from the intersection of Congress and Valley, running westerly to the intersection of Congress and St. John Streets. – Schedule I – No Parking**

St John Valley Neighborhood Association
Portland, Maine
Stjohnvalley@live.com
Est 2008

September 28, 2015

Judith H. Harris, Manager
Transportation Policy &
Regulatory Compliance
City of Portland
Dept. Of Public Services
55 Portland Street
Portland, Maine 04101
Tel: 207-874-8828
jh@portlandmaine.gov

Re: Unregulated Parking: Valley, A and Hemlock Streets

Dear Ms Harris

We write to request a shift to time restricted parking on the following streets in our neighborhood:

Valley Street between A Street and Congress
A Street between St John and Gilman Street
Hemlock Street from Congress to the dead end of that street.

We would like parking to be restricted to one or two hours daily between the hours of 9am and 9pm.

This request comes from the frequent frustration of local residents and property owners who are unable to find on street parking within a block or two of their own homes. Parking in these requested change areas are quite often occupied all day by employees or vendors of Maine Medical Center or in the evening or weekend by event goers to Hadlock Field or the Portland Expo. In the case of Hemlock Street, only one side is available for parking and those spots are frequently occupied by vehicles under repair or by non-residents of the Hemlock /Cherry Street neighborhood.

As a neighborhood Association we understand that this process involves review by the Transportation, Sustainability and Energy Committee and then the City Council. We also understand that some degree of outreach is required to property owners and abutters who may be impacted by this shift.

Please direct me as to what steps our group might take next to facilitate this shift from unregulated parking to time restricted parking in our neighborhood.

Sincerely,
Tim McNamara
St John Valley Neighborhood Association

CITY OF PORTLAND

MEMORANDUM

TO: Chairman Marshall and Members of the Portland Transportation, Sustainability & Energy Committee
CC: Jon P. Jennings, City Manager
FROM: Danielle P. West-Chuhta, Corporation Counsel
DATE: October 1, 2015
RE: **Private Parking Lot Ordinance**

Recently several City Councilors and the Chair of the Transportation, Sustainability & Energy Committee (the “Committee”) requested that I research the ability for the City to regulate the practice of “booting” vehicles on private parking lots, and then discuss my research further with the Committee. As requested, the following is a summary my research on this issue:

Authority to Regulate Private Parking Lots

Title 30-A M.R.S. section 3001 grants the City broad home rule authority to enact ordinances. More specifically, it provides as follows:

“Any municipality, by the adoption, amendment or repeal of ordinances or bylaws may exercise any power or function which the Legislature has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution of Maine, general law or charter.”

Municipalities regularly regulate business activities on private property in many different contexts based on this aforementioned home rule ordinance authority, provided the municipality can satisfy the constitutional standards for substantive due process under the 14th Amendment by demonstrating that the proposed ordinance is a reasonable exercise of its police powers (i.e. that the regulation of the activity in question is needed in order to protect the health, safety and welfare of the people of the City of Portland). *E.g.*, *Crosby v. Inhabitants of Town of Ogunquit*, 468 A. 2d 996 (Me. 1983).

Here, the regulation of private parking lots is another example of a private business activity that the City has the authority to regulate since it would be seeking to protect the the safety of persons and their motor vehicles within the corporate limits of the city and to further effectuate the efficient enforcement of parking requirements on private lots.

How to Regulate Private Parking Lots

In researching regulation of private parking lots throughout the United States, several example ordinances were found. Two such examples (from Chicago, IL and Walnut Creek, NC) are attached hereto for your reference. As you will see in the examples, municipalities have chosen to regulate private parking lots in various ways including, but not limited to:

- 1) Requiring the private parking lot/“booting” company obtain a license from the municipality;
- 2) Requiring that the “booting” company have insurance and undergo a criminal background check;
- 3) Setting a limit on fees to remove the “boot” from a vehicle;
- 4) Requiring the presence of an employee of the “booting” company at each private parking lot (so that questions can be answered, etc.);
- 5) Requiring prompt removal of the “boot” from a vehicle;
- 6) Banning the practice of “booting” outright within the municipality; and/or
- 7) Requiring notice (i.e. signs) of a certain size, lettering and location at each private parking lot, which would put the public on notice that the lot in question is a private (not municipal) lot, that the lot in question uses the practice of the “booting” vehicles who stay in the lot longer than they have paid for, and also notifies the public of the cost to remove the “boot” from the vehicle.

Staff Recommendation

In attempting to determine the recommended policy direction for the City, the City Manager considered the following:

1. **Sign Requirements:** He wanted the signs located at the private parking lot to be large; to specify that the lot was not a municipal lot; specify clearly that the person's car can be booted if they overstay the time paid; and that all the signs are to be displayed prominently, especially at all entrances and exits of the lot;
2. **Licensing/Permitting:** The primary focus with this requirement was to make sure that the company provide proof of a minimum of \$100,000 in liability insurance and have a background check; and
3. **Effect on Other Portland Businesses/Property Owners:** The goal was to make sure that we understood that any proposed ordinance would affect all private parking lot businesses besides the one identified private parking lot currently using the “booting” practice on its lots in the City. Most of the ordinances that I reviewed were geared towards private property owners who hired a contractor to “boot” trespassing vehicles on their property. I'm not aware of whether Portland private parking lot owners/operators typically do the same (as opposed to simply towing the cars, which is widely used practice in other municipalities on private parking lots), but if so, we wanted to ensure (by going through the Committee process, etc.) that those owners/operators are aware that they would also be subject to any new ordinance/requirements.

With these considerations in mind, the attached recommended draft ordinance addressing the practice of “booting” on private parking lots within the City is put forward for your review. The draft ordinance specifically regulates and requires that each private parking lot owner/operator (who chooses to “boot” vehicles) obtain a license from the City, and have

sufficient insurance coverage in place. It also requires the parking lot owner/operator to have at least three (3) signs on the property putting the public on notice that the lot is a private (and not municipal) parking lot, that it “boots” vehicles, and the cost to remove the “boot” from the vehicle.

ARTICLE XXIII. BOOTING OF MOTOR VEHICLES (4-6-230 et seq.)

4-6-230 Booting of motor vehicles.

(a) *Definitions.* As used in this section:

“Boot” or “booting” means the act of placing on a parked motor vehicle any mechanical device that is designed to be attached to a wheel or tire or other part of such vehicle so as to prohibit the vehicle's usual manner of movement.

“Motor vehicle” means every vehicle which is propelled by a motor.

(b) *Exemptions.* The requirements of this section shall not apply to the booting of a motor vehicle by the City of Chicago or any governmental entity or to any person acting under the direction of the City of Chicago or any governmental entity, when booting of a motor vehicle is authorized by any provision of law or any rule or regulation promulgated thereunder.

(c) *Application – Additional information required.* In addition to the requirements set forth in Section 4-4-050, an application for, and, if requested, renewal of, a regulated business license to engage in the business of booting of motor vehicles shall be accompanied by the following information:

(1) proof of commercial general liability insurance, as required under subsection (f)(1) of this section;

(2) a statement as to whether, within three years of the date of application or renewal, (i) the applicant, or (ii) any employee or agent of the applicant who physically installs or removes booting devices or receives payment for removing booting devices, has ever been convicted, in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type.

(d) *Departmental duties.*

(1) The commissioner shall notify the superintendent of police and district police commanders within the affected service area of all licenses issued under this section.

(e) *License issuance and renewal – Prohibited when.* No license to engage in the business of booting of motor vehicles shall be issued to the following persons:

(1) any applicant or licensee, as applicable, if, within three years of the date of application or renewal, (i) such applicant or licensee, or (ii) any employee or agent of such applicant or licensee who physically installs or removes booting devices or receives payment for removing booting devices, has ever been convicted, in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type. Provided, however, that the commissioner may accept as proof of an employee's or agent's lack of disqualifying convictions an affidavit from a private detective licensed in Illinois, certifying that the detective has examined the criminal history and record of the employee or agent, and that, within the last three years, the employee or agent has not been convicted, in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type. The commissioner may specify a form for the affidavit by rule.

(2) any applicant or licensee, as applicable, who is found liable of misrepresenting or falsifying his or her criminal history or that of any employee or agent within the meaning of subsection (e)(1) of this section.

(f) *Legal duties.* Each licensee engaged in the business of booting of motor vehicles shall have a duty to:

(1) maintain in full force and effect at all times throughout the duration of the license period commercial general liability insurance, with limits of not less than \$500,000.00 per person and not less than \$1,000,000.00 per incident, arising in any way from the issuance of a license. The policy of insurance required under this subsection shall (i) be issued by an insurer authorized to insure in the State of Illinois; (ii) name the City of Chicago as additional insured; and (iii) include a provision requiring 30 days' advance notice to the commissioner prior to cancellation or lapse of the policy. A copy of such certificate of insurance shall be kept on the licensed premises, and, upon request by any authorized city official, shall be made available for inspection by such authorized city official;

(2) conduct booting operations exclusively on private property, and only pursuant to a written agreement with the owner or manager of the property;

(3) post, no fewer than 14 days prior to the commencement of a booting operation at each and every location where a booting operation is to be conducted, and to maintain in a conspicuous location, a minimum of two signs no smaller than 24 inches in height and 36 inches in width, setting forth: (i) the date upon which a booting operation shall commence; (ii) the terms of use of the subject property; (iii) the fee for removal of a boot; (iv) the name, address and a 24-hour telephone number for the licensee; (v) the name and telephone number of the property owner or manager; and (vi) a statement notifying consumers of their rights under this section with language provided by the department. Such signs shall remain in place as long as a booting operation is being conducted;

(4) remove, upon discontinuation of booting operations at a property, the signs required under subsection (f)(3) of this section. The licensee, the property owner and the property manager shall be jointly and severally liable for any violation of this subsection;

(5) station, at every location where a licensee conducts booting operations, at least one employee or agent to install and remove boots and to receive payments. Each such employee or agent shall (i) wear, in a conspicuous manner, an identification placard clearly displaying the name of such employee or agent and the name, address and telephone number of the licensee; and (ii) carry on his or her person a copy of the license issued under this section. Prior to leaving the location where booting operations are conducted, the employee or agent stationed at the location shall remove all boots from vehicles at that location;

(6) place on the windshield of every vehicle that is booted a copy of the "Consumer Bill of Rights", the text of which shall be provided by the department, and to make copies of this document available to persons upon request;

(7) keep copies of the "Consumer Bill of Rights" at the licensed premises and, upon request by any person, to make copies of this document available to such person;

(8) maintain sufficient copies of this Section 4-6-230 for distribution to any person requesting a copy of this ordinance;

(9) immediately remove a boot from any motor vehicle, at no charge, if the owner of the motor vehicle returns prior to complete attachment of the boot;

(10) have available means of collecting any fees, via cash and credit card, at each and every location where a booting operation is conducted;

(11) notify the Chicago Police Department of any booted vehicle that remains in a lot or garage for over 24 hours;

(12) maintain at the licensee's place of business minimum business hours of 9:00 a.m. to 5:00 p.m., Monday through Friday;

(13) provide the owner of a booted vehicle with a legible receipt, which shall indicate (i) the date and time the boot was placed on the vehicle; (ii) the date and time the owner returned to the vehicle; and (iii) the date and time the boot was removed from the vehicle. Such receipt shall include the name of the person who installed the boot and shall clearly state that the owner has the option to pay any fees assessed in connection with the booting operation by credit card. The licensee shall keep on file at the licensed premises, for a period of at least three years from the date of its issuance, a copy of the receipts required to be provided under this paragraph (13), and, upon request by any authorized city official, shall make a copy of such receipt(s) available for inspection by such authorized city official.

(g) *Prohibited acts.* It shall be unlawful for any licensee engaged in the business of booting motor vehicles to:

(1) provide booting service at any property at which any person having a beneficial interest in the licensee also has a beneficial interest in the subject property;

(2) place a boot upon any occupied motor vehicle or upon any motor vehicle parked in accordance with the terms of use for the subject property;

(3) assess a fee in excess of \$140.00 to remove a boot;

(4) use any boot of a color prohibited by the commissioner in duly promulgated rules and regulations. The commissioner may prohibit any color which might be confused with a boot used by the City as part of the City's vehicle immobilization program; and

(5) engage in booting operations at any location that is outside the 1st Ward, 12th Ward, 15th Ward, 21st Ward, 22nd Ward, 23rd Ward, 25th Ward, 26th Ward, 27th Ward, 30th Ward, 32nd Ward, 33rd Ward, 34th Ward, 36th Ward, 37th Ward, 38th Ward, 40th Ward, 42nd Ward, 43rd Ward, 44th Ward, 45th Ward, 46th Ward, 47th Ward, 48th Ward, or 49th Ward.

(h) *Violation – Penalty.* In addition to any other penalty provided by law: Any person who violates any provision of this section or any rule or regulation promulgated thereunder shall be subject to a fine of not less than \$1,000.00 nor more than \$2,000.00 for each violation. Any licensee who violates any provision of this section two times at one location within any 180-day period shall be prohibited from conducting booting operations at that location for a period of one week. Each day that a violation continues shall constitute a separate and distinct offense.

(Added Coun. J. 5-9-12, p. 27485, § 16; Amend Coun. J. 6-6-12, p. 28356, § 1B; Amend Coun. J. 11-8-12, p. 38872, § 69; Amend Coun. J. 4-10-13, p. 51200, § 1; Amend Coun. J. 11-26-13, p. 68766, § 1; Amend Coun. J. 6-25-14, p. 83687, § 1)

Walnut Creek, NC**CHAPTER 10. PRIVATE PARKING LOTS****6-10.01 Definitions.**

- a. "Business hours" mean the period from one hour before a business is open for customers until the business' closing time for customers. For parking spaces designated for users of automated teller machines, or for employee, tenant or other non-customer reserved parking, "business hours" shall mean 24 hours a day.
- b. "Mail-in parking fee" or "mail-in parking charge" means a charge for parking in an offstreet parking lot affixed to a vehicle whose driver is not authorized by signs to park in the offstreet parking lot for no fee.
- c. "Notice of a parking charge" means a written document affixed to a vehicle which notifies the vehicle driver of a mail-in parking fee that is due as a result of unauthorized parking in an offstreet parking lot.
- d. "Offstreet parking lot" means privately owned property that is generally held open to the public, or a discernible portion thereof, for the parking of vehicles at no fee.
- e. "Person" shall mean any natural person, firm, company, corporation, partnership, or association.
- f. "Private parking operator" means any person who owns or controls, or person who acts on behalf of or at the behest of a person who owns or controls, an offstreet parking lot. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02 and by §1, Ord. 2010, eff. 3/20/03)

6-10.02 Compliance with This Chapter.

It shall be unlawful, and an unfair business practice within the meaning of Business and Professions Code Section 17200 for any person in an offstreet parking lot to charge a mail-in parking fee, or to issue or cause to be issued a notice of parking charge that is not in compliance with this chapter. Any notice of parking charge that is not in compliance with this chapter shall be invalid. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02 and by §1, Ord. 2010, eff. 3/20/03).

6-10.03 Mail-in Fees, Issuance of Notices of Parking Charges.

- a. During normal business hours a private parking operator may charge a mail-in parking fee to owners of vehicles parked in the lot without authorization.
- b. Where an offstreet parking lot of a closed business is in actual use for valet parking by an off-site business which is open for business and while valet parking is occurring additional signs are posted prohibiting all public parking a private parking operator may charge a mail-in parking fee to owners of vehicles parked in the lot without authorization.
- c. Where an offstreet parking lot of a closed business utilizes a lock-box or other device requiring payment before parking, a private parking operator may charge a mail-in parking fee to owners of vehicles parked in the lot without authorization.

d. Except as provided in subsection (b) and (c), no mail-in parking fee shall be charged by a private parking operator outside of normal business hours for parking spaces designated for customer parking only during business hours. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02 and by §1, Ord. 2010, eff. 3/20/03)

6-10.04 Amount of Fee.

No mail-in parking fee charged pursuant to this chapter shall exceed the initial amount of bail for violation of Municipal Code Section 4-6.301 (signed private parking) which currently is \$20. No late charge or other fee shall be imposed unless expressly authorized by a resolution of the City Council. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00 §1, Ord. 2004, eff. 11/14/02 and by §1, Ord. 2010, eff. 3/20/03)

6-10.05 Additional Requirements-Signs

In addition to meeting the requirements of section 6-10.03 signs shall be posted as required by this section.

a. No mail-in parking fee shall be charged and no notice of parking charge shall be issued unless there are in place signs substantially in the form required by this chapter.

b. Signs shall contain a statement that the parking is restricted. For example:

"Parking for XXX Customers Only"

"Free Parking for XXX Customers Only"

"This Space Reserved for XXX"

"Parking for Tenants Only"

"Pay at Lock-box when Store Closed"

"Parking Lot Closed-Valet Parking Only"

c. Signs shall contain a statement with the fee for unauthorized parking. For example:

"All Unauthorized Parking \$20"

" Immediate \$20 Fee for Unauthorized Parking"

d. Signs shall contain a statement with the hours the parking restrictions are in force during which a mail-in parking fee may be charged. For example:

"\$20 Fee Enforced During All Business Hours"

"Reserved Parking Restrictions Enforced 24 Hours A Day"

"Pay at Lock-box when Store Closed"

e. Signs must be posted at each entrance and exit to the lot, and must be visible from each restricted parking space. Where different restrictions apply to parking spaces with common entrances and exits,

the restrictions applicable to each space shall be clearly delineated. The sign at each entrance shall include text or a symbol, to the approval of the Community Development Director, indicating that the offstreet parking lot has been certified by the City to allow private enforcement of parking controls within the lot.

f. The Community Development Director is hereby authorized to establish uniform sign sizes, colors, sizes of lettering, and other information that may be required on all signs in order to be in compliance with this section. If the Director establishes such criteria, all signs required by this chapter shall be brought into compliance within 60 days. The Director may authorize signs that vary from subsections (b) through (d), and such signs shall be deemed to be in compliance with this section.

g. Signs which indicate that a customer may park for no fee shall indicate whether the authorized parking is only for the time the customer is on the premises or whether it is for a limited duration of time. In the absence of such designation, a customer shall not be charged a mail-in parking fee.

h. Nothing in this chapter shall be construed to modify the requirements Municipal Code Section 4-6.301 imposes on persons who seek to have the vehicles towed or have the City of Walnut Creek issue citations. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00; §1, Ord. 2004, eff. 11/14/02 and by §1, Ord. 2010, eff. 3/20/03)

6-10.06 Notice of Parking Charges.

a. No person shall place on any vehicle a notice of a parking charge which does not contain at the top of the notice in at least 12 point print the words "INVOICE" followed by "PARKING FEE IMPOSED BY XXX," inserting the name and street address of the business whose customers are designated to use the customer only parking during normal business hours.

b. No person shall place on any vehicle a notice of a parking charge which does not contain in at least 10 point print the listed Walnut Creek telephone number of the business whose customers are designated to use the customer only parking.

c. Where the reserved parking space is for someone other than a customer, the information required by subsection (a) and (b) shall be replaced with the corresponding information of the person who owns or controls the reserved parking space.

d. Every notice of parking charge shall end with the legend "This parking charge notice is not issued by the City of Walnut Creek." This provision shall be in a least 12 point print.

e. No notice of parking charge shall display any feature that resembles a City of Walnut Creek parking citation. The notice of parking charge shall be a color distinctive from a City parking citation. The Chief of Police shall approve the color or colors of the notice of parking charge.

f. Every notice of parking charge shall state that the business identified in subsection (a) may cancel the mail-in parking charge at any time for any reason. The categorical refusal of the business identified in subsection (a) to review a notice of parking charge upon request shall void the mail in parking fee.

g. Every notice of parking charge shall provide fair notice of the dispute resolution procedure described in §6-10.08. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02) and by (§1, Ord. 2010, eff. 3/20/03)

6-10.07 Registration of Private Parking Operators and Certification of Offstreet Parking Lots.

- a. Every private parking operator who issues notices of parking charges shall register with the Community Development Director before doing business in City of Walnut Creek. In addition to the information required by this section, the Community Development Director may require such other information as may enable the Director to determine compliance with this chapter. The fee for registering and amending the registration shall be set by City Council resolution.
- b. The registration shall include the name, address and telephone number of the private parking operator, the names, home and business addresses and telephone numbers of each person owning 10% or more of the business, and the Walnut Creek business license number of the business.
- c. The registration shall also include a list of all offstreet parking lots where mail-in parking fees are charged, which shall be updated prior to any new lot being added or within one month of any lot being dropped, along with the name, address and telephone number of each contact person or person authorized to resolve disputes for each offstreet parking lot.
- d. Every private parking operator shall maintain for at least one year a list by offstreet parking lot of the notices of parking charges issued for each offstreet parking lot. This list shall be broken down by date, and for each date shall show the time, the parking violation and the license number of the vehicle issued the notice of parking charge. Upon request, these records or copies of these records shall be furnished to the Community Development Director.
- e. On and after July 1, 2003 no notice of parking charge shall be issued in an offstreet parking lot unless the signing for the offstreet parking lot has been certified as being in compliance with this chapter. The Community Development Director shall do the certification. The frequency of the certification and the charge for certification of parking lots shall be fixed by resolution of the City Council. The certification may be withdrawn or suspended by the Director following notice and opportunity for a hearing if (i) the signing for the offstreet parking lot is found to be out of compliance with this chapter, (ii) if private parking charges are found to have been issued in violation of this chapter for parking in the lot, or (iii) if the private parking lot operator engaged in any other acts or omissions constituting a violation of this chapter with relation to the offstreet parking lot.
- f. Any private parking lot owner aggrieved by a decision of the Director under subsection (e) may, within five business days of receipt of the decision, appeal the decision in writing to the City Manager who shall, following a hearing affirm, reverse or modify the decision of the Director. The decision of the City Manager shall be final. Upon the final administrative determination to suspend or withdraw the certification of an offstreet parking lot, the text or symbol indicating certification of the lot shall be immediately removed. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02) and by (§1, Ord. 2010, eff. 3/20/03)

6-10.08 Dispute Resolution.

a. Every private property operator issuing notices of parking charges shall establish a written dispute resolution policy for contested parking charges that shall comply with this section. A copy of the current policy shall be filed with the Community Development Director. Every such policy shall contain the provision that allows the retailer, business or property owners who has issued the notice of parking charge, or authorized notices to be issued, to cancel the notice and parking charge at any time for any reason.

b. For a period of 21 calendar days from the issuance of a notice of parking charge or 14 calendar days from the mailing of a notice of delinquent parking charge, a person may request an initial review of the notice by the private parking operator. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, the private parking operator is satisfied that the unauthorized parking did not occur, that the registered owner was not responsible for the charge, or that extenuating circumstances make dismissal of the charge appropriate in the interest of justice, the private parking operator shall cancel the notice of parking charge or notice of delinquent parking charge. The private parking operator shall mail the results of the initial review to the person contesting the notice.

c. If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the charge no later than 21 calendar days following the mailing of the results of the private parking operator's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking charge with the private parking operator. The private parking operator shall provide a written procedure to allow a person to request an administrative hearing without payment of the parking charge upon satisfactory proof of an inability to pay the amount due. Notice of this procedure shall be provided to all persons requesting an administrative hearing. An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this section. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

d. The administrative hearing process shall include the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the City of Walnut Creek.

(2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking charge without the necessity of the appointment of a guardian. The private parking operator may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the private parking operator and approved by the Community Development Director. The hearing shall provide an independent, objective, fair, and impartial review of contested parking charges.

(4) (A) The private parking operator shall contract with an independent third party that is not controlled by a private parking operator who shall provide qualified examiners to conduct the administrative hearings. Examiners shall demonstrate those qualifications, training, and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are as a private parking operator, parking charge processing, collection, or issuance. The examiner shall be separate and independent from the parking charge collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of parking charges collected by the examiner.

(B) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The private parking operator may reimburse the examiner for those costs. Training may be provided through (i) an accredited college or university, (ii) a program conducted by the Commission on Peace Officer Standards and Training, (iii) American Arbitration Association or a similar established organization, or (iv) through any program approved by the Chief of Police, including a program developed and provided by, or for, the City. Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, private parking operator procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication. Upon the approval of the Chief of Police, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of the training requirements described in this subparagraph may be credited to an individual, at the discretion of the Chief of Police, based upon training programs or courses described in (i) to (iv), inclusive, that the individual attended within the last five years.

(5) The person who issues a notice of parking charge shall not be required to participate in an administrative hearing. The private parking operator shall not be required to produce any evidence other than the notice of parking charge or copy thereof and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the charge.

(6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail.

(7) Following a determination by the examiner that a person owes the charge, the examiner may allow payment of the parking charge in installments, or a private parking operator may allow for deferred payment or allow for payments in installments, if the person provides evidence satisfactory to the examiner or the private parking operator, as the case may be, of an inability to pay the parking penalty in full. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02) and by (§, Ord. 2010, eff. 3/20/03

6-10.09 Unauthorized Business Practices.

a. No private parking operator shall utilize the Denver boot or other similar device that is attached to the vehicle and which immobilizes the vehicle.

b. No person shall report or threaten to report an unpaid notice of a parking charge to a credit bureau or a collection agency unless a small claims court or other judicial proceeding has established the

debt. No person shall take any action or threaten to take any action to collect, or contact with another person who takes or threatens to take any action to collect an unpaid notice of a parking charge other than to seek establishment of the debt in a small claims court or other judicial proceeding.

c. No private parking operator shall pay any employee or independent contractor a salary or fee that is in any way based on the number of notices of private parking charges they issue.

d. Every private parking operator who collects a mail in parking charge in violation of this chapter shall refund the fee to the owner of the vehicle (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02) and by (§1, Ord. 2010, eff. 3/20/03)

6-10.10 Application to Core Area.

a. This chapter shall only apply within the Core Area of Walnut Creek as that portion of Walnut Creek is designated in the Planning Boundaries map shown in Chapter 1, Figure 2, of the Walnut Creek General Plan.

b. The City Council may by resolution designate other areas of the City of Walnut Creek where the provisions of this chapter shall be applicable. (§2, Ord. 1940, eff. 3/4/99; §1, Ord. 1971, eff. 10/19/00, §1, Ord. 2004, eff. 11/14/02 and by §1, Ord. 2010, eff. 3/20/03)

6-10.11 Penalty.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor or an infraction.

a. If charged as an infraction, the penalty upon conviction of such person shall be a fine as set forth in §1-2.01 of this code.

b. If charged as a misdemeanor, the penalty upon conviction of such person shall be imprisonment in the county jail for a period not to exceed six months, or a fine not exceeding \$1,000 of by both such fine and imprisonment. (§1, Ord. 2010, eff. 3/20/03)

The Walnut Creek Municipal Code is current through Ordinance 2140, passed July 7, 2015.

Disclaimer: The City Clerk's Office has the official version of the Walnut Creek Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Draft Sections 28-284 to 28-293 of new Article VIII.

[We would need to add this license and a fee to Section 15-12.]

ARTICLE VIII - LICENSING OF BOOTING OF MOTOR VEHICLES

Sec. 28-284. Purpose; permit and license required.

(a) The purpose of this article is to:

1. Regulate the imposition of a vehicle disabling device known as a boot and the imposition of a punitive fine by private parking lot business in order to protect the health, safety and welfare of the public; and
2. Promote the safe and legal operation of private parking lots for the use and convenience of businesses and the general public; and
3. Ensure by licensing the regulation of persons engaged in the business of providing private parking spaces, to establish maximum fines imposed by such businesses to the extent permitted by law, to regulate the disposition of vehicles that are disabled, and to set fees and penalties for the enforcement thereof.

(b) No person, establishment or entity shall be permitted to disable vehicles in the course of operating a private parking lot within the City of Portland without first obtaining a permit from the city clerk's office and paying the fee therefor.

Sec. 28-285. Definitions

Boot or Booting means the act of placing on a parked motor vehicle any mechanical device that is designed to be attached to a wheel or tire or other part of such vehicle so as to prohibit the vehicle's usual manner of movement.

Private parking lot means an area reserved for parking motor vehicles that is under the ownership or control of a private parking lot company.

Private parking lot company or owner means a business entity or individual engaged in the business of providing parking in a private parking lot.

Sec. 28-286. Exemptions

The requirements of this Article shall not apply to the booting of a motor vehicle by the City of Portland and its representatives, when booting of a motor vehicle by the City of Portland and its representatives is authorized by the Portland City Code.

Sec. 28-287. General provisions to apply.

Except to the extent that this article contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions herein, including application, licensing authority, license fee, standards for denial, suspension or revocation, appeal of denial, suspension or revocation, noticing of hearings and transferability of license.

Sec. 28-288. Application.

An application for, and, if requested, renewal of, a regulated business license to engage in the business of booting of motor vehicles shall be accompanied by the following information:

(a) Proof of commercial general liability insurance, as required under section 28-288; and

(b) A statement as to whether, within three years of the date of application or renewal, (i) the applicant, or (ii) any employee or agent of the applicant who physically installs or removes booting devices or receives payment for removing booting devices, has ever been convicted, in custody, under parole or under any other non-custodial supervision resulting from a conviction in a court of any jurisdiction for the commission of a felony of any type.

Sec. 28-289. Grounds for denial, revocation or suspension.

In addition to the grounds for revocation, suspension or denial found in chapter 15, a license issued under this Article may be suspended or revoked or denied by the city clerk upon a determination that the private parking lot company licensee, or applicant, or private parking lot owner, hereinafter "license holder":

(a) Violated any of the requirements or regulations established herein or by the City Manager under this article;

(b) Has been given a disqualifying criminal conviction at any time during the three (3) years immediately preceding application; or has been imprisoned at any time during said period for a disqualifying criminal conviction; provided that said conviction was for an offense which is rationally related to the purpose of providing private parking;

(c) Has not maintained required insurance;

(d) Has failed to show proof of a valid driver's license;

(e) Has failed to correct violations of this Article or conditions of the license within (3) three days of notice of the violations;

(f) Is found in violation of the same offense two (2) times within a permit period; or

(g) Made any false statements or omission of material fact on the application, site plan or elsewhere in connection with securing a permit

Sec. 28-290. Legal Duties

Each licensee engaged in the business of booting of motor vehicles shall have a duty to:

(a) Maintain in full force and effect at all times throughout the duration of the license period commercial general liability insurance, with limits of not less than \$500,000.00 per person and not less than \$1,000,000.00 per incident, arising in any way from the issuance of a license. The policy of insurance required under this subsection shall:

1. Be issued by an insurer authorized to insure in the State of Maine;
2. Name the City of Portland as additional insured; and
3. Include a provision requiring 30 days' advance notice to the City of Portland prior to cancellation or lapse of the policy. A copy of such certificate of insurance shall be kept on

the licensed premises, and, upon request by any authorized city official, shall be made available for inspection by such authorized city official; and

(b) Conduct booting operations exclusively on private property, and only pursuant to a written agreement with the owner or manager of the property;

(c) Post, at each and every location where a booting operation is to be conducted, and maintain in a conspicuous location a minimum of three (3) signs no smaller than 24 inches in height and 36 inches in width, setting forth:

1. That the private parking lot is not a municipal parking lot;
2. The fee for removal of a boot;
3. The name, address and a 24-hour telephone number for the licensee;
4. The name and telephone number of the property owner or manager; and
5. Such signs shall remain in place as long as a booting operation is being conducted; and

(d) Include on each and every booted vehicle and for every vehicle from which a boot has been released a notice or receipt setting forth:

1. The fee for removal of a boot;
2. The name, address and a 24-hour telephone number for the licensee;
3. The name and telephone number of the property owner or manager;
4. A statement notifying consumers of their rights under this section with language provided by the department;
5. The date and time the boot was placed on the vehicle;

6. The date and time the owner returned to the vehicle;
 7. The date and time the boot was removed from the vehicle. Such receipt shall include the name of the person who installed the boot and shall clearly state that the owner has the option to pay any fees assessed in connection with the booting operation by credit card; and
 8. The licensee shall keep on file at the licensed premises, for a period of at least three years from the date of its issuance, a copy of the receipts required to be provided under this paragraph and, upon request by any authorized city official, shall make a copy of such receipt(s) available for inspection by such authorized city official; and
- (e) Maintain sufficient copies of this Article VIII for distribution to any person requesting a copy of this ordinance;
- (f) Immediately remove a boot from any motor vehicle, at no charge, if the owner of the motor vehicle returns prior to complete attachment of the boot;
- (g) Have available means of collecting any fees, via cash and credit card, at each and every location where a booting operation is conducted; and
- (h) Maintain at the license holder's place of business minimum business hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.

Sec. 28-291. Prohibited Acts

It shall be unlawful for any licensee engaged in the business of booting motor vehicles to place a boot upon any occupied motor vehicle or upon any motor vehicle parked in accordance with the terms of use of the subject property.

Sec. 28-292. Regulations May Be Promulgated by City Manager

The City Manager or his or her designee shall be responsible for the supervision of all matters relating to private parking lot companies in the city and shall promulgate,

and from time to time amend, rules and regulations for the guidance, government, and conduct of private parking lot company operations.

Sec. 28-293. Violations/Enforcement

In addition to any other penalty provided by law: Any person who violates any provision of this section or any rule or regulation promulgated thereunder shall be subject to a fine of not less than \$500 for each violation. Any licensee who violates any provision of this section two times at one location within any 180-day period shall be prohibited from conducting booting operations at that location for a period of one week. Each day that a violation continues shall constitute a separate and distinct offense.

City of Portland Transportation Planning Studies

Status Report: October 1, 2015

Transportation Planning Studies/Initiatives Underway

Bruce Hyman, Transportation Program Manager

Franklin Street Feasibility Study, Phase 2 (PACTS UPWP)

Project Manager: Jeremiah Bartlett, DPS

Status: 100% complete, unanimous endorsement by TS&E Committee in May 2015; adopted unanimously by City Council in July 2015 as a Master Plan.

Upcoming meetings: None

Key next steps: Preliminary Design Report

Expected Completion Date: Spring 2016 for PDR (30% design) for Franklin Street: Marginal Way to Oxford Street.

Somerset Street Re-Connection, Phase II

Project Manager: Mike Farmer, DPS

Status: 80% complete, draft final report being completed by consultant

Upcoming meetings: none scheduled

Key next steps: Finalize feasibility study final report (Phase 2); Update recommended Phase I design for construction of Somerset St from Elm Street to Hanover Street (TBD); seek Phase II study TS&E Committee endorsement.

Expected Completion Date: TBD.

Libbytown Circulation and Streetscape Study (PACTS UPWP)

Project manager: Jeremiah Bartlett, DPS

Status: On-hold pending additional funding for completion, 80%+ complete

Upcoming meetings: None scheduled

Key next steps: Secure funding to complete study (TBD)

Expected completion date: TBD.

High-State Streets Two-way Study

Project manager: Tom Errico, TY Lin

Status: 90% complete (need final report); Endorsed by PAC 7-2-2 in May or June 2015; Endorsed unanimously by TS&E Committee (July 2015)

Upcoming meetings: None scheduled

Key next steps: Council workshop (TBD) and public hearing by full Council (TBD).

Expected completion date: Fall 2016.

Hub-Link Transit Study (PTC-METRO Pulse-Casco Bay Lines/Ocean Gateway) (PACTS UPWP)

Project manager: Bruce Hyman, P&UD

Status: Draft final report under staff review

Upcoming meetings: none scheduled, October stakeholder and public meeting anticipated

Key next steps: Draft final report finalized; stakeholder and public meeting

Expected completion date: November 2015.

City of Portland Transportation Planning Studies

Status Report: October 1, 2015

West Commercial Street Master Plan (PACTS UPWP)

Project manager: Bill Needelman, Waterfront Coordinator

Status: 2nd and final public workshop held (September 2015)

Upcoming meetings: None scheduled

Key next steps: Develop recommendations; draft final report

Expected completion date: no later than December 2015

Martin's Point Bridge Pathway Feasibility Study (PACTS UPWP)

Project Manager: Bill Needelman, Waterfront Coordinator/Bruce Hyman, P&UD

Status: 2nd and final public workshop held (September 2015)

Upcoming meetings: None scheduled

Key next steps: Develop recommendations; draft final report

Expected completion date: no later than December 2015

Bayside Transportation Master Plan (PACTS UPWP)

Project manager: Bruce Hyman, P&UD

Status: Held 1st of three public workshops (September 2015); developing future conditions analysis and alternatives

Upcoming meetings: 2nd public workshop (October 29, Merrill Rehearsal Hall, 6-8 PM)

Key next steps: Future conditions analysis, alternatives development, alternatives analysis, 2nd public workshop

Expected completion date: no later than December 2015.

Bikeway Network (Arterial Streets) Expansion (PACTS UPWP)

Project manager: Kristine Keeney, P&UD

Status: Bikeway alternatives development and evaluation

Upcoming meetings: Reconvening of BNWG in October 2015, public meeting November 2015

Key next steps: Field work and data collections, develop short-list of alternatives, assessment by PACTS consultant

Expected completion date: no later than December 2015

Strategic Transportation Plan

Project manager: Bruce Hyman, P&UD

Status: Survey complete (1186 responses); draft Vision and Goals; developing strategies and implementation plan

Upcoming meetings: None scheduled

Key next steps: Finalize survey analysis; write draft plan

Expected completion date: Winter 2015-2016.



To: Transportation, Sustainability and Energy Committee Members
From: Nancy Gallinaro, Water Resource Manager
Date: October 2, 2015
Subject: Stormwater Utility Sample Billing

Immediately following the January vote to move forward with a stormwater Utility, the Stormwater Implementation Team was formed. The team, consisting of Public Services/Water Resources, Finance, MIS/GIS and planning met monthly to coordinate the work flow and data flow needed to provide a seamless process for our citizens seeking assistance and information.

The Urban Insight data base was expanded to include the Stormwater Utility, enabling us to track customer calls, complaints, track credit applications with planning and award credits through finance/billing. We also have a process for updating the GIS property mapping as adjustments to property is required. Credit Appeals can also be tracked in Urban Insight.

In July and August a Stormwater Engineer (Justin Pellarin) and Customer Service Specialist (Catherine Ellis) were added to the Water Resources team. These positions allow us to assist the public with questions, concerns, property look-ups and site visits. Coupled with our Stormwater Coordinator, Doug Roncarati, we have been able to respond to the large volume of inquiries and concerns. The Water Resources WEB site has also been developed to aid in our ability to provide applications, information and ideas.

The first set of sample bills went out September 15th (1400) to those with annual bills over \$500.00/year. The second set of sample bills went out on September 22th (19,000) for those under \$499.00 down to \$25.00/year. As of October first we experienced the following activity;

Stormwater Utility Update:

Stormwater Utility Calls, Public Services: 272

Stormwater Utility Calls, Finance >100

Stormwater Engineer Site Visits: 21

Commercial Property Site Visits: 7

Residential Property Site Visits: 14

Residential Credit Applications Received: 3

Residential Credit Applications reviewed and approved: 2

Impervious Area Appeals Received: 8

Impervious Area Appeals Processed: 4

Emails Received and responded: 90 +

Stormwater Utility Calls and emails:

Since July the Stormwater Utility team has handled over 270 calls and 90 plus emails that include general inquiries on the impending stormwater service charge, questions about how to apply for both



residential and commercial stormwater credits, requests on how to appeal impervious area assessments and commercial property owners requesting site visits to determine if existing stormwater controls may be eligible for stormwater credits.

Site Visits:

Since early August the Water Resources division's stormwater engineer has performed 21 site visits to both residential and commercial properties. The site visits have included investigation for impervious area appeals, visiting both commercial and residential properties to determine if existing stormwater controls will meet the credit standards or simply meeting with residents to discuss the stormwater service charge and how their property impacts the city's stormwater systems.

Prior to August, the city's stormwater coordinator performed 14 site visits to some of the properties that are going to be most heavily impacted by the stormwater service charge. The site visits were conducted to make the property owners aware of the charge and to tell them about the potential to earn stormwater credits.

Residential Credit Applications:

The stormwater utility has received 3 residential stormwater credit applications. The credit applications have been reviewed by the city's stormwater engineer and two have been approved. The residential applications received have been for existing stormwater controls that meet the stormwater credit manual criteria.

Impervious Area Appeals:

The stormwater utility has received 8 impervious area appeals. The city's stormwater engineer has visited five of the sites and performed an assessment of the new information. The five sites that have been visited have been reviewed and a more accurate impervious area total is in the process of being updated in the system.

We are hopeful that beginning in January the City will have electronic billing and bill pay through My On Line Bill.

Herbicide Applications -- Streets

PDD	Curblines	See map	Product glyphosate
D1	Address	Project Area	
	Plowman Street	Traffic Island at Anderson Street	glyphosate
	Marginal Way	Traffic Island at Franklin Street	glyphosate
	Marginal Way	Traffic Island at Preble Street	glyphosate
	Franklin Street	Traffic Island at Cumberland Avenue	glyphosate
	Franklin Street	Curb Line, Marginal Way to Cumberland Avenue	glyphosate
	Preble Street	Traffic Island at Baxter Boulevard	glyphosate
	Forest Avenue	Curb Line, Marginal Way to Fessenden Street	glyphosate
	Washington Avenue	Curb Line, Tukey's Bridge to Congress Street	glyphosate
	Fore Street	Curb Line from India Street to the Eastern Promenade, South Side Only	glyphosate
	Preble Street	Curb Line in Back Cove Parking Lot	glyphosate
D2	Deering Avenue	Curb Line from Park Avenue to Washburn	glyphosate
	Park Avenue	Traffic Islands at St. John	glyphosate
	Park Avenue	Under RR bridge	glyphosate
	State Street	Traffic island at York Street	glyphosate
D3	Park Avenue	Large traffic island near Denny's	glyphosate
	Congress Street	Curb line, inbound from Denny's to St. John Street	glyphosate
	Congress Street	Traffic island at Frost Street	glyphosate
	Congress Street	Traffic island at Johnson Road	glyphosate
	Congress Street	Curb line and sidewalk, Westbrook St. to Elks Club	glyphosate
	Johnson Road	Curb line, Congress St. to South Portland Line & traffic islands	glyphosate
	Congress Street	Overpass - bridge & guardrail	glyphosate
	Brighton Avenue	Traffic islands at Rand Road	glyphosate
	Rand Road	Curb line, Pine Tree Pkwy to interstate toll booths	glyphosate
	Brighton Avenue	Traffic island at Riverside Street	glyphosate

	Forest Avenue	Curb line around Woodfords Corner intersection	glyphosate
D4	Forest Avenue Baxter Boulevard Forest Avenue	Curb line, Walton Street to Read Street Brick Bridges and walls around the planter at Saunders Street	glysphosphate glysphosphate glysphosphate
D5	Riverside Street Warren Avenue Forest Avenue Bishop Street	Curb line, Warren Avenue to Washington Avenue Curb line, Riverside Street to Joker's Traffic island at Warren Avenue Curb line, Forest Avenue to Mayfield	glysphosphate glysphosphate glysphosphate glysphosphate

Herbicide Treatments -- Parks and Open Spaces

Eastern Cemetery
Winslow Park
1812 Cemetery
Eastern Promenade
Back Cove Trail
Back Cove Trail (spur under Tukey's Bridge)
Cleave Monument
Urban Squares
Valley Street
Veteran's Memorial (Fore River Pkwy)
Western Cemetery
Devonshire Park
Heseltine Park
Ocean Avenue Landfill Cap
Evergreen Cemetery
Fessenden Street Park
Deering Oaks Park
Eastern Promenade
Western Promenade
Longfellow Square

Fence Line and walls
Curb Line and Sidewalk
Fence Line
Railroad Tracks near Cutter Street Crossing
Fence Line
Fence Line
Inside fenced area
Spot treatment around benches & planters
Anchor Park (around Anchor only)
around memorial
Area above tombs (applied to woody vegetation after mowing)
Brick Sidewalks only
Curb line on Ocean Avenue and Irving Street only
Apply to Knotweed annually per DEP maintenance plan
Spot treatments on walks and fence lines as needed
Spot treatments in flower beds to control weeds 1 -3 x yearly
Spot treatments in flower beds to control weeds 1 -3 x yearly
Spot treatments in flower beds to control weeds 1 -3 x yearly
Spot treatments in flower beds to control weeds 1 -3 x yearly
Spot treatments in flower beds to control weeds 1 -3 x yearly



Michael J. Bobinsky
Director of Public Services

To: Members of the Transportation, Sustainability and Energy Committee
From: Troy Moon, Environmental Programs and Open Space Manager
Re: Herbicide Applications by the Dept. of Public Services
Date: 10/2/2015

At the request of the Chair, we have prepared several documents regarding pesticides and their use in the City of Portland.

See below for a description of pesticide use by the Department of Public Services. A supplemental document indicates locations where the Department provides spot applications of herbicide to prevent weed growth from damaging public infrastructure.

Staff from Recreation and Facilities Management uses best management practices as described the Maine Board of Pesticide Control in order to manage turf at the City's athletic facilities and at Riverside Golf Course. Please find the attached document describing this methodology.

Corporation Counsel has drafted ordinance language designed to regulate the use of chemical treatments on City property. Please see the attachment.

Staff will be present to discuss these documents and to provide more detail in current practices used by City staff to manage and maintain facilities and infrastructure.

Current practices of the Department of Public Services

Streets:

Our department has a limited program to apply glyphosate (Round Up) strategically to control the growth of weeds in highly visible and/or difficult to maintain areas. These are typically curb lines, traffic islands and medians, and around key infrastructure such as bridges and retaining walls. See attached the list of locations for spot treatments. Our service contract with Portland Downton District requires weed control. To facilitate this service, we apply treatment to curb lines and around street furniture on most streets in this service area.

The purpose of the application is to prevent the growth of weeds which are unsightly but, more importantly, damage infrastructure if left to grow unchecked.

Our staff has found that ongoing treatment under the current program has reduced the amount of treatment required as weed growth is kept controlled in key locations.

These programmed applications are conducted under contract with a licensed applicator or by City staff who are licensed applicators. The annual cost is \$10,000.

Parks and Open Spaces

We make every effort to minimize the use of chemical treatments in our parks and open spaces. For example, we recently redesigned the Rose Circle in Deering Oaks to feature only hardy, disease and drought resistant varieties that do not require any chemical treatment at all. Previously, the Rose Circle required extensive use of pesticides and herbicides in order to maintain visually pleasing roses. We do not perform broadleaf weed control in any park or open space.

- Trees – The program primarily involves spot treatments around trees before mulching to prevent weed growth. It is important to provide a buffer between the mowed space and the trees to limit mower damage to the trees. We have a limited program of injections for Hemlock Trees to control Hemlock Woolly Adelgid and for the few remaining Elm trees
- Flower Beds – Staff uses spot applications to inhibit weed growth in display gardens. These include beds in Deering Oaks, Fessenden Park, Eastern & Western Prom, Longfellow Square. Applications occur 1 – 3 times per year.
- Invasive or Hazardous Species Control – While mowing is the primary method for controlling invasive plants, the Department makes some applications to control plants such as Japanese Knotweed and Poison Ivy. The largest area of application is on the Ocean Avenue Landfill Cap where our DEP approved maintenance plan requires aggressive control of woody growth – in this case, Japanese Knotweed.

Licensed Department staff members perform most horticultural applications. The budget for product is \$250. For larger areas, such as the Ocean Avenue Landfill or other areas that may require treatment, we work with a licensed contractor. The cost varies from year to year but is approximately \$3,000 - \$5,000.

Best Management Practices for Athletic Fields & School Grounds

#1 Goal—Reduce human pesticide exposure!

- ♦ Minimize pesticide use
- ♦ Maintain healthy plants
- ♦ Choose pest resistant plant varieties
- ♦ Apply spot treatments whenever possible
- ♦ Choose products proven to be effective at low application rates
- ♦ Choose products that leave little or no residue
- ♦ Apply when school is not in session or over extended vacations
- ♦ Keep people off treated areas for as long as possible
- ♦ Check product label for minimum reentry time

Other Key Points for Maintaining Quality Grounds and Reducing Risks

- ♦ Maintain good communication between staff and contractors involved in grounds maintenance and the IPM coordinator
- ♦ Emphasize practices that improve turf density and help minimize need for pesticides
- ♦ Identify pests specifically and confirm a pest exceeds threshold levels before authorizing any treatments
- ♦ Make sure all pest control products (weed, insect, rodent or plant disease controls) are labeled for use on school grounds and applied by licensed commercial pesticide applicators
- ♦ Confirm that all contracts for grounds maintenance services follow these BMPs and the guidelines shown on the opposite side of this bulletin
- ♦ Develop a maintenance schedule for the more intensively managed areas so that key steps aren't missed
- ♦ Keep detailed records of soil tests, aeration, seeding, top dressing, nutrients and pesticides applied for at least two years

Introduction

In 2011, The Maine Legislature directed the Board of Pesticides Control to evaluate the use of pesticides on school grounds and to develop Best Management Practices (BMPs) for pesticide use with a goal of minimizing human exposure to pesticides. This brochure explains how schools should implement these BMPs. Applying these recommendations should also help schools keep maintenance costs down while improving the safety and appearance of school grounds.

Getting Started

Schools should identify the employees who are involved in school grounds maintenance decisions, including the IPM coordinator, the facilities manager, the athletic director and varsity coaches. The IPM coordinator must be included so that management decisions involving pesticides will be consistent with state law and all notification requirements will be followed.

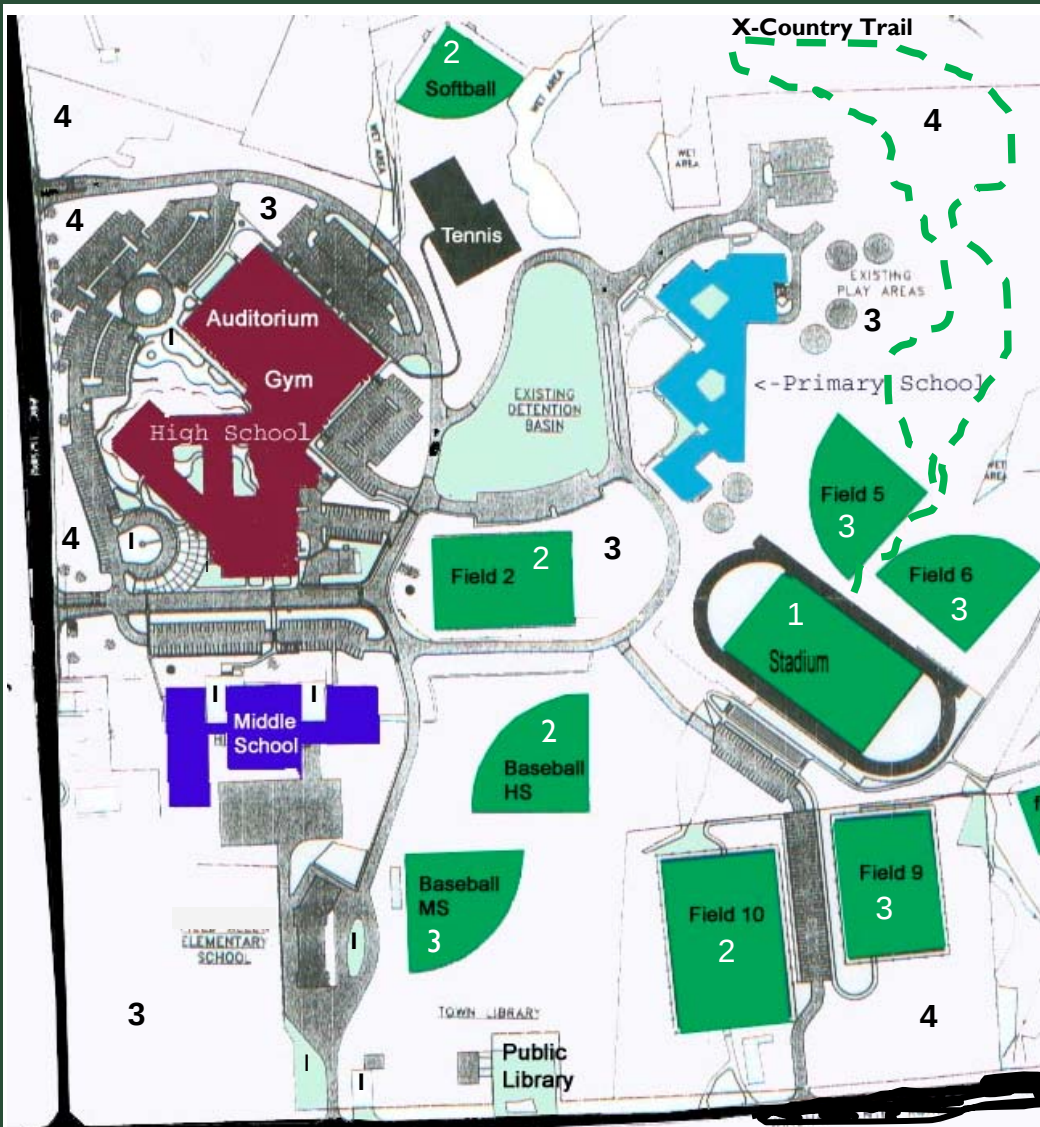
These grounds maintenance decision makers should assign a Grounds Maintenance Priority Level to all school grounds.* How fields are classified will vary by school and by district, based on use, priorities and available funds.

Assigning Grounds Maintenance Priority Levels

The grounds care BMPs are separated into four levels that roughly correspond to the intensity of use and aesthetic importance of each area. High impact varsity athletic fields may be Level 1 or Level 2. Due to the intensity of use, practice fields that need a high level of maintenance are usually designated Level 2 or 3. Lawn areas and playgrounds generally won't warrant a high level of maintenance and will be assigned to Level 3 or 4. Making a simple map of the maintenance levels for future reference will be helpful to both maintenance personnel and the decision makers (see map example on opposite side and attached Level-Specific BMPs).

**School grounds means: land associated with a school building including playgrounds, athletic fields and agricultural fields used by students or staff of a school and any other outdoor area used by students or staff including property owned by a municipality or a private entity that is regularly utilized for school activities.*

Grounds Maintenance Priority Levels



Numbers indicate the grounds maintenance priority level

Grounds Maintenance Priority Levels

Level 1—Highest care areas, e.g., some varsity playing fields

Level 2—High care areas, e.g., practice fields or multipurpose fields. May include varsity fields or high visibility lawn areas depending on the school

Level 3—Moderate care areas, e.g., playgrounds, low-use areas, common areas. May include practice fields and some lawn areas depending on the school

Level 4—Lowest care areas, e.g., most lawn areas, natural areas, fence lines, property edges, slopes, utility areas, ditches or trails

Other Important Guidelines

Informed Product Choice

- ◆ Read labels and MSDS thoroughly prior to making a choice
- ◆ Choose products with proven efficacy at low use rates
- ◆ Choose products that pose the lowest exposure potential (watered into the soil, little to no surface residues, low volatility & low drift potential)
- ◆ Choose selective products that affect a narrow range of organisms
- ◆ Avoid products like weed and feed that require broadcast application

Grounds maintenance contracts should clearly establish:

- ◆ The goals of the IPM program
- ◆ What services are provided and how they are implemented
- ◆ Posting and notification responsibilities
- ◆ Consultation with the IPM coordinator
- ◆ The population levels of specific pests that can be tolerated without treatment
- ◆ Appropriate least-risk procedures to correct pest problems
- ◆ The restrictions on pesticide use: types of applications, timing of applications, restricted locations, materials that can be used
- ◆ The pest management actions that are the responsibility of the school district

FOR MORE INFORMATION:

Maine Department of Agriculture, Food and Rural Resources

- ◆ Maine Board of Pesticides Control
thinkfirstspraylast.org

- ◆ Maine School IPM Program
thinkfirstspraylast.org/schoolipm

28 State House Station, Augusta, ME 04333-0028 • 207-287-2731

The University of Maine Cooperative Extension

umaine.edu/ipm/

491 College Ave, Orono, ME 04469-5741 • 207-581-3880



Level Specific BMPs for Athletic Fields and School Grounds

	Level 1 – Highest Care	Level 2 – High Care	Level 3 – Moderate Care	Level 4 – Lowest Care
	High impact athletic game fields, e.g. varsity football, soccer, field hockey fields	- Low impact athletic game fields, e.g. baseball, softball - Multipurpose fields - Athletic practice fields	- High visibility lawns - Moderate use areas - Playground fields	- Utility areas, slopes, ditches - Natural areas - Fence lines/property edges - Lawns
Field Use Restrictions	- Whenever possible restrict field use when soils are saturated and surface water is present - If field size allows, move goal areas regularly			
Soil Test	At establishment and before renovation and every 1-3 years when pH needs to be adjusted Every 2 – 5 years otherwise Soil test should determine: - Nutrient levels - pH - Level of compaction - Soil texture and structure (Level 1 only) - Percent organic matter - Thatch depth - Rooting depth		At establishment and before renovation or repair and every 1-3 years when pH needs to be adjusted Every 3 – 5 years other wise test for nutrient levels and pH	At establishment and before renovation test for nutrient levels and pH
Irrigation for Maintenance of Established Turf	- Supplement rainfall when needed to provide a total of 1" of water per week when grass is actively growing (April – November) - Water turf early in the morning	- As needed to promote active turf growth and prevent summer dormancy - Water turf early in the morning	Only required during renovation or repair, otherwise allow summer dormancy	
Aeration	2-6 times/year at a depth of 3-12 inches using a combination of hollow core, solid tine, or shatter aeration - At least one of the aerations should be deep tine or shatter to a depth of at least 8 inches - Intense use areas require the most aeration - Avoid spring aeration when seeding of crabgrass or other summer annuals is a threat	1-2 times/year as needed - Use a combination of hollow core, solid tine, or shatter aeration at a depth of 3 – 8 inches - Avoid spring aeration when seeding of crabgrass or other summer annuals is a threat	- Once every two years or as needed - Avoid spring aeration when seeding of crabgrass or other summer annuals is a threat	Never

	Level 1 – Highest Care	Level 2 – High Care	Level 3 – Moderate Care	Level 4 – Lowest Care
Fertilization and Nutrients	• Only apply amendments and nutrients as indicated by soil test, including phosphorus and potassium • Follow soil test recommendations when establishing new seed • Apply N at a rate of 2-4 lbs per 1,000 sq.ft per year in several applications rather than all at once • Fertilize frequently (7 to 10 applications) throughout the season • Apply no more than 0.5 pound of soluble nitrogen per 1,000 square feet per application • Slow release nitrogen (N) fertilizers that are 40-60% water insoluble can be applied at higher rates and less often • Fertilizer rate should be reduced or fertilization eliminated during hot and dry periods unless irrigation is available • Sand based fields may require additional fertilizer • Apply calcitic or dolomitic limestone in spring and/or fall to maintain soil pH within the 6.0 – 6.5 range and to meet soil test requirements for calcium or magnesium	• Only apply amendments and nutrients as indicated by soil test, including phosphorus and potassium • Follow soil test recommendations when establishing new seed • Apply N at a rate of 1-3 lbs per 1,000 sq.ft per year with 2/3 in the fall and 1/3 in the spring • Apply in several applications rather than all at once • Apply no more than 0.5 pound of soluble nitrogen per 1,000 square feet per application • Slow release nitrogen (N) fertilizers that are 40-60% water insoluble can be applied at higher rates and less often • Apply calcitic or dolomitic limestone in spring and/or fall to maintain soil pH within the 6.0 – 6.5 range and to meet soil test requirements for calcium or magnesium	• Only apply amendments and nutrients as indicated by soil test, including phosphorus and potassium • Follow soil test recommendations when establishing new seed • If the turf begins quality is not acceptable, apply N at a rate of 1-2 lbs/1,000 sq.ft per year with 2/3 in the fall and 1/3 in the spring • Apply no more than 0.5 pound of soluble nitrogen per 1,000 square feet per application • Slow release nitrogen (N) fertilizers that are 40-60% water insoluble can be applied at higher rates and less often • Apply calcitic or dolomitic limestone in spring and/or fall to maintain soil pH within the 5.5 – 6.5 range and to meet soil test requirements for calcium or magnesium	• Follow soil test recommendations when establishing new seed • Seldom to never after establishment
Mowing	• Proper mowing height and frequency prevents weeds • Mow to greatest height tolerable for the sport, e.g. 1 to 3 inches depending on type of sport and required playing schedule • Mow to 3 inches or higher during off-season and gradually lower to desired height for play over several mowings • Do not remove more than 1/3 of plant height at each mowing • Keep mower blades sharp • Unless the turf has an active fungal disease or play will be interrupted, return the grass clippings • Use a mulching mower	• Proper mowing height and frequency prevents weeds • Mow to a height of not less than 3 inches • Do not remove more than 1/3 of plant height at each mowing • Keep mower blades sharp • Whenever possible return the grass clippings • Use a mulching mower	• Proper mowing height and frequency prevents weeds • Mow to a height of not less than 3 inches • Do not remove more than 1/3 of plant height at each mowing • Keep mower blades sharp • Whenever possible return the grass clippings • Use a mulching mower	• Mow as needed to maintain function of area • Do not remove more than 1/3 of plant height at each mowing when appropriate for the site, use and grasses present • Keep mower blades sharp • Whenever possible return the grass clippings • Use a mulching mower • Utility and low maintenance turf areas need only be mowed in late fall

	Level 1 – Highest Care	Level 2 – High Care	Level 3 – Moderate Care	Level 4 – Lowest Care
Seeding	- Depending on level of management available, athletic fields should be either a 100% blend of Kentucky bluegrass cultivars, or a 100% blend of improved turf-type tall fescue cultivars, or a mix of Kentucky bluegrass and perennial ryegrass - Maintain vegetative cover by repeated seeding any time soil is exposed. This may be 4-8 times/year - Mid-August-early October is ideal timing - Mid-April-early June to repair worn areas - Select hardy, wear-, pest-, and drought-tolerant grass seed species and cultivars including: tall fescues, perennial ryegrass and Kentucky bluegrass - Use a variety of seeding strategies: - Drill seed in 2 to 4 directions - Use pre-germinated seed and sand mix to fill worn areas and divots - Broadcast seed before each game to allow players to "cleat-in" the seed - Broadcast seed prior to dragging aeration cores	- Lawns should be primarily mixtures of fine fescue or tall fescue with limited Kentucky bluegrass or perennial ryegrass - Higher traffic areas should be seeded with mixes that contain a low percentage of fine fescues - Mid-August through early-October as needed - April to repair worn areas or establish new grass areas - Drill seed or broadcast seed and drag in combination with aeration - Select hardy, wear-, pest-, and draught-tolerant grass seed mixture including tall fescues, perennial ryegrass and Kentucky bluegrass	- Lawns should be primarily mixtures of fine fescue or tall fescue with limited Kentucky bluegrass or perennial ryegrass - Higher traffic areas should be seeded with mixes that contain a low percentage of fine fescues - Repair as needed to maintain turf density and prevent erosion - Without irrigation, seed only September to mid-October when adequate moisture is anticipated	- Lawns should be primarily mixtures of fine fescue or tall fescue with limited Kentucky bluegrass or perennial ryegrass - Higher traffic areas should be seeded with mixes that contain a low percentage of fine fescues - Utility areas can be seeded with native conservation grasses, forbs or perennial flowering plants - Repair as needed to maintain turf density and prevent erosion - In September when adequate moisture is anticipated
Seeding continued	- Irrigation is essential during germination and establishment of new seed - Choose seed mixtures based on soil type and intensity of use - Rescue seeding can be done with high quality perennial ryegrass blends - For seed selection use the National Turf Evaluation Program spreadsheet⁺⁺			
Re-sodding	- Intense use areas, such as soccer goals and between the hash marks on football fields, every 1 to 3 years as needed - Irrigation is essential at installation and during grow-in period	- Intense use areas, such as around pitcher's mound or baseball infields - Irrigation is essential at installation and during grow-in period	Never	Never

⁺⁺<http://apps.hort.iastate.edu/turfgrass/extension/InteractiveNTEPSpreadsheet.xlsm>

	Level 1 – Highest Care	Level 2 – High Care	Level 3 – Moderate Care	Level 4 – Lowest Care
Topdressing	• Apply in combination with aeration to prepare seed bed, modify soil and smooth field • Use finished composts with low nitrogen and phosphorus content, or • Use a soil mix that is similar to the existing soil in the root zone • In all cases avoid forming soil layers which may cause shallow rooting depth and interfere with water movement in the soil		Never	Never
Weeds	• Following the previous BMPs will establish a healthy, thick turf which will outcompete broadleaf weeds • Depending on weed species present, accept up to 15 - 20% weeds	• Following the previous BMPs will establish a healthy, thick turf which will outcompete broadleaf weeds • Depending on weed species present, accept up to 20 - 30% weeds	• Hand-pull weeds, use a weed whacker or use heat or steam to kill weeds • Use mulch in flower beds and around landscape plantings to reduce weeds • Use landscape fabric under playground shock absorption materials • Depending on weed species present, 50% weeds or more is acceptable in most lawns • Use broadleaf herbicides only when needed, based on monitoring, to reduce weed populations to acceptable levels • Use targeted spot treatments whenever possible and avoid broadcast applications	• Hand-pull weeds • Use a weed whacker, heat or steam around fences and other structures • Spray fence lines only when necessary and schedule when students will not be in the area for several days • Use herbicides to control invasive and noxious plants when necessary • Use targeted spot treatments whenever possible and avoid broadcast applications
	• Use broadleaf herbicides only when needed, based on monitoring, to reduce weed populations to acceptable levels • Use targeted spot treatments whenever possible and avoid broadcast applications • Coordinate any herbicide use with annual over-seeding program so desirable turf seed is not damaged • Apply pre-emergent herbicide in spring primarily for crabgrass if needed, based on weed monitoring during the previous year • Broadleaf weed control every 2-3 years, only as needed • Broadleaf weed control in spring or fall is more effective, but to reduce student exposure applications may be more acceptable during the summer when school is not in session • Summer herbicide applications should only be done when the weeds are actively growing • When weeds are drought stressed, water the area to be treated for a few days prior to herbicide application • Herbicides should not be applied in temperatures above 85° F to avoid turf damage and reduced efficacy • Effective post-emergent crabgrass control is available and may be used as an alternative to routine pre-emergent crabgrass applications when areas of crabgrass are limited			

	Level 1 – Highest Care	Level 2 – High Care	Level 3 – Moderate Care	Level 4 – Lowest Care
Insect Pests • White Grubs are the larvae of Japanese beetles, May/June beetles, European Chafers, Asiatic garden beetles, Oriental beetles and other scarabs. Turf injury occurs from late July through November and from April - June and is often localized. A site-specific strategy should be practiced • Action Thresholds for non-irrigated turf (grubs/sq.ft.) Action thresholds may be increased 30% with irrigation • European chafer: 4 to 6/sq.ft. • Japanese beetle: 6 to 12/sq.ft. • Oriental beetle: 6 to 12/sq.ft. • Asiatic garden beetle: 10 to 20/sq.ft.	• Monitor July-September • Beginning of spring and fall sports seasons coincides with peak turf injury from white grubs • Action threshold levels are species dependent (see cell to left) • Irrigate as needed to promote grass root growth throughout the growing season • Insect parasitic nematodes can be very effective when applied properly^{%%} • Consider preventative grub control applications on fields that are infested more than 2 – 3 years in a row	• Monitor July-September • Action threshold levels are species dependent (see cell to far left) • Irrigate as needed to promote grass root growth throughout the growing season • Action thresholds may be doubled with irrigation • Insect parasitic nematodes can be very effective when applied properly^{%%}	• Monitor July-September • Scarab beetles (adult white grubs) often avoid laying eggs in low maintenance non-irrigated turf • Action threshold levels are species dependent (see cell to far left) • Action thresholds may be doubled with irrigation • Insect parasitic nematodes can be very effective when applied properly^{%%}	Pesticide treatment never required
Insect Pests • Chinch Bugs	• Supplement rainfall when needed to provide a total of 1" of water per week during summer • Avoid over-fertilizing to prevent thatch build-up. Dethatch and/or core aerate if thatch exceeds ¾ inch • Pesticide applications only as needed when damage is evident and more than 5-10 chinch bugs per sample using coffee can-float monitoring method^{&&} • If seeding, select resistant, endophytic varieties of tall fescue, perennial ryegrass or fine fescue suitable for athletic fields		• If seeding, select resistant, endophytic varieties of tall fescue, perennial ryegrass or fine fescue suitable for athletic fields	• If seeding, select resistant, endophytic varieties of tall fescue, perennial ryegrass or fine fescue suitable for athletic fields
Turf Diseases^{@@} • Brown Patch • Dollar Spot • Leaf Spot	• Apply no more than 0.5 pound of quick release nitrogen per 1,000 square feet per application • Time fertilization and liming to avoid disease critical periods (e.g. avoid fertilization in early spring and just before hot, humid weather) • Remove dew from fields early in the morning, by dragging with a bar • Improve air circulation over turf areas • Irrigate early in the morning only			
Turf Diseases^{@@} • Snow Mold	• Avoid fertilizing turf after mid-October • Continue mowing until growth ceases and gradually increase or reduce mowing height to achieve 2 inches at last mowing • Overseed with tolerant grasses and resistant cultivars, especially if damage has been severe			

^{%%}http://www.yardscaping.org/lawn/documents/Beneficial_Nematodes.pdf

^{&&}<http://www.gardening.cornell.edu/lawn/lawn-care/pestpro.html>

^{@@}<http://extension.umass.edu/turf/publications-resources/best-management-practices>

	Level 1 – Highest Care	Level 2 – High Care	Level 3 – Moderate Care	Level 4 – Lowest Care
Other Pests • Mice, Rats or Other Rodents	• Seal or fill in all potential nesting sites • Reduce potential food sources by maintaining covered and sealed dumpsters and trash cans • Clean up all food scraps and waste left out by students, staff or visitors • Avoid installation of bird feeders • Compost piles or bins should be inaccessible to rodents			
• Stinging Insects • Yellowjackets • Wasps • Hornets • Bees	• Beginning in early spring, monitor for stinging insect hives or nests and remove before they become established • Fill in abandoned animal dens (including rodent burrows) in areas students use • Seal cracks and crevices within walls of buildings and on play structures • Restrict outdoor eating and drinking in the late summer/fall when yellowjackets are foraging • Keep garbage cans covered • Install stinging insect traps outside of areas that people frequent • Use RTU aerosol sprays in emergency situations			
• European Red Ants are stinging insects found primarily along the coast. Nests in a variety of habitats including bark mulch, lawns, forested areas, leaf litter, and under rocks and human debris	Contact the University of Maine Cooperative Extension (1-800-287-0279) to confirm suspected infestations and obtain current management recommendations			
• Mosquitoes	• Eliminate sources of standing water and keep all roof gutters free flowing • When monitoring indicates the potential for mosquito vectored disease, restrict outdoor activities to mid-day • Encourage students, staff and visitors to use insect repellents during activities that expose them to biting mosquitoes • When the Maine CDC determines there is a credible threat for mosquito-borne disease near a school, consider hiring a licensed commercial pest management company to apply mosquito controls			
• Ticks	• Move all play structures or class areas at least 3 yards away from forest or brushy edges of school yards • Install a 3 foot wide strip of mulch or crushed rock next to any forest or brushy edges of school yards • Do not allow students to walk into forest or brushy areas next to schools • Keep trails cleared to at least a 6 – 8 foot width to prevent students from brushing up against brushy areas • Remove stone walls or other structures that provide harborage for squirrels, mice and other small mammals • Do not feed birds or other animals on school grounds • Encourage students, staff and visitors to use insect repellents during activities that might expose them to tick habitats • Encourage proper attire to prevent ticks from accessing skin areas • Encourage tick checks each time students and staff enter tick habitats • Keep play areas mowed • Avoid any pesticide application to control ticks unless students or staff must frequently use forest or brushy areas that provide suitable deer tick habitat and deer tick numbers are high			

	Level 1 – Highest Care	Level 2 – High Care	Level 3 – Moderate Care	Level 4 – Lowest Care
Artificial/Synthetic Turf	• Do not apply disinfectants or sanitizers to the field on a routine basis • Use disinfectants only when necessary to clean up blood/body fluids; follow specific label directions to clean and decontaminate against HIV on surfaces soiled with blood/body fluids • To remove mold, dirt or dust, clean field with detergent and surfactant • To remove small leaves, seeds or other small debris, use leaf blowers, rakes or sweepers, being careful not to displace large amounts of infill material • To remove gum, freeze it with ice cubes or aerosol freezing agents • Inspect all equipment for leaks before operating on the field • Monitor and maintain proper infill depth by topdressing just prior to sweeping and grooming • Follow manufacturer guidelines for sweeping and grooming • Go over the field with a magnet periodically to pick up stray metals • For static, apply wetting agents to the infill • Use extreme care when removing snow or ice from the field so not to move the infill or tear seams • Keep all sources of fire or ignition away from the field surface • Never fill gasoline tanks on the field • Aerate infill materials to maintain G-Max value for every test point at less than 200g's (as measured in accordance with ASTM Standard F355-A and ASTM Specification F1936			

PESTICIDE AND HERBICIDE USAGE ON CITY OWNED PROPERTY

1) *Purpose.* The purpose of this Section is to safeguard the health and welfare of the residents of the City of Portland and to conserve and protect the City's ground water, estuarine, marine and other natural resources, while ensuring preservation and enhancement of city owned land.

2) *Provisions.* The following provisions shall be applicable to all turf, landscape and outdoor pest management activities on city owned land.

(a) *Permitted:*

- i) Use or application of natural, organic land care protocols;
- ii) All control products and soil amendments, including fertilizer and compost, used under the terms of this article shall be in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products permitted by the Organic Materials Review Institute or the USDA National Organic Program;
- iii) Use or application of sludge or sludge-derived products to the extent permitted by the Maine Hazardous Waste, Septage and Solid Waste Management Act 38 M.R.S. §§1301-1319-Y, the Protection of Natural Resources Act 38 M.R.S. §§ 480-A-480-Z, the Site Location of Development Act 38 M.R.S. §§481-490, and any rules related thereto, as amended from time to time.

(b) *Prohibited:*

- i) Use or application of chemical pesticides, other than pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute.
- ii) Use or application of sludge or sludge-derived products not listed as permitted above.

3) *Definitions.* The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) **Natural, organic land care:** An extension of the principles and practices of organic agriculture to the care of turf and landscape.

(b) **Pesticide:** Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

(c) **Sludge:** Defined in 38 M.R.S. § 1303-C (28-A), as amended from time to time.

(d) **City Owned Land:** All land owned or leased by the City of Portland and/or managed by the City of Portland.

(e) Pest: Any undesirable insect, plant, fungi, bacteria, virus or micro-organism.

4) *Exemptions.*

(a) The following products are exempt from the prohibitions in 2(b) this Ordinance:

- (i) Pet Supplies such as shampoos, tick and flea collars and dusts;
- (ii) Disinfectants, germicides, bactericides, and virucides;
- (iii) Insect repellants;
- (iv) Outdoor animal repellants;
- (v) Swimming pool supplies;
- (vi) Aerosol products; and
- (vii) General use paints, stains and wood preservatives and sealants.

(b) The following processes are exempt from the prohibitions in 2(b) of this Ordinance:

- (i) Utility, and other, routine vegetation maintenance programs on transmission sections that run through the City of Portland;
- (ii) Drinking water and wastewater treatment;
- (iii) Indoor pesticide use;
- (iv) Contained baits or traps for rodent control;
- (v) Treatment of Golf Courses consistent with State and Federal regulations and pursuant to the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control. However, products prohibited by (2)(b) above shall not be permitted to be used or applied as part of treatment of putting greens within twenty (20) feet of any coastal waters, rivers, tributaries, streams or wetlands. Products prohibited by (2)(b) above shall not be permitted to be used or applied as part of treatment of all other portions of golf courses within two hundred (200) feet of any coastal waters, rivers, tributaries, streams or wetlands.;
- (vi) Treatment of Athletic Fields consistent with State and Federal regulations and pursuant to the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control. However, products prohibited by (2)(b) above shall not be permitted to be used or applied as part of such treatment within two hundred (200) feet of any coastal waters, rivers, tributaries, streams or wetlands ;
- (vii) Treatment of City Infrastructure including without limitation curb lines, medians, traffic islands, and utility rights of way consistent with State and Federal regulations and pursuant to the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control. However, products prohibited by (2)(b) above shall not be permitted to be used or applied as part of such treatment

within two hundred (200) feet of any coastal waters, rivers, tributaries, streams or wetlands ;

(viii) The control of noxious growth plants, including without limitation Poison Ivy, Poison Oak, and Poison Sumac;

(ix) Treatment of trees by the City Arborist for Dutch Elm Disease;

(x) The control of invasive species that may be detrimental to the environment;

(xi) Use of pesticides mandated by state or federal law; and

(xii) The control of insects that are venomous or disease carrying.

5) *Emergency Waiver.* If an emergency situation warrants the use of non-exempt pesticides, the City Manager or his or her designee may grant a thirty (30) day temporary waiver. The waiver may be extended to a six (6) month total period. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency.