

CITY OF PORTLAND, MAINE

Standing Committee on Sustainability and Transportation
Councilor Andrew Zarro, District 4, Chair
Councilor Roberto Rodriguez, At-Large
Councilor Victoria Pelletier, District 2

Agenda
September 13, 2023
5:00 PM
Virtual Meeting

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/82681294658?pwd=cGFhK0pVQzdpNU53QSthN25XVTZzdz09>

1. Review and approve minutes from July 12
2. Sustainability Program Updates
 - a. Updates for September 13
3. Presentation and Discussion
 - a. Presentation by Eric Kennedy of Maine DEP Regarding the Coal Pile on Cassidy Point.
No public comment will be taken.
 - b. Consideration of a Bird Safe Ordinance
Public comment on this item was taken on July 12. Additional comments may be taken at the Chair's discretion.
Presenters: Kevin Kraft, Troy Moon, Austin Smith, Dr. Christine Maher
 - c. Considering Adoption of a Commercial Property Assessed Clean Energy Financing Program in Portland
Public comment will be taken
Presenters: Troy Moon, Michael Goldman
 - d. Proposed Changes to Chapter 28, Parking Regulations
Public comment will be taken
Presenters: John Peverada, Nicole Albert
 - i. Chapter 28 amendments
4. Other Business



Sustainability Updates

Sept 13, 2023

Transportation Projects

The City of Portland is working with MaineDOT to submit an application to fund construction of the transportation, streetscape and utility improvements being designed for the Libbytown Safety and Accessibility Project. The application will be submitted to the Reconnecting Communities and Neighborhoods Grants Program - a program of the federal Bipartisan Infrastructure Law - at the end of September. More information about the Libbytown project can be found at [the project's Civil Space page](#).

Resilience

The Sustainability Office collaborated with colleagues in Economic Development, DPW, Planning, Water Resources, the City of South Portland and other outside partners to draft a Letter of Intent for NOAA's Climate Resilience Challenge. We proposed to create a design manual for living shoreline projects in Portland Harbor that would protect existing infrastructure and shorelines from rising seas. The proposal includes 20% design for two or three pilot projects so we would be "shovel ready" for future funding opportunities. The proposed project includes extensive public engagement to educate residents about vulnerable shorelines and to learn what they most value in the waterfront. The process involved significant cross department and cross agency collaboration and we gained important experience working together. The grant is very competitive but we are hopeful that we will be invited to submit a full application.

Energy

On July 13th, we co-hosted a webinar with EnergySage on the benefits of community solar, which allows residents to subscribe to a share of a large solar farm in your area and earn bill credits for the energy produced by that farm. Watch [the recording](#) where Sustainability Director, Troy Moon, joined EnergySage experts to talk through the benefits of community solar in Maine.

Waste Reduction

We have been supporting efforts by a team of Peaks Island residents to establish a drop off site on the island. On July 18th, they launched the [Island Compost Project](#) and opened a drop-off site at Trott-Littlejohn Park on Peaks Island. These volunteers have taken the responsibility to transport the collected food scraps to the Garbage to Garden facility on Veranda Street.

On September 8th, we also added another public drop-off site at our Parks, Recreation, and Facilities building at 212 Canco Road. With increased participation we will be able to add more drop-off sites.

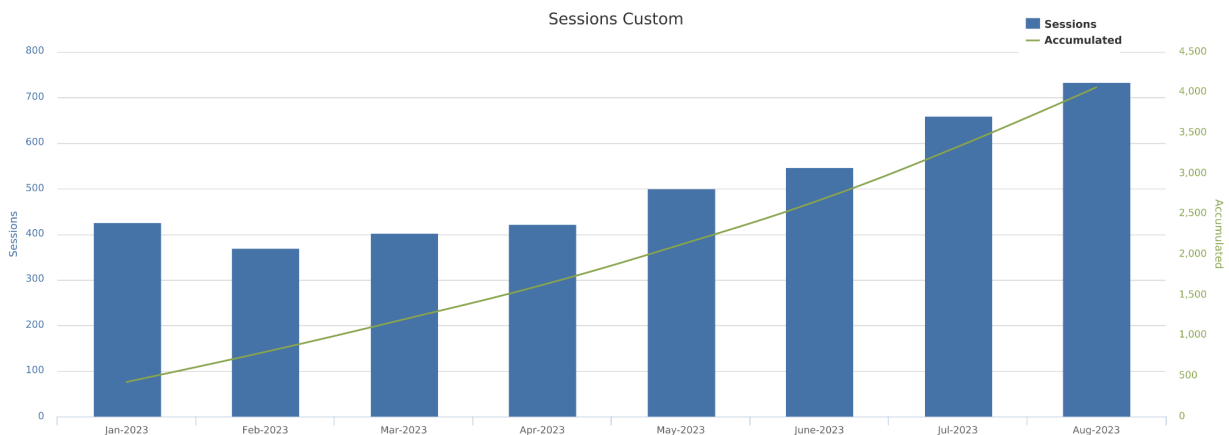
Landcare

We held our last Summer Landcare Lunch & Learn webinar on August 1st with colleagues at Wild Seed Project to teach us about building biodiverse yards. The series has ended, but recordings of each informational webinar can be found at portlandmaine.gov/landcare.

On September 9, the Sustainability Office held our annual [Fall Landcare Event](#) to educate residents about Portland's Landcare Ordinance and encourage residents to adopt organic and sustainable landcare practices that protect the health of Portland's waterways, residents, pets, and natural ecosystems. With the help of our Parks & Rec Department, Maine DACF and local organizations – including Cumberland County Soil and Water District, Master Gardeners, Broadway Gardens, Garbage to Garden, and Cultivating Community – we had resources on organic landcare, soil testing, composting, electric tools, planting native, organic pest management strategies and how to tuck in your lawn for the winter!

Electric Vehicles

Usage of our EV charging infrastructure continues to have strong growth. As noted in the chart below, usage has increased month over month this year. We have supported more than 4,000 individual charging sessions at the City owned Chargepoint chargers since January 1.



Usage of the EVgo DC Fast Chargers at the corner of Spring Street and High St is also very high with all four of the plugs in regular use.

We continue to explore locations for the second bank of EVgo fast chargers. After great effort to place them on Marginal Way near Miss Portland Diner, we have abandoned that location due to an inability to bring the necessary amount of electricity to the site. We are now exploring the

possibility of incorporating the fast chargers into the design of Portland Harbor Commons, the new park that will be built at the end of India Street in place of the existing surface parking.

Community Support

The Libbytown Neighborhood Association has formed three working groups: Community Agriculture and Food, Social Resilience & Mutual Aid, Active & Safe Transportation. With the help of the Sustainable Neighborhoods Program, the working groups are organizing around projects or events to get neighbors involved. There is an upcoming [“plant swap” for all Portland neighbors](#). Visit Libbytown Community Garden on Saturday, September 16th to donate, trade, or take home a plant. If there is interest in learning more about the program and getting involved, please contact ktims@portlandmaine.gov.

Education and Outreach

Staff continue to run outreach and engagement for the “Mow Tall Until Fall” campaign and our Community Composting Program at events every week. These have been a great opportunity to meet new community members and engage in different neighborhoods.

- Payson Park Community Garden Pop-Up Picnic with Wayside Food Programs (July 17)
- Riverton Community Garden Pop-Up Picnic with Wayside Food Programs (July 24)
- Libbytown Community Garden Pop-Up Picnic with Wayside Food Programs (August 7)
- Spotlight feature at Woodfords Corner Farmers Market (August 17)
- Boyd St. Community Garden Pop-Up Picnic with Wayside Food Programs (August 21)

On July 14th, the One Climate Future Team hosted Coffee & Climate with colleagues from GoGo ReFill, Natural Resources Council of Maine, and Saltwater Classroom at Little Tandem on Anderson St for a discussion about extended producer responsibility for packaging, how the Greater Portland area is working towards a plastic-free future, and how residents can get involved.

The following Coffee & Climate (August 10th) celebrated sustainability and resilience in Maine’s brewery industry with representatives from Orange Bike Brewing Co, Island Dog Brewing and Luke Truman, Sustainability Coordinator for the Craft Beverage Sector at New England Environmental Finance Center. Together several leaders in the industry shared ways they’ve learned to run their businesses in a way that benefits their employees, help our communities, and reduce impacts on the environment.

On September 8th, the One Climate Future Team hosted Coffee & Climate with speakers Dan Burgess, Director of the Maine Governor's Energy Office, and Hogan Dwyer of Efficiency Maine. Together we discussed the opportunities available to help Mainers transition to renewable and energy-efficient technology. The event was recorded and will be shared on oneclimatefuture.org when available.

On August 15th, Erin and Katie presented at a webinar hosted by GPCOG, and it was a great opportunity to speak on some of the ways we build climate equity into our sustainable transportation, building electrification, and community-building initiatives. Watch the [recording here](#).

Join us on Park(ing) Day, September 15. We'll be hosting a Baxter Woods inspired parklet at the corner of Exchange St. and Middle St. We'll be joined by a variety of community partners including Portland Downtown, Portland Society for Architecture, Portland Trails, the Bicycle Coalition of Maine, and others.

We look forward to hosting [Drive Electric Maine 2023](#) again on Sunday, September 24th from 12PM - 4PM at Back Cove Trail Parking Lot in Portland. Come test drive exciting new models, hear from EV owners, and learn more about the state and federal EV incentives available. RSVP to attend, participate (as an EV driver or show your EV), or volunteer with link here: <https://driveelectricweek.org/event?eventid=4032>

The OCF newsletter is a once-a-month e-newsletter with more than 1,100 subscribers. We share information on upcoming events, programs launching, and educational information. You can sign up for the newsletter at oneclimatefuture.org.

Climate and Coffee events are community conversations that happen on the 2nd Friday of the month at 9 AM. We record sessions with guest speakers and post them on www.oneclimatefuture.org, along with other information about our work. You can also follow us on social media. Instagram [@sustainableportlandme](#) // FB [@SustainablePortlandME](#)

Summary:

During the Sustainability and Transportation Committee meeting held on July 12, City staff presented a draft ordinance proposing design standards for new buildings and major renovations over 10,000 sq. ft. intended to reduce bird mortality from collisions with windows and other architectural features. Members of the public and members of the committee questioned whether the proposed standards would burden residential development with an additional mandate at a time when building housing is of the utmost importance. With this feedback, we have amended the proposed ordinance so that it explicitly exempts residential buildings.

As noted in proposed Sec. 6-188 Exemptions

The bird friend requirements shall not apply to the following:

(a) Residential buildings. However, the requirements shall apply to hotel and motel projects.

Commercial buildings and hotels make up the vast majority of buildings with large glass curtains, fly through conditions, skywalks, glass railings, and other features that are hazardous to birds. This is particularly true along the waterfront and downtown areas where Bird Safe Maine has identified high rates of bird mortality from collisions with buildings. Adopting the ordinance with this amendment will provide important protections for birds while providing architects and designers with knowledge and experience that can inform residential building practices.

Background:

Bird Safe Maine, a collaborative effort between Maine Audubon, Portland Society for Architecture, and the University of Southern Maine have been working to educate building owners and the design community about the hazards birds face as they navigate the built environment. For the past several years, their volunteers have walked a route through the Peninsula during spring and fall migration to catalog the location of birds killed by collisions with buildings. They have identified hundreds of dead birds of more than 20 species located near buildings with dangerous features.

In April, 2022 Nick Lund of Maine Audubon and Addy Smith-Reiman of Portland Society for Architecture presented a workshop to the Sustainability and Transportation Committee about their work as well as bird friendly ordinances passed in other cities including New York and

Washington, DC to reduce bird mortality from collisions with buildings. They noted that there are certain features that are particularly problematic for birds including large glass surfaces, glass skywalks, and fly through conditions where birds may think they can fly through a space that is actually blocked by transparent glass. They further noted that there are an increasing number of bird friendly glass products available on the market and that thoughtful architectural design can reduce the risk to birds without the use of specialized products.

More information about the hazards faced by birds is available at the Bird Safe Maine website (<https://maineaudubon.org/advocacy/birdsafe/>) and in a story map created by Cady Netland for Portland Society for Architecture (<https://storymaps.arcgis.com/stories/7c5c9bc6bf664c129dbbe459485bc66b>).

Following the workshop, the Committee invited City staff and Bird Safe Maine to develop ordinance language for a Portland specific bird friendly ordinance. This group established a stakeholder committee of local architects and developers to evaluate ordinances in other cities. This group worked to propose a policy that did not unduly restrict design decisions but that offered significant protection to birds. Their objective was to keep the ordinance as simple as possible and not propose regulations that did not provide meaningful protections. As an example, the proposed ordinance only covers features below 75', as the vast majority of bird collisions occur at that height or lower. Similarly, the ordinance requires the use of building materials with a [ABC threat factor rating](#) of 30 rather than 25, as is required in other ordinances, because there are many more products available at the higher level and bird protection remains substantial.

The group then worked with City staff in Planning, Corporation Counsel, and Permitting and Inspections to determine how the proposed policies would best integrate into Portland's existing code and technical design manual. Staff determined that the policy would be most manageable for developers and the public if it applied to projects greater than 10,00 square feet.

During this policy development Portland Society for Architecture held several stakeholder meetings to get feedback from members of the design community. City staff attended these meetings in order to incorporate any comments into the proposed ordinance.

City staff and representatives from Bird Safe Maine presented the resulting draft ordinance to the Committee on July 12, 2023. During this meeting both Committee members and members of the public expressed concerns that the proposed language may burden residential development with an additional burden at a time when housing production is of utmost concern. In response to this feedback, we have amended the proposed ordinance to explicitly exempt residential buildings from the ordinance.

Assistant Planning Director Kevin Kraft and I will be prepared to answer any questions you may have about the proposed ordinance.

ARTICLE VII-A. Bird Friendly Building and Design Requirements

Sec. 6-185. Purpose

The purpose of the Bird Friendly Building and Design Requirements contained in this Article is to reduce bird mortality from windows or other specific building features known to increase the risk of bird collisions.

Sec. 6-186. Definitions:

The following words and phrases shall be defined as set forth below for use in this article.

- (a) **BIRD FRIENDLY MATERIAL.** A material or assembly that has, or has been treated to have a maximum threat factor of 30 in accordance with:
 - (i) The American Bird Conservancy Bird Collision Deterrence Material Threat Factor Reference Standard; or
 - (ii) The American Bird Conservancy Bird-friendly Materials Evaluation Program at Carnegie Museum's Avian Research Center test protocol; or
 - (iii) With a relevant American Society for Testing and Materials (ASTM) standard.
- (b) **THREAT FACTOR.** Where the threat factor is a measure of a bird's ability to see and avoid a building material. Threat Factor (TF) is determined by a number ranging between 1 and 100 that indicates the relative effectiveness of materials or assemblies typically used in reducing bird collisions. A TF of 1 represents least threatening and a TF of 100 represents most threatening.

Sec. 6-187. Applicability.

The bird friendly requirements shall apply to the following types of projects:

- (a) New construction or additions greater than 10,000 SF in floor area; and
- (b) Alterations to buildings greater than 10,000 SF in floor area in which at least 50% of the building's exterior glazing is being replaced within a period of three-years.

Sec. 6-188. Exemptions:

The bird friendly requirements shall not apply to the following:

- (a) **Residential buildings.** However, the requirements shall apply to hotel and motel projects.
- (b) Operable sash windows such as single-hung, double-hung, casement, awning, sliders, and tilt turns.
- (c) Locally Designated Historic Landmarks and designated contributing buildings in historic districts. However, the requirements shall apply to additions in accordance with Sec. 6-187(a), to locally designated historic landmarks and designated contributing buildings in historic districts.
- (d) **Glazing on the ground floor** for retail storefronts or food and beverage uses including bars and restaurants.

Sec. 6-189. Bird Friendly requirements.

- (a) **Building facades up to 75 feet above grade:** Building facades, and any associated openings, shall be constructed with bird friendly materials up to 75 feet above grade. Other materials may be used to the extent that they do not exceed an aggregate of 10 square feet within any 10 feet by 10 feet square area of building facade below 75 feet above grade.
- (b) **Bird Hazard Installations:** Bird hazard installations are architectural features that provide a clear line of sight on the exterior of buildings including but not limited to, skywalks, awnings, glass railings and guards, windbreak/windscreen panels, acoustic barriers, and glass fins greater than 10 inches from the face of the facade. Bird hazard installations on the exterior of a building shall be constructed of bird friendly materials regardless of their height above grade.
- (c) **Fly-through Conditions:** Fly-through building elements, meaning one or more panels of glass that provide a clear line of sight creating the illusion of a void leading to the other side, including parallel glass elements, at a distance of 17 feet or less, or all glass within fifteen feet of a building corner shall be constructed with bird friendly materials up to 75 feet above grade.
- (d) **Adjacent to Green Roofs:** Building facades, and any associated openings, adjacent to a green roof on the same building shall be constructed with bird friendly materials up to 12 feet above the horizontal surface of the green roof.

To: Councilor Zarro and Members of the Sustainability and Transportation Committee
From: Troy Moon, Sustainability Director
Re: Adopting the C-PACE Program

During the Committee's meeting in May, we held a workshop with James Neal of Efficiency Maine to learn about Maine's Commercial Property Assessed Clean Energy (C-PACE) program, which was authorized by statute in 2020. This program is similar to those established in more than 30 states that have led to more than \$4 billion of investment in clean energy and energy efficiency projects, [according to the Environmental Protection Agency](#). The City's Legislative and Nominating Committee supported the enabling legislation, LD 1748, and City staff participated in the stakeholder group that informed the final version of the bill that was signed by Governor Mills.

Since our workshop in May, [several Maine communities have adopted the C-PACE program](#) including Westbrook, Cumberland, and Augusta.

C-PACE programs work by using a municipality's ability to place a lien on a property to catalyze private investment in energy efficiency and clean energy projects. 100% of the investment comes from private lenders. No public dollars are required. For lenders, having their investment secured by a property lien provides assurance that their loan will be repaid. For commercial property owners, a C-PACE loan can be secured with no money down and amortized for a term equal to the useful life of the equipment or building upgrades they financed. These include solar panels, a new HVAC system, insulation and weatherization, and other projects as long as the resulting energy savings equal or exceed the upfront investment and financing costs. Another feature of C-PACE loans is that they are attached to the property, not the borrower, and are transferred to the new owner when a property is sold.

As Mr. Neal noted in his presentation during the May workshop, Maine's C-PACE program is designed to minimize risk and avoid cost for participating municipalities.

In the event that a property with a C-PACE lien goes into default, municipal liens have priority over the C-PACE loan. This includes liens for unpaid taxes and unpaid sewer fees. In the event that the City acquires a property with a C-PACE lien, the City is not required to service the C-PACE loan. Likewise, the program delegates responsibility for filings, invoicing, collections, and loan management to the private lender, relieving the City of those duties. Efficiency Maine assumes the role of program administrator. The City's responsibility is to confirm that the agreements are true to form and to authorize them to move forward if they are.

Adopting C-PACE will provide the City with an important tool to help commercial property owners decarbonize their buildings in line with our *One Climate Future* goals. Through our Energy Benchmarking program, we work closely with the owners of large buildings and help them understand their energy consumption. Building owners are beginning to reach out to our office to discuss their benchmarking results and are interested in ways to reduce their energy usage. Being able to direct them to an affordable financing option to fund improvements that will save them money and reduce GHG emissions will make our Benchmarking program more powerful. C-PACE loans can also support clean energy and energy efficiency projects in new construction. Developers may use the program to finance building energy systems outside of their main financing package, which could help a project pencil out and come to fruition. In Portland, all new construction or major renovation projects subject to planning review would be able to pursue this approach because Portland's building energy code exceeds the requirements of the State's base code. Our office is already receiving inquiries from developers interested in C-PACE.

In order to participate in the Efficiency Maine administered C-PACE program the City must:

- Adopt an ordinance authorizing participation in the C-PACE program
- Enter into a C-PACE Municipality Participation Agreement with the Trust that establishes the Trust as the Municipality's C-PACE Program Administrator

There is an option for a municipality to manage its own C-PACE program but staff does not recommend that approach because it would require extensive staff resources to administer and it would likely deter lender participation because it would not be in conformance with the larger State program.

City staff from Finance, Assessors, Economic Development, and Corporation Counsel have met with Efficiency Maine to learn about the program and review the participation requirements. Following these discussions, Corporation Counsel

prepared a draft C-PACE ordinance and draft municipal participation agreement for your review. They are included in the backup material for the meeting. You will also find Efficiency Maine's Municipality Participation Guide which provides a more detailed overview of the program. Michael Goldman will be present during the meeting as will James Neal of Efficiency Maine. We are prepared to answer any questions you may have.

C-PACE MUNICIPALITY PARTICIPATION AGREEMENT

This C-PACE Municipality Assessment Agreement (“Agreement”), dated as of , 2023 ~~{INSERT DATE}~~ is entered into by and between Efficiency Maine Trust, an independent quasi-state agency of the State of Maine with offices located at 168 Capitol Street, Suite 1, Augusta, ME 04330 (the “Trust”) and the CITY OF PORTLAND ~~{INSERT NAME OF PARTICIPATING MUNICIPALITY}~~, a municipal corporation existing under the laws of the State of Maine, with offices located at 389 Congress Street, Portland, Maine 04101 ~~{INSERT MUNICIPALITY ADDRESS}~~ (the “Municipality”).

WHEREAS, Title 35-A M.R.S. §§10201 et seq., enacted by PL 2021, c.142, “An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Programs” (the “C-PACE Act”), authorizes the Trust and municipalities adopting a Commercial PACE Ordinance (as defined in the C-PACE Act) to establish commercial PACE programs under which commercial property owners may finance Energy Savings Improvements on Qualifying Property (each as defined in the C-PACE Act and the C-PACE Program Regulations (the “Regulations”)) by utilizing a municipal assessment and collection mechanism to provide security for repayment of the financing pursuant to the terms of the C-PACE Act (a “C-PACE Program”).

WHEREAS, the Trust has developed a C-PACE Program and the Municipality has adopted a Commercial PACE Ordinance for the purpose of establishing and participating in a C-PACE Program.

WHEREAS, pursuant to the C-PACE Act, the Municipality wishes to enter into a contract with the Trust to administer certain aspects of the C-PACE Program with respect to Property Owners holding Qualified Property within the Municipality.

WHEREAS, the Trust is willing to provide certain C-PACE Program administration services for the Municipality under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Trust and Municipality agree as follows:

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms under the C-PACE Act, the Regulations, and the C-PACE Program Guidelines (the “Guidelines”).

1. The Trust will provide general marketing services for the C-PACE Program and provide model C-PACE Ordinances, C-PACE Agreements, and forms, documents, and educational materials for use by the Municipality and Property Owners holding Qualifying Property in the Municipality. The Trust will provide general program support for Property Owners holding Qualifying Property in the Municipality who make an application for participation in the C-PACE Program.
2. The Trust agrees to serve as Program Administrator with respect to C-PACE Program applications submitted by Property Owners holding Qualified Property in the Municipality, administering those aspects of the C-PACE Program specified herein.
3. The Trust will review applications of Capital Providers wishing to participate in the C-PACE Program in accordance with the Guidelines and approve such applications that demonstrate the capacity to meet the requirements of the Regulations). The Trust will maintain a list of approved Registered Capital Providers available to Property Owners holding Qualifying Property in the Municipality.
4. The Trust will review applications to the C-PACE Program by or on behalf of Program applicants and shall determine whether the application satisfies the requirements for a Qualifying Property and

Qualifying Project under the Regulations and Guidelines. If the Trust determines that the C-PACE Program application meets the standards and requirements set forth in the Regulations and Guidelines, the Trust will issue a Notice of Approval to the Property Owner and the Capital Provider providing the C-PACE financing.

5. For those Property Owners with a Qualifying Property in the Municipality for which a Notice of Approval is issued, the Municipality shall be required to execute a C-PACE Assessment Agreement, in form and substance satisfactory to the Municipality, with the Property Owner and Capital Provider pursuant to which the Municipality will agree to assess the subject Qualifying Property to facilitate repayment of the C-PACE Loan to the Capital Provider. The Municipality shall undertake such actions as required under the C-PACE Assessment Agreement and C-PACE Act as necessary to establish the C-PACE Lien and facilitate repayment of the C-PACE Loan to the Capital Provider through the assessment process.

6. The Municipality agrees to comply with the terms of the C-PACE Act and the Municipality's Commercial PACE Ordinance, including, without limitation, procedures on collection and foreclosure of C-PACE Assessments where the Property Owner also is delinquent in any tax debt due to the Municipality, and the assignment of the C-PACE Lien to the Capital Provider for collection and foreclosure where the C-PACE Assessment is delinquent but the Property Owner is current on municipal taxes. In accordance with the C-PACE Act, the Municipality agrees to release the C-PACE Lien upon full payment of the C-PACE Loan.

7. The Municipality shall provide written notice to the Trust if any property within the Municipality subject to a C-PACE Lien is delinquent in payment of the C-PACE Assessment and is subject to foreclosure on a lien for any tax debt due to the Municipality or if the Municipality makes an assignment of the C-PACE Lien to the Capital Provider.

8. Notwithstanding any provision of law to the contrary, staff or trustees of the Trust, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a C-PACE Program established under the C-PACE Act, including, without limitation, claims for or related to uncollected C-PACE Assessments.

9. Pursuant to the C-PACE Act, other than the fulfillment of its obligations specified in a C-PACE Assessment Agreement, neither the Trust nor a Municipality has any liability to a Property Owner for or related to Energy Savings Improvements financed under a C-PACE Program.

10. The services to be provided by the Trust are limited to the services specified herein. The Trust assumes no responsibility, and undertakes no liability, for the filing or recording of any required documents or instruments, the perfection of any C-PACE Liens, the terms, performance, or enforcement of any C-PACE Loan, the collection of any C-PACE Assessments, any C-PACE Loan servicing or recordkeeping, the collection of delinquent accounts, or any other matters between the Property Owner, the Capital Provider, and the Municipality.

11. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement. If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

12. The term of this Agreement shall commence on the date first written above and shall continue until all C-PACE Loans issued in connection with C-PACE Program applications administered by the Trust under this Agreement have been paid in full or deemed no longer outstanding. The Municipality may discontinue participation in the C-PACE Program under this Agreement at any time on sixty (60) days' written notice to the Trust, provided that the obligations of the Municipality under this Agreement shall continue to apply to C-PACE Loans, C-PACE Liens, and C-PACE Assessments in place prior to the termination date.

13. The Municipality will not be obligated to make any Commercial PACE Assessment payments during any period in which the City is deemed to be the owner of the Qualifying Property by virtue of the automatic foreclosure of a tax lien mortgage, pursuant to 36 M.R.S. § 943, as amended, provided that the Municipality includes such a provision in the Commercial PACE Agreement for that Qualifying Property.

IN WITNESS WHEREOF, the Municipality and the Trust have each caused this Agreement to be executed and delivered as of the date first written above.

CITY OF PORTLAND ~~{MUNICIPALITY}~~

By: Danielle P. West
Its: City Manager

EFFICIENCY MAINE TRUST

Michael D. Stoddard
Executive Director

COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY (C-PACE) ORDINANCE

1. Purpose and authority

- A. Purpose. By and through this Ordinance, the City/~~Town~~ of Portland declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Commercial Property Assessed Clean Energy (“C-PACE”) program so that owners of qualifying property can access financing for energy savings improvements to their commercial properties located in the City/~~Town~~. ~~The City/Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and state laws.~~
- B. Enabling legislation. The City/~~Town~~ enacts this Ordinance pursuant to 35-A MRS §§ 10201 et seq., as amended, Public Law 2021, Chapter 142 of the 130th Maine State Legislature, “An Act to Allow for the Establishment of Commercial Property Assessed Clean Energy Program,” also known as “the Commercial Property Assessed Clean Energy Act” or “the Commercial PACE Act.” ~~(codified at 35-A M.R.S. §10201 et seq.).~~

2. Title

This Ordinance shall be known and may be cited as “The City/~~Town~~ of Portland’s Commercial Property Assessed Clean Energy (“C-PACE”) Ordinance” (this “Ordinance”).

3. Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings. As used in this Ordinance, the following words and phrases shall have the meanings indicated:

City/Town. The City/~~Town~~ of Portland.

Commercial PACE or (“C-PACE”). Means Commercial Property Assessed Clean Energy.

Commercial PACE Agreement. An agreement that authorizes the creation of a Commercial PACE Assessment on Qualifying Property and that is approved in writing by all owners of the Qualifying Property at the time of the agreement and by ~~the municipal officers of~~ the City/~~Town~~.

Commercial PACE Assessment. An assessment made against Qualifying Property to finance an Energy Savings Improvement.

Commercial PACE District. The area within which the City/~~Town~~ establishes a Commercial PACE Program hereunder, which is all that area within the City/~~Town~~ boundaries.

Commercial PACE Lien. A lien, secured against a Qualifying Property that is created by a Commercial PACE Assessment.

Commercial PACE Loan. A loan, payable through a Commercial PACE Assessment and secured by a C-PACE Lien, made to the owner(s) of a qualifying property pursuant to a Commercial PACE Program to fund Energy Savings Improvements.

Commercial PACE Program. A program established under this Ordinance pursuant to the Commercial PACE Act under which commercial property owners can finance Energy Savings Improvements on Qualifying Property.

Energy Savings Improvement. An improvement or series of improvements to Qualifying Property that are new and permanently affixed to Qualifying Property and that:

- A. Will result in increased energy efficiency or substantially reduced energy use and:
 - (1) Meet or exceed applicable United States Environmental Protection Agency and United States Department of Energy “Energy Star” program or similar energy efficiency standards established or approved by the Trust; or
 - (2) Involve weatherization of commercial or industrial property in a manner approved by the Trust; or
- B. Involve a renewable energy installation, an energy storage system as defined in 35-A M.R.S. § 3481(6), an electric thermal storage system, electric vehicle supply equipment or heating equipment that meets or exceeds standards established or approved by the Trust. Heating equipment that is not a Renewable Energy Installation must be heating equipment that produces the lowest carbon emissions of any heating equipment reasonably available to the property owner, as determined by the Trust, and must meet the requirements of 35-A M.R.S. §10204 (1)(B).

Qualifying Property. Real commercial property in the City/~~Town~~ that:

- A. Does not have a residential mortgage;
- B. Is not owned by a residential customer or small commercial customer as defined in 35-A M.R.S. §3016(1)(C) and (D), respectively;
- C. Consists of 5 or more rental units if the property is a commercial building designed for residential use;
- D. Is not owned by a federal, state or municipal government or public school; and
- E. Is located in a municipality that participates in a Commercial PACE Program.

Registered Capital Provider or Capital Provider. An approved lender proving financing for the Energy Savings Improvements through a C-PACE Program and registered with Efficiency Maine Trust.

Renewable Energy Installation. A fixture, product, system, device or interacting group of devices installed behind the meter at a Qualifying Property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including but not limited to, photovoltaic systems, solar thermal systems, highly efficient wood heating systems, geothermal systems and wind systems that do not on average generate more energy or heat than the peak demand of the property.

Trust. The Efficiency Maine Trust established in 35-A M.R.S. §10103 and/or its agents, if any.

4. Program established; Amendments.

- A. Establishment. The City/~~Town~~ hereby establishes a Commercial PACE Program allowing owners of Qualifying Property located in the City/~~Town~~ who so choose to access financing for Energy Savings Improvements to their Qualifying Property, with such financing to be repaid through a Commercial PACE Assessment and secured by a Commercial PACE Lien.
- B. The City/~~Town~~ may:
 - (1) Administer the functions of the Commercial PACE Program, including, but not limited to, entering into Commercial PACE Agreements with commercial property owners and collecting Commercial PACE Assessments, or designate an agent to act on behalf of the City/~~Town~~ for such billing and collection purposes; or
 - (2) Enter into a contract with the Trust to administer some or all functions of the Commercial PACE Program for the City/~~Town~~, including billing and collection of Commercial PACE Assessments, subject to the limitations set forth in Section 10205, subsection 5 of the Commercial PACE Act.
- C. Amendment to or Repeal of Commercial PACE Program. The City/~~Town~~ may from time to time amend this Ordinance to use any funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program, and the City/~~Town~~ shall be responsible for administration of loans made from those funding sources. The City/~~Town~~ may also repeal this Ordinance in the same manner as it was adopted, provided, however, that such repeal shall not affect the validity of any Commercial PACE Agreements entered into by the City/~~Town~~ prior to the effective date of such repeal, or a Commercial PACE Loan or Commercial PACE Lien arising out of such Agreements.

5. Financing; Private Lenders; Terms. C-PACE Loans may be provided by any qualified Capital Provider private lender participating in the C-PACE Program and a C-PACE Agreement may contain any terms agreed to by the lender and the property owner, as permitted by law, for the financing of Energy Savings Improvements. Unless the City/~~Town~~ specifically designates funding sources made available to it or appropriated by it for the express purpose of its Commercial PACE Program and agrees to provide financing for Energy Savings Improvements, the City/~~Town~~ will not finance or fund any loan under the Commercial PACE Program, and shall serve only as a program sponsor to facilitate loan repayment by including the Commercial PACE Assessment on the property tax bill for the property, and shall incur no liability for the loan.

6. Program Requirements and Administration

- A. Agreement Required. All commercial property owners seeking financing for Energy Savings Improvements on Qualifying Property pursuant to the Commercial PACE Program must enter into a Commercial PACE Agreement, approved as to form and substance by the City/~~Town~~ and the Trust, authorizing the creation of a Commercial PACE Assessment and acknowledging the creation of a Commercial PACE Lien. A notice of the Commercial PACE Agreement will be filed in the Cumberland County Registry of deeds, which filing will create a lien until the amounts due under the agreement are paid in full.
- B. Underwriting Standards. A Commercial PACE Agreement entered into pursuant to the Commercial PACE Program must satisfy the minimum underwriting requirements of the Commercial PACE Act and such additional requirements established by the Trust.
- C. Collection of assessments. A commercial property owner participating in the Commercial PACE Program will repay the financing of Energy Savings Improvements through an

assessment on their property similar to a tax bill. A Commercial PACE Assessment constitutes a lien on the Qualifying Property until it is paid in full and must be assessed and collected by the City/~~Town~~ or its designated agent, the Trust, or a 3rd-party administrator contracted by the Trust, consistent with applicable laws. The City/~~Town~~ may, by written agreement, designate the applicable third-party Capital Provider as its agents for the billing and collection of Commercial PACE assessment payments in satisfaction of the Commercial PACE Loan. Where Commercial PACE assessment payments are received directly by the City/~~Town~~ along with other municipal tax payments, such payments received from property owners shall first be applied to City/~~Town~~ taxes, assessments, and charges. The City/~~Town~~ shall have no ownership of the Commercial PACE assessments collected except for any administrative costs provided under the Commercial PACE Program or Commercial PACE Agreement. The City/~~Town~~ shall pay all Commercial PACE assessment payments received by the City in any calendar month to the applicable Capital Provider or the Commercial PACE program administrator within 30 days after the end of the month in which such amounts are collected. The City/~~Town~~ shall have no obligation to make payments to any Capital Provider with respect to any Commercial PACE repayment amounts or loan obligations other than that portion of the Commercial PACE Assessment actually collected from a property owner for the repayment of a Commercial PACE Loan.

If the Trust or a 3rd-party administrator contracted by the Trust or an agent of the City/~~Town~~ collects Commercial PACE Assessments on behalf of the City/~~Town~~, the Trust or agent shall periodically report to the City/~~Town~~ on the status of the Commercial PACE Assessments in the City/~~Town~~ and shall notify the City/~~Town~~ of any delinquent Commercial PACE Assessments. Upon receiving notification from the Trust or agent of a delinquent Commercial PACE Assessment, the City/~~Town~~ shall notify the holder of any mortgage on the property of the delinquent assessment.

- D. Notice; filing. A notice of a Commercial PACE Agreement must be filed in the Cumberland County-appropriate ~~R~~Registry of ~~d~~Deeds. The filing of this notice creates a Commercial PACE Lien against the property subject to the Commercial PACE Assessment until the amounts due under the terms of the Commercial PACE Agreement are paid in full. The notice must include the information required by the Commercial PACE Act.
- E. Priority. A Commercial PACE Lien secures payment for any unpaid Commercial PACE Assessment and, together with all associated interest and penalties for default and associated attorney's fees and collection costs, takes precedence over all other liens or encumbrances except a lien for real property taxes of the municipality and liens of municipal sewer, sanitary and water districts. From the date of recording, a Commercial PACE Lien is a priority lien against a property, except that the priority of such a Commercial PACE Lien over any lien, except a lien for real property taxes of the City/~~Town~~ or a lien of a municipal sewer, sanitary or water district, that existed prior to the Commercial PACE Lien is subject to the written consent of such existing lienholder.
- F. Mortgage lender notice and consent. Any financial institution holding a lien, mortgage or security interest in or other collateral encumbrance on the property for which a Commercial PACE Assessment is sought must be provided written notice of the commercial property owner's intention to participate in the Commercial PACE Program and must provide written consent to the commercial property owner and City/~~Town~~ that the borrower may participate and enroll the collateral property in the Commercial PACE Program. This written consent must be filed in the Cumberland County Registry of ~~d~~Deeds and must include a written acknowledgement and understanding by the financial institution holding the lien, mortgage or

security interest in or other collateral encumbrance on the property as required by the Commercial PACE Act.

7. Collection, default; foreclosure.

A. A Commercial PACE Assessment and any interest, fees, penalties and attorney's fees incurred in its collection must be collected in the same manner as the real property taxes of the City/~~Town~~. A Commercial PACE Assessment for which notice is properly recorded under this section creates a lien on the property. The portion of the assessment that has not yet become due is not eliminated by foreclosure, and the lien may not be accelerated or extinguished until fully repaid.

(1) If a Commercial PACE Assessment is delinquent or in default and the borrower or property owner is delinquent in any tax debt due to the City/~~Town~~, collection may occur only by the recording of liens and by foreclosure under 36 M.R.S. §§ 942 and 943. Liens must be recorded and released in the same manner as liens for real property taxes.

(2) If only a Commercial PACE Assessment is delinquent but the borrower or property owner is current on payment of all municipal taxes due to the City/~~Town~~, then a Commercial PACE lienholder shall accept an assignment of the Commercial PACE Lien, as provided in the written agreement between City/~~Town~~ and the Capital Provider. The assignee shall have and possess all the same powers and rights at law as the City/~~Town~~ and its tax collector with regards to the priority of the Commercial PACE Lien, the accrual of interest and fees and the costs of collection. The assignee shall have the same rights to enforce the Commercial PACE Lien as any private party or lender holding a lien on real property, including, but not limited to, the right of foreclosure consistent with 14 M.R.S. §§ 6203-A and 6321 and any other action in contract or lawsuit for the enforcement of the Commercial PACE Lien.

B. Judicial or nonjudicial sale or foreclosure. In the event of a judicial or nonjudicial sale or foreclosure of a property subject to a Commercial PACE Lien by a lienholder that is not a Commercial PACE lienholder, the Commercial PACE Lien must survive the foreclosure or sale to the extent of any unpaid installment, interest, penalties or fees secured by the lien that were not paid from the proceeds of the sale. All parties with mortgages or liens on that property, including without limitation Commercial PACE lienholders, must receive on account of such mortgages or liens sale proceeds in accordance with the priority established in the Commercial PACE Act~~this chapter~~ and by applicable law. A Commercial PACE Assessment is not eliminated by foreclosure and cannot be accelerated. Only the portion of a Commercial PACE Assessment that is in arrears at the time of foreclosure takes precedence over other mortgages or liens (except liens for real property taxes of the municipality and liens of municipal sewer, sanitary and water districts); the remainder transfers with the property at resale.

C. Unless otherwise agreed upon by the Capital Provider, all payments on a Commercial PACE Assessment that become due after the date of transfer by judicial or nonjudicial sale or foreclosure must continue to be secured by a lien on the property and are the responsibility of the transferee.

D. Release of lien. The City/~~Town~~ will discharge a Commercial PACE Lien created under the Commercial PACE Act and this Ordinance upon full payment of the amount specified in the Commercial PACE Agreement. A discharge under this subsection must be filed in

the ~~appropriate Cumberland County~~ Registry of ~~d~~Deeds and must include reference to the notice of Commercial PACE Agreement previously recorded pursuant to the Commercial PACE Act and this Ordinance.

~~D.E.~~ No City Responsibility for Commercial Pace Assessment Payments. The City shall not be obligated to make any Commercial PACE Assessment payment during any period in which the City is deemed to be the owner of the Qualified Property by virtue of the automatic foreclosure of a tax lien mortgage, pursuant to 36 M.R.S. § 943, as amended, provided that the City includes such a provision in the Commercial PACE Agreement for that Qualified Property.

8. Liability of municipal officials; liability of City/~~Town~~

- (1) Notwithstanding any other provision of law to the contrary, City/~~Town~~ officers, ~~and City/Town~~ officials, and employees, including without limitation, Tax Assessors and Tax Collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a Commercial PACE Program, including without limitation, claims for or related to uncollected Commercial PACE Assessments under this Ordinance.
- (2) Other than the fulfillment of its obligations specified in a Commercial PACE Agreement, the City/~~Town~~ has no liability to a commercial property owner or the Trust for or related to Energy Savings Improvements financed under a Commercial PACE Program.

9. Conformity to Changed Standards.

This Ordinance is intended to comply with the Commercial PACE Act and the administrative rules of the Trust issued in connection with the Commercial PACE Act, as the same may be amended. If the Trust or any State or federal agency adopts standards, promulgates rules, or establishes model documents subsequent to the City/~~Town~~'s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the City/~~Town~~ shall take necessary steps to conform this Ordinance and its Commercial PACE Program to those standards, rules or model documents.

Office of Corporation Counsel
Michael Goldman, *Acting Corporation Counsel*
Amy R. McNally, *Associate Corporation Counsel*
Nicole M. Albert, *Associate Corporation Counsel*
Rachel L. Millette, *Associate Corporation Counsel*



TO: Transportation and Sustainability Committee

FROM: Nicole Albert, Associate Corporation Counsel

DATE: September 11, 2023

RE: Proposed changes to Ch 28 of City Code

Members of the Committee:

I have been working with John Peverada and Andy Martin of the Parking Division, with input from Troy Moon and Jeremiah Bartlett, on several proposed changes to the Parking Section of the City Code, Chapter 28. Below please find an explanation of the proposed changes which are reflected in the accompanying redlined document:

Sec. 28-1 (Definitions)

Crosswalks We have proposed a change to the definition of “crosswalk” by removing the requirement that “crosswalk” only apply to marked crosswalks. This change allows Parking Enforcement to ticket when drivers park blocking the tip down at an intersection (which allows pedestrians as well as wheelchairs and other assistive devices to get to street level to cross without going over a curb). Not all crosswalks are marked, but all should have tip downs to facilitate crossing.

Electric Vehicle We’ve added a proposed definition of Electric Vehicle or EV where there previously was none. This definition was created using industry-standard terminology and in consultation with Troy Moon, and will allow for penalties when vehicles which do not require charging park at designated EV charging stations.

Prolonged Parking We’ve proposed a change to this definition that would require a vehicle, once its paid parking time had elapsed, to move to another block. This is related to a proposed amendment to sec. 28-84(b), discussed below, and enforcement of that violation.

Sec. 28-51 (Traffic Schedule)

We have proposed new violation codes for the following:

5. Added vehicles parked in bicycle lanes

18 . Non EVs parking at EV charging stations, and EVs parked at charging stations but not plugged in

19, Unregistered motor vehicles. With this addition, we will be able to ticket vehicles that do not display evidence of a current registration. Tickets can be voided if proof of current registration is provided.

We have also proposed the following change for clarification:

Violation T - propose removing the word “metered” to include a violation for anyone who parks taking up more than one space, not just metered spaces.

Sec. 28-53 (Stopping, standing or parking prohibited at specific locations)

(n) Proposed adding bicycle lanes to areas where parking is prohibited

(o) Proposed adding EV charging stations to areas where parking is prohibited, unless the vehicle is an EV and is plugged in.

Sec. 28-58 (Parking of trucks and certain other vehicles prohibited)

Proposed clarification that RVs and Trailers can park for a maximum of 24 *cumulative* hours on any and all street in a seven-day period

Sec. 28-84 (Violations)

(b) We are proposing a change to require a driver to move their vehicle to another block upon expiration of their metered or paid time, and not to return to the original block for three hours. Currently, violators claim they rolled forward one space or drove around the block and parked in the exact same spot. When using License Plate Recognition (LPR), the photo shows a GIS coordinate and a picture of where the car was parked, but there is no way to determine if the car was driven around the block and reparked in the same spot. This method is used in other municipalities.

(h) We are proposing adding a violation for not displaying proof of current and valid registration, as discussed above.

Sec. 28-91 (Residential parking permits)

(b)(3) We are proposing a change to the definition of resident motor vehicle as used in this section of the Code to exclude Motor homes, buses, or vehicles over 25 feet in length. This would prohibit those vehicles from being eligible for a residential parking permit.

Division 6: Towing and Immobilization of Vehicles

Section 28-101 (Applicability)

(b) We are proposing adding language to require that any vehicle towed for illegal parking that has three or more unpaid tickets must pay all of the tickets before the vehicle can be released

(c) We are proposing this change to require that if a utility company calls for an emergency tow, then the utility company shall pay the towing and storage fee since the owner of the vehicle would have no notice and no way of knowing. This codifies our current practice of requiring the utility company to pay for emergency tows. (We also do our best to locate the owner of the vehicle before calling for a tow.)

Sec. 28-106 (Interference with Enforcement)

We propose adding a fine of not less than \$500 for a person who tampers with or attempts to remove a boot or or attempts to prevent the removal of a vehicle.

Other Proposed Actions which require Council Approval:

REMOVAL OF PARKING METERS:

We have 31 single space parking meters that are generating minimal revenue and rather than updating them with new mechanisms, we are proposing to remove them and replace them with 2 hour time limit signs. The meters in question are as follow:

- 8 Meters on lower Forest Ave (in front of the Federal Building next to the Post Office) that produce approximately \$285.00 a year combined. (Approx. \$35.63 per meter.)
- 8 Meters on lower Forest Ave (Across the street from the post Office in front of the park), leaving the upper 4 meters closest to Park Ave.
- 11 Meters on Lower Chestnut St. (leaving the 6 meters abutting Planet Fitness and 1 at the corner of Marginal Way) that produce approximately \$680 per year combined. (Approx. \$37.75 per meter).
- 4 meters at 29 Marginal Way that produce approximately \$130.00 a year combined. (Approx. \$32.50 a meter.)

Grand Total: 31 Meters

Compared To Similar Streets:

- *Brown St: has 11 spaces that produce over \$3,200.00 a year combined, \$290 per.*
- *Exchange St: has 9 spaces that produce approximately \$10,760.00 a year combined, \$1,195 per.*
- *Silver St: has 9 spaces that produce approximately \$8,600.00 a year combined, \$955 per.*

Thank you for your consideration of these proposed changes. Staff will be available to answer any questions the Committee might have.

ARTICLE I. IN GENERAL

Sec. 28-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them below. When a term is used in this chapter but not defined below, the definitions in 29-A M.R.S.A. § 101 and any amendments thereto shall be used.

Authorized emergency vehicle shall mean vehicles of the fire and police departments and such ambulances and emergency vehicles as are designated by state law or authorized by the city traffic engineer.

Business district shall mean the territory contiguous to and including a highway when fifty (50) percent or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

Compact area shall mean the compact or built-up portion of a municipality which is the territory contiguous to a way that is built up with structures situated less than one hundred fifty (150) feet apart for a distance of at least one-quarter of a mile. Municipal officers may designate a compact or built-up portion by appropriate signs.

Cross walk shall mean:

(a) That portion of a roadway ordinarily included within the prolongation or continuation of the lateral lines of sidewalks at intersections. Where two (2) or more streets intersect and only some of the crosswalks at such intersection are marked for pedestrian traffic, ~~the word crosswalk as used in this article shall include only such marked crosswalks at any such intersection.~~

(b) Any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driver shall mean every person who drives or is in actual physical control of a motor vehicle.

Electric Vehicle or EV shall mean a vehicle that can be

powered by an electric motor that draws electricity from a battery and is capable of being charged from an external source. An EV includes both a vehicle that can only be powered by an electric motor that draws electricity from a battery (all-electric vehicle) and a vehicle that can be powered by an electric motor that draws electricity from a battery and by an internal combustion engine (plug-in hybrid electric vehicle). For purposes of this chapter, a gas-powered hybrid vehicle that does not require charging from an external source shall be considered a non-EV.

Esplanade shall mean the city owned or controlled area between any sidewalk or sidewalk right-of-way and the roadway curbline.

Intersection shall mean the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two (2) streets which join one another.

Motor vehicle shall mean any self-propelled vehicle, including a golf cart registered by the city for island use, not operated exclusively on tracks but does not include:

- (a) A snowmobile as defined herein;
- (b) An all-terrain vehicle as defined in article V; or
- (c) A motorized wheelchair.

Operate shall mean to operate, drive, or use a vehicle in any manner, whether or not the vehicle is moving.

Park or parking shall mean and include the stopping or standing of a vehicle, whether occupied or not and whether or not the motor is running.

Parking control officer shall mean a person duly authorized by the city manager to enforce the parking ordinances of the City of Portland, either as an employee or an employee of an independent contractor to the city.

Parking meter shall mean a device which shall indicate thereon the length of time during which a vehicle may be parked in a particular place, having as a part thereof a receptacle or chamber for receiving and storing coins of the United States money; a slot or place in which the coin may be deposited; and timing mechanism to indicate the passage of the interval of time during which parking is permissible with an appropriate signal to indicate when

the aforesaid interval of time shall have elapsed; and brief instructions as to its operation. Parking meter as used herein shall also include a multi-space parking meter which may accept coins and other forms of payment such as debit and credit cards, and provide a timed receipt permitting parking in any multi-space or single space parking during such time.

Parking space shall mean any space adjacent to the curb or directly in front of or behind a single space parking meter for the parking of a single vehicle whether or not designated by painted lines or other durable markings. Parking space shall also include a space controlled by a multi-space meter.

Pedestrian shall mean any person on foot.

Personal assistive mobility device shall mean a mobility aid, such as a motorized wheelchair or scooter, that is used to enhance an individual's mobility.

Police officer shall mean every officer of the police department or any person authorized to make arrests for violations of traffic regulations.

Private road or driveway shall mean every way or place in private ownership and used for vehicular travel by the owner, and those having express or implied permission from the owner, but not by other persons.

Prolonged parking shall mean parking, at a meter or a designated parking space in excess of the maximum limit of parking designated for such space, without moving the vehicle out of the space to another/different block and making the space available for use by another person, at a meter or a designated parking space in excess of the maximum limit of parking designated for such space. Prolonged parking shall include, without limitation, "feeding the meter," so-called.

Publicly-owned property shall mean property owned by the city.

Railroad shall mean a carrier of persons or property upon cars operated upon stationary rails.

Railroad train shall mean steam engine, electric, or other motor with or without cars coupled thereto, operated upon rails.

Receipt shall mean the paper receipt dispensed from a multi-

space meter showing the date purchased with the time during which it permits parking in a multi or single meter parking space.

Residence district shall mean the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with dwellings or dwellings and buildings in use for business.

Right-of-way shall mean the privilege of the immediate use of the roadway.

Roadway shall mean that portion of a street improved, designed or ordinarily used for vehicular travel.

Safety zone shall mean the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk shall mean that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines which is intended for the use of pedestrians.

Snowmobile shall mean any vehicle propelled by mechanical power that is primarily designed to travel over ice or snow supported in part by skis, belts or cleats.

Standing shall mean any stopping of a vehicle, whether occupied or not and whether or not the motor is running.

Stop or stopping shall mean any halting or cessation of movement, even momentarily, of a vehicle, whether occupied or not, and whether the motor is running or not.

Street or highway shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Traffic shall mean pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any street for purposes of travel.

Traffic-control devices shall mean all signs, signals, markings and devices, whether immovable or whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, by

which traffic is alternately directed to stop and proceed or for the purpose of regulating, warning or guiding traffic.

Traffic schedule shall mean the official listing of the streets of the city and the regulations pertaining to parking and traffic control, as amended from time to time by order of the city council or, when authorized, by the traffic engineer, and kept on file at the office of the city clerk.

Vehicle shall include all kinds of conveyances on ways for persons and for property, including special equipment, except those propelled or drawn by human power or used exclusively on tracks or snowmobiles or motorized wheelchairs.

...

Sec. 28-51. Traffic schedule.

The stopping, standing and/or parking of motor vehicles and movement of traffic are hereby regulated on the streets or parts of streets and ways and on publicly owned property as set forth on the traffic schedule and, when signs are erected giving notice thereof the stopping, standing and/or parking of motor vehicles and movement of traffic shall be regulated as set forth on the schedule for such streets or parts of streets and ways and on such publicly owned property. The traffic schedule shall be updated regularly by the city's traffic engineer and kept on file in the office of the city clerk. Amendments to the traffic schedule shall be made by the traffic engineer acting pursuant to his or her authority under this chapter or by order of the city council.

(Ord. No. 183-97, 1-22-97)

Editor's note--By separate order (Ord. No. 130-93, 10-18-93; and Ord. No. 141-97, 11-3-97; Ord. No. 242-02/03, 5-19-03 (effective 7-1-03); Ord. No. 143-06/07, 2-5-07) (effective 2-5-07); Ord. No. 217-06/07, 5-21-07 (effective 7-1-07), Ord. No. 209-09/10 (effective 7-1-10), Ord. No. 240-13/14, 5/19/14 (effective 7-1-14) and Ord. No. 233-18/19, 5/20/2019 (effective 7-1-2019), the City has established a schedule of waiver fees for parking violations as follows:

	<u>Violation</u>	<u>Waiver Fee</u>
1	Expired Meter or receipt/no receipt/receipt face down	\$20.00
C	Prolonged Parking-Feeding Meters	\$25.00
D	Overtime In Time Zone (Green Sign)	\$15.00
T	No Parking That Takes More Than One Metered-Parking Space	\$20.00
4	No Parking This Side Of Street	\$35.00
E	No Parking Zone	\$35.00
F	No Parking Between Signs	\$35.00
G	No Parking Here To Corner	\$35.00

H	No Parking Taxi Stand	\$35.00
J	No Parking Intersection	\$35.00
K	No Parking Sidewalk	\$35.00
L	No Parking / Dual Rear Wheels/ Overtime Commercial Vehicle Zone	\$40.00
M	No Parking Against Traffic Flow	\$35.00
N	Posted Emergency No Parking Zone	\$35.00
P	No Parking More than 18" from Curb	\$35.00
Q	No Stopping or Standing	\$35.00
R	No Parking City Lot or Property (Permit Required)	\$35.00
S	No Parking on Esplanade	\$35.00
8	No Parking Bus Stop	\$35.00
9	Blocking Driveway (On Complaint)	\$35.00
5	Double Parking, or Obstructing Traffic, <u>or Parking in bicycle lane</u>	\$35.00
6	Parking in Hazardous Area -Fire Hydrant-Crosswalk	\$40.00
7	Snow Removal or Plowing Area	\$35.00
A	Parking in Disabled Zone	\$200.00
10	Displaying vehicle for sale	\$25.00
11	Washing, greasing or repairing such vehicle except for repairs necessitated by an emergency	\$25.00
12	Advertising purposes	\$25.00
13	Storage/abandoned vehicle (10 consecutive days)	\$25.00
14	Angle Parking Only	\$25.00
15	Parking a Vehicle 20' or more in Residential Area November-March	\$25.00
16	Camper, Trailer, boat, Etc. Over 24 hrs in any 7 calendar day period	\$25.00
17	Driver to Remain with Vehicle in Taxi Stand	\$25.00
18	<u>Non-EV parking at EV charging station or EV at charging station not plugged in</u>	<u>\$35.00</u>
19	<u>Unregistered motor vehicle</u>	<u>\$35.00</u>

***Editor's Note:** Permits are required to be properly displayed.

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Sec. 28-53. Stopping, standing or parking prohibited at specific locations.

No person shall stop, stand or park a vehicle in any of the following places, nor shall any person move a vehicle not owned by him or her into any of such places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, parking control officer, other authorized person or traffic-control device:

- (a) On a sidewalk or esplanade, provided, however, that persons authorized to operate pushcarts pursuant to article II of chapter 19 shall not be prohibited from stopping, standing or parking such pushcarts on

sidewalks or esplanades in the course of business and in accordance with the provisions of and limitations imposed pursuant to article II of chapter 19; and provided further, that between the sidewalk and roadway on the Eastern Promenade between Atlantic Street and North Street, parking in a driveway shall be permitted during an emergency declared under section 28-97;

- (b) In front of or within five (5) feet of the intersection of the side lines of a public or private driveway with the nearest roadway edge of pavement;
- (c) Within an intersection or within twenty-five (25) feet of an intersection;
- (d) Within ten (10) feet of a fire hydrant, except to the extent authorized as a taxicab stand by the city traffic schedule and appropriate signage;
- (e) On a crosswalk or within twenty (20) feet of the center of any crosswalk;
- (f) More than eighteen (18) inches from the curb;
- (g) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (h) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic engineer indicates a different length by signs or markings;
- (i) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance when properly signed;
- (j) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic or interfere with said excavation;
- (k) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or "double park," so-called;

- (l) At any place where official signs prohibit stopping or parking;
- (m) In front of a place of business for longer than one (1) hour between the hours of 9:00 a.m. and 5:00 p.m., except for Sundays and state and federally sanctioned holidays, unless a different regulation is provided by sign or by meter or by this chapter for such location.
- (n) in any bicycle lane designated as such by the city traffic engineer.
- (o) at any designated EV charging station, if the vehicle being parked is not an EV or is an EV which is not plugged in.

...

Sec. 28-58. Parking of trucks and certain other vehicles prohibited.

(a) No person shall stop, stand or park any motor vehicle which exceeds twenty (20) feet in length in any area zoned residential pursuant to the zoning ordinance on any public street, public way, or publicly owned property, during the months of November through March.

(b) The above prohibition shall not apply when such vehicles are necessarily engaged in making deliveries, accepting or discharging passengers, loading or unloading cargo, or providing governmental, utility, emergency or other services to abutting properties. Furthermore, this section shall not apply to vehicles necessarily engaged in the construction, repair, or maintenance of public streets, public ways or publicly owned property.

(c) No person shall park any boat, camper, trailer, recreational vehicle, similar vehicle or any snowmobile on any and all streets for more than twenty-four (24) cumulative hours in any seven-calendar-day period.

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Sec. 28-84. Violations.

It shall be unlawful for any person to:

(a) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in any paid parking space without having paid the required parking fee by any method approved by the City Manager;

(b) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to remain in a parking space beyond the period of legal parking time established for such parking space as provided in the traffic schedule, or, except as provided in Section 19-26, to make any payment for the purpose of parking beyond the maximum legal parking time designated by the parking meter or multi-space meter ("prolonged parking" or "feeding the meter"). Upon expiration of metered time or time zone, vehicle must be moved to another block, and must not return to the original block for at least three (3) hours;

(c) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked across any line or marking of a parking space or in such position that the vehicle shall not be entirely within the limits of the parking space or such that the parked vehicle otherwise impedes or obstructs the flow of traffic; the minimum fine for a violation of this section shall be fifty dollars (\$50);

(d) Deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions herein;

(e) Deposit or cause to be deposited in any parking meter any slug, device, metallic substance or any other substitute for a coin of the United States;

(f) In the event of a violation of the provisions of subsections (a), (b), and (c) above, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered. The fact that a vehicle is in a paid parking space when the time indicated on a meter, time stamped receipt, mobile application, or other mechanism used by the City to monitor paid parking times has expired shall also be prima facie evidence that the vehicle has been parked in the parking space longer than the lawfully permitted period; or

(g) Cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked in any parking space utilizing a disability registration plate or

removable windshield placard which has been tampered with or improperly altered in any way. The minimum fine for a violation of this section shall be two hundred dollars (\$200).

(h) Cause, allow, permit, or suffer any vehicle registered in the name of or operated by such person to be parked on City property (including but not limited to, streets, rights-of-way, parks, parking lots, or public areas) without displaying evidence of a current and valid registration.

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DIVISION 4. RESIDENTIAL AND BUSINESS-PEDESTRIAN PARKING PROGRAMS

Sec. 28-91. Residential parking permits.

(a) Annual permit stickers, hereinafter "permits," may be issued to Portland residents for parking in excess of one-hour and two-hour limitations on public streets in residential areas, as defined by order of the city council, when parked within the defined residential parking district for which the permit is issued. All other parking regulations of the city apply, including without limitation parking meters.

(b) As used in this section, the following terms shall have the meanings ascribed to them:

- (1) *Resident* means a person who has declared or established residency in the city or has been domiciled in this city for a period of at least thirty (30) days.
- (2) *Residential area* means a contiguous or nearly contiguous area containing public streets and highways or parts thereof where residents dwell;
- (3) *Resident motor vehicle* shall mean a registered motor vehicle owned or leased by a resident of the residential permit parking area and bearing a valid parking permit issued pursuant to this section. For purposes of this division, "lease" includes permanent assignment of a company vehicle to a resident, which vehicle is principally garaged at that person's residence. Resident motor vehicle shall not mean Motor Homes, buses or vehicles over 25 feet in length.

- (4) *Residential permit parking zone* shall mean a residential area designated as such by order of the city council.

(c) A residential area shall be deemed eligible for residential parking if the city council determines that parking therein is impacted by commuter vehicles. In determining whether an area identified as eligible for residential permit parking shall be designated as a residential permit parking zone, the city council shall take into consideration the following factors:

- (1) The extent of the desire and need of the residents for residential permit parking and their willingness to bear the administrative cost in connection therewith;
- (2) Proximity of the neighborhood to major "parking attractors" including employment centers, retail stores, restaurants, universities, hospitals and tourist attractions;
- (3) Proximity of the neighborhood to transit service;
- (4) Scarcity of convenient off-street parking for residents;
- (5) The extent to which motor vehicles registered to persons residing in the residential area cannot be accommodated by the number of available off-street parking spaces;
- (6) Substantial use of neighborhood curb space by commuters and other nonresidents for parking;
- (7) Traffic, noise and safety problems caused by vehicles cruising for parking.

- (d) Permits shall be issued in the following manner:

- (1) *Eligibility for permit.* A person is eligible to apply for a residential parking permit if he or she owns or leases a motor vehicle and resides on property within or immediately adjacent to a street, avenue or other location on which the residential parking provisions of this section are applicable.

- (2) *Residency; application for permit.*

- a. *Residency.* Proof of residence in the residential parking zone in a form reasonably satisfactory to the parking manager or his or her designee must be presented at the time application is made. All

residents must comply with applicable state registration and operator license requirements in Title 29-A, Section 101 et seq. in order to be eligible for a resident parking permit.

- b. *Application.* The application for the permit shall contain the name of the owner or lessee of the motor vehicle; residential address; the make, model, and plate number of the motor vehicle; and the number and state of the driver's license of the applicant.
- c. *Documents presented with application.* The following documents must be presented with the permit application:
 - (i) Vehicle registration, and, if applicable, the rental agreement for the vehicle or a letter from a company official on company letterhead indicating a vehicle has been permanently assigned to the applicant and is principally garaged at the applicant's residence; and
 - (ii) A valid State of Maine driver's license showing applicant's address as being within the zone; or if no such license, a current student identification from a school located in Portland, or military identification, and their current driver's license; or a driver's license from another state, proof of residential property ownership within the zone to which the permit will apply and an affidavit, signed under oath, stating that the applicant will be residing within the zone for a period of at least five months and the address of the applicant's principal residence in another state; and
 - (iii) Proof of current residency within the zone.

No permit shall be issued for any vehicle which has one (1) or more notices of violation of any parking regulation or regulations made pursuant to this chapter issued after January 1, 1978, for which there has been neither payment of waiver fees or issuance of court process, until such time as all waiver fees have been paid or court process issued with respect to said notices of violation.

An applicant for a permit based on five month residency shall pay an annual fee of \$50 for the permit.

- (3) *Permit stickers.* A permit shall be issued for a designated residential permit parking zone only after approval of the permit application by the parking manager or his or her designee. Annual permit stickers shall be issued from July 1 - June 30 and may contain such information as the parking manager may determine to be necessary from time to time, including without limitation the zone number if more than one (1) residential parking zone has been established pursuant to this section. Permit stickers must be displayed upon the lower center of the rear window.
- (4) *Replacement stickers.* Replacement stickers shall be issued only on proof of disposition or return of the old sticker.
- (5) *Renewal.* Permits may be renewed annually. Renewal of any permit or issuance of a new permit is to be treated as if an original issuance.

(e) The city council, by order, may authorize the establishment of residential parking permit programs applicable to specifically designated residential permit parking zones, with regulations as to the number of permits to be issued, the manner of issuance of the permits, the temporary or permanent nature of the program in the designated parking zone and such other conditions which are not in conflict with this section.

(f) A residential parking permit shall not authorize the holder thereof to park a motor vehicle in such places or during such times as parking of motor vehicles is prohibited or set aside for specified types of vehicles, nor exempt the holder from the observance of any traffic regulations other than a one (1) hour or two (2) hour parking limit within the residential permit parking zone.

(g) No person shall furnish any false information to the city in connection with the obtaining of any permit authorized hereunder. Any permit issued upon such false information or attached to a different vehicle shall be null and void. No person shall sell, lend or otherwise transfer any permit and any permit attempted to be so sold, lent or transferred shall become null and

void. Any sticker attached to a vehicle which is sold or transferred to a new owner or lessee shall be removed from such vehicle prior to such sale or transfer.

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DIVISION 6. TOWING AND IMMOBILIZATION OF VEHICLES

Sec. 28-101. Applicability.

(a) *In general.* Any vehicle of any kind or description parked upon a public street of the city at any place, in any manner, or for any length of time prohibited by this Code, or during any emergency parking ban declared by the city manager as provided in this chapter, may be removed by, or under the direction of or at the request of, any police officer of the city to a garage, storage place, or to city property within the limits of the city or within a radius of five (5) miles from Portland City Hall and impounded therein until the towing and storage fees established by article IV of this chapter are paid, and, until the requirements of this division are met. Such police officer may use such force as may be necessary to enter the vehicle and cause the same to be placed in a condition to be moved and may summon a licensed tow operator pursuant to the provisions of article IV of this chapter for such purpose.

(b) *Scofflaw.* Any vehicle which has accumulated three (3) or more notices of violation of any parking regulation or regulations made pursuant to this chapter for which there has been neither payment of waiver fees nor issuance of court process and which is then parked in violation of any such provision may, at the option of any city police, parking control or other officer authorized to enforce the parking regulations of the city, be immobilized in place or may be removed and stored pursuant to the provisions of this chapter until all waiver fees established pursuant to 30-A M.R.S.A. § 3009 for all such outstanding notices of violations and also the charges authorized by article IV have been paid or until the requirements of section 28-103(b) or (c) have been met. If impoundment by immobilization is utilized, a charge of fifty dollars (\$50.00) shall be charged and paid prior to such release. Any vehicle having accumulated three (3) or more unpaid notices of violation, as described above, which is legally towed for any reason may be held until all outstanding payments have been made.

(c) Emergency utility tow. When emergency utility work requires a legally parked vehicle to be towed in order for utility crews to access necessary utility infrastructure or equipment, the utility shall be responsible for the cost of towing and storage.

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Sec. 28-106. Interference with enforcement.

It shall be unlawful for any person to tamper with or to attempt to remove any immobilizing device attached to a vehicle or to obstruct or attempt to prevent the removal of a vehicle as provided in this division. A fine of not less than \$500 shall be imposed for a violation of this section.