

CITY OF PORTLAND, MAINE
Standing Committee on Sustainability and Transportation
Councilor Regina Phillips, Chair
Councilor Victoria Pelletier, District 2
Councilor Anna Bullett, District 4

Agenda
April 10, 2024
5:00 PM

The Sustainability and Transportation Committee will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Sustainability and Transportation Committee. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment via Zoom, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/87554450883?pwd=djNlY0wrTkNqbKQ1bDJQdGNRZmtrdz09>

1. Review and approve minutes from March 13
 - a. March 13 Minutes
2. Sustainability Program Updates
 - a. Updates
3. Presentation and Discussion
Public comment may be taken
 - a. Amendments to Chapter 24 and 34 of City Code Addressing Stormwater Management
Presenter: Benjamin Pearson, PE, Water Resources Compliance Section Coordinator
Public comment will be taken
 - b. LMAC Annual Report and Recommendations
Presenter: Troy Moon, Sustainability Director
Public comment will be taken
 - c. Bayside Tree Planting Project Update
Presenter: Alex Marshall, Parks Director, Tatyana Vashchenko, Project Manager, Mark Reiland, City Arborist
No Public Comment
 - d. Birdsafe Ordinance Review
Presenter: Nick Lund, Maine Audubon
No Public Comment

The S&T Committee recommended this ordinance to the Full Council in September 2023. This presentation is to review the policy for new committee members before it moves to Council action.

- e. Climate Action Fund Update
Presenter: Troy Moon, Sustainability Director
No Public Comment
- f. Confirm Work Plan Items
Committee Discussion
No public comment

4. Other Business

CITY OF PORTLAND, MAINE
Committee on Sustainability and Transportation
Councilor Regina Phillips (D3), Chair
Councilor Victoria Pelletier (D2)
Councilor Anna Bullett (D4)

Draft Minutes March 13, 2024

Members Present: Councilor Phillips, Councilor Bullett

Staff Present: Troy Moon, Katie Tims, Kayley Weeks, Alex Marshall, Mark Reiland, Ben Pearson, Nell Donaldson

Meeting was called to order.

February 14 Minutes

The February 14, 2024 meeting minutes were approved unanimously.

Sustainability Update

Presented by Troy Moon, Katie Tims, and Kayley Weeks

The Office is gearing up to host a Home Energy Expo on March 16 for Portland homeowners to learn how to plan their home energy retrofits. We've also been working to schedule our summer outreach program that will address topics including soil science and tests, permaculture, urban runoff and water quality, healthy lawn building, and winter lawn preparation. Staff recently presented to the Natural Helpers hosted by the Office of Economic Opportunity about sustainability efforts in Portland and current programs. Director Moon also attended the SWANA conference on rulemaking for Maine's EPR legislation.

On March 1st, the Sustainability Office also launched the DIY Electrify program. This program is currently offering eligible Portland homeowners and renters rebates for up to \$250 toward the purchase of DIY products that can be purchased from the local hardware store. Eligible products include: weatherstripping (tapes, sealants, seals, sweeps, caulking), window insulation shrink film kits, pipe and duct insulation, water tank insulation wrap, portable induction cooktop, LED light bulbs, Energy Star-certified refrigerator, Energy Star-certified dishwasher, countertop dishwasher (energy efficient), heat pump clothes dryer, clothes drying rack, outdoor clothesline, power strip, smart thermostats, cellular window shades, and rechargeable batteries.

Councilor Comment on Sustainability Update

Councilor Phillips shares her appreciation for the work that went into creating this DIY Electrify! program, as well as all the board and inclusive outreach efforts for all of the office's programs.

Councilor Bullett asks how residents prove eligibility for the DIY Electrify program? *We want there low administrative burden and low barrier to participate, we have an affidavit where people can certify that they qualify.*

Councillor Bullett follows by asking if she can ask further questions about the EPR legislation at a later date, as Bunzl (a multinational distribution company) has a location and is an important employer in District 4 and would presumably be affected by this legislation. *This will be state-wide legislation and there has been significant outreach to groups affected during the rulemaking process, but certainly can follow up.*

Update on City Response to the Emerald Ash Borer Infestation

Presented by Alex Marshall, Parks Director, and Mark Reiland, City Arborist

Starting in 2019, emerald ash borer, an invasive tree pest, has been detected in Portland and poses serious risks to our 600+ inventoried Ash street trees. In 2021, the Forestry team within the Parks, Recreation, and Facilities Department worked with the State of Maine to develop a plan to address the infestation and to preserve as many trees throughout Portland as possible. While some trees can be saved through treatments and organic bio-controls, many trees will succumb to the pest and will have to be removed and replaced over the next 3-5 years.

EAB response and long-term management are now focused on an integrated pest management (IPM) approach with 3 major foci:

- Risk mitigation through host tree removal and replacement with non-host species
- Selective retention of high-value trees through long-term treatment
- Biocontrol of pest populations through parasitic wasp release

It is expected that ~350-400 inventoried ash street trees will be removed over the coming few years while ~150-200 will be preserved through a long-term treatment and monitoring program. Replanting of removed trees will be with non-host species and likely lag at least 1 year behind removal.

Councilor Comment on Update on City Response to the Emerald Ash Borer Infestation

Councilors Phillips and Bullett both shared appreciation for this presentation. Councilor Bullett notes if there is anything the Council can do to help e.g. support for the grant process, public communication, etc, don't hesitate to reach out.

Councilor Phillips asks if there are safety issues if these trees are left untreated. Yes, *the trees will come down and the pest will spread*. How long will replating take? *From removal to replating depends on the spot, the most difficult being places on the peninsula which can be difficult with the limited-space tree wells, historic/aged infrastructure, stump grinding, coordination with dig-safe. We are working with the Forestry Supervisor to find solutions to avoid leaving streets bare, especially in places where we are removing multiple trees on a street.* Will this affect your overall budget going into 2025? *Grant application is going in soon, and we should hear back this growing season. Treatment and contracting out pesticide treatment is costly, but in the long term we hope to be able to do that in-house.* What has the public engagement looked like? *Especially on the peninsula, we have posted informational signs about each tree. Once we have removed trees, we have signs that go out explaining why we have removed it. Ongoing interviews, notifying neighborhood associations and the Parks Commission, and relaying information via social media.*

Councilor Bullett asks if there is state funding (Maine Forestry) to help. *Yes, there is federal funding that the state is dispersing and we work very closely with them on this effort and with the grant we are applying for.*

Councilor Foreward on Proposed Amendments to Chapters 24 and 34 of City Code

Councilor Phillips notes that there has been correspondence from constituents with comments and concerns regarding these amendments. Director Moon suggests that Ben Pearson should present and if there is a need to come back again to provide more information, then we can allow for that to happen if necessary.

Proposed Amendments to Chapters 24 and 34 of City Code addressing stormwater and low-impact development requirements

Presented by Ben Pearson, PE, Water Resources Compliance Section Coordinator

The Maine Department of Environmental Protection (DEP) issues a stormwater permit, known as the Municipal Separate Stormwater Sewer System (MS4), to the City for the discharge of stormwater to our surface waters. The DEP also issues a Combined Sewer Overflow (CSO) permit for discharges from the combined sanitary and stormwater system during rain events. The Water Resources Division at the Department of Public Works has four groups that help achieve regulatory compliance: Asset Management, Compliance, Engineering, and Operations and Maintenance. We also rely on Ordinances - including Chapter 24, Sewers, and Chapter 32, Stormwater to keep the City compliant from a regulatory mechanism standpoint.

- In order to reduce the amount of combined sanitary and stormwater discharges to our surface waters, Chapter 24 is being revised to allow Public Works better control of any new stormwater connections into the combined sewer.
- The City's MS4 permit requires municipalities to enact a regulatory mechanism for Erosion and Sediment Control by July 1, 2024. A fourth article titled Erosion and Sediment Control is being proposed within Chapter 32 to meet the permit requirement. Erosion and Sediment Controls are employed during construction to prevent dirt from being discharged to surface waters during rain events. Other revisions are being proposed including some updates to match permit language including definitions, deadlines, and references.

These ordinance revisions are being made to strengthen and better align our regulatory mechanisms with our Permit requirements and other initiatives, including an updated Technical Manual, to limit the impact of discharges to the City's brooks, rivers, and harbor.

Public Comment on Proposed Amendments to Chapters 24 and 34 of City Code

Bill Weber asks if there are instances where the Water Resources division may review the sediment and erosion control plans at the Sprague Cassidy Point coal pile? *Unfortunately, the dust is blowing inland. We have been on their terminal site and have met with them with concerns for air quality and water quality. These amendments would give us more regulatory authority to deal with this and similar problems.*

Councilor Comment on Proposed Amendments to Chapters 24 and 34 of City Code

Councilor Bullett notes that we received many emails from contractors about this item. The concerns focus on fines incurred due to the inability to remedy a site immediately after a heavy rainfall event. *Ben notes that the City works with contractors and engineers throughout the site planning, permitting, and construction process. We communicate with contractors to prepare/alert them before storms and try to be reasonable throughout these changes.*

Councilor Phillips is supportive of moving this item to the full Council, knowing there is ample time to communicate with all concerned constituents. Director Moon suggests we should incorporate any last changes to the proposed amendments and vote on it next month, before moving it to the full Council.

Presentation and Update regarding ReCode: Climate Resilience Overlay Zones

Presented by Nell Donaldson, Director of Special Projects

ReCode Portland includes an effort to holistically integrate climate resilience into the land use code. The goal of this effort is to add requirements and guidelines to the code to ensure that Portland is resilient in the face of increasing coastal flooding, stormwater flooding, and high heat. This work involves taking stock of the existing patterns and projections for each of these risk factors, developing a shared understanding of how they map onto the city, and then establishing adaptation standards that will help to limit damage and disruption in the future. This work will eventually come to the Council as a text amendment to the land use code and a map amendment as well.

Councilor Comment on Presentation and Update regarding ReCode

Director Moon asks if there was a building in a zone damaged or destroyed for some reason, would they be able to build it back the same or would they have to comply with new standards? *The regulations are written to require any new construction, any additions or renovations over a certain size to comply. We haven't written any nonconformity provision, and we could add it, but the idea is that we want to keep people out of harm's way - so no.*

Councilors Phillips and Bullett both share appreciation for this work, and engagement around the project.

Motion to Adjournment

Councilor Phillips asks to postpone the presentation of the Landcare Management Advisory Committee Annual Report until the April meeting. Motion to adjourn by Councilor Bullett. Second by Councilor Phillips. All adjourned.

Meeting Adjourned



Sustainability Updates

April 10, 2024

Energy

Since launching DIY Electrify! we have helped Portland residents buy a variety of items including: weatherization materials, cellular shades, an energy-star refrigerator, and smart thermostat. We are working on broader outreach efforts to keep spreading the word by connecting with Eldredge Lumber and Maine Hardware, who have agreed to advertise the program in their stores and on social media to raise awareness to customers. Additionally, we are in the process of forming interdepartmental relationships with Public Health and the Office of Economic Opportunity to expand our outreach within the community. We have also added electric lawn tools, reel lawn mowers, and rechargeable power stations to our list of eligible products.

Office staff are working with building owners to report energy and water usage to the City with reports due May 1 each year under the Energy and Water Use Benchmarking Ordinance. Staff will host a commercial building efficiency workshop with guests from Efficiency Maine to help building owners and property managers understand their benchmarking reports and identify actions that can be taken to improve their metrics. The workshop will be April 18th at City Hall.

Landcare

On March 27, we hosted our first “Landcare Lunch Break” webinar with Jason Lilley of UMaine Cooperative Extension to hear about sustainable soil management and how to conduct a soil test. This is the first in our free webinar series that invites guest speakers around Maine to break down a variety of topics around sustainable landcare. Recordings will always be available after the webinar [here on our website](#) and on our YouTube channel.

This series is just one aspect of our outreach efforts to spread awareness about our Landcare Ordinance and encourage best practices in maintaining green lawns and healthy backyard soils without the need for synthetic inputs.

Electric Vehicles

Efficiency Maine awarded a NEVI grant to Gridwealth LLC to install a DC Fast Charging facility on Marginal Way next to Miss Portland Diner. This is a location we had previously explored and gotten approval from the HEDC Committee to advance. We will work with Corporation Counsel and Gridwealth to develop a site license.

Community Support

On Saturday, March 16, we hosted our Home Energy Expo, inviting homeowners to learn how they can save energy, reduce their carbon footprint, and save money on their energy bills. Local vendors such as Evergreen Home Performance, Horizon Homes, Green Maine Healthy Homes, Maine Solar, Efficiency Maine, green realtors, and other home efficiency experts offered the 70 people in attendance interactive workshops and demonstrations. Thank you to Friends of Woodfords Corner for their help in organizing and promoting the event!

Portland residents in the West End neighborhood are leading a “ReForest the City” native tree-planting project along with an educational campaign to spread awareness about the importance of caring for urban trees. We are excited to support this effort, as it is synergistic with our climate action plan and neighborhood resilience program. On April 9, the group hosted a "Tuesday Tree Talk" with Mark Reiland, Portland's City Arborist speaking on the State of the Portland Urban Forest. If you are interested in learning more about the ReForest the City project reach out to trees@wenamaine.org to get connected.

Education and Outreach

On March 19th, we had an Internal Sustainability Lunch inviting fellow colleagues to chat about some of the steps the City is taking to become more resilient and how it relates to their work. This was the beginning of We look forward to the next one!

On March 22, April 5, and April 9 our team attended the Portland Public Schools STEM Expo and got the chance to chat with high school and elementary school students about climate science and ideas for future careers.

On March 27, Troy gave a presentation as part of the Portland Public Library's Sustainability Series. The in-person presentation focused on resiliency in the face of rising waters, more extreme weather events, and new challenges on the waterfront and throughout the city.

On March 28th, Kayley attended the Maine Sustainability & Water Conference. She attended two sessions including: Balancing Forest and Farmland Protection with Renewable Energy Development, and Protecting and Accessing the Coast for Commercial Harvesters and the Public. The Keynote speaker, Susanne Moser, presented on Navigating the Psychological Challenges of a Planet Crisis.

As always, visit www.oneclimatefuture.org to sign up for our once-a-month newsletter where we share information on upcoming events, programs launching, and climate action progress. We also host monthly Climate and Coffee events, which are community conversations that happen on the 2nd Friday of the month at 9 AM. You can also follow us on social media. Instagram @sustainableportlandme // FB @SustainablePortlandME

CHAPTER 32 STORM WATER

Art. I. ~~Prohibited Discharges~~ In General, §§ 32-1--32-15

Art. II. ~~Prohibited Discharges~~, §§ 32-16--32-35

Art. III. Post-Construction Stormwater Management, §§ 32-36—32-40

Art. IV. Erosion & Sedimentation Control

ARTICLE I. IN GENERAL

Sec. 32-1. Definitions.

For the purposes of this article, the terms listed below are defined as follows:

Applicant. “Applicant” means a person with requisite right, title or interest or an agent for such person who has filed an application for a development project ~~that requires a post-construction stormwater management plan under this article.~~

Best management practices (“BMP”). “Best management practices” or “BMPs” means schedules or activities, prohibitions of practices, maintenance procedures, and other methods, techniques, designs, and management practices to prevent or reduce the pollution of Waters of the State and to control erosion (Erosion Control BMPs) and sedimentation (Sedimentation Control BMPs). BMPs also include treatment requirements, operating procedures, and practices to control Site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. ~~and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.~~

Clean Water Act. ~~“Clean Water Act”~~ means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the “Clean Water Act”), and any subsequent amendments thereto.

Discharge. ~~“Discharge”~~ means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to “waters of the state.” “Direct discharge” or “point source” means any ~~discernible~~ discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Enforcement Authority. ~~“Enforcement Authority”~~ The Department of Public Works, the Planning Department, and their designee(s), are authorized to enforce this Ordinance. The use of eEnforcement aAuthority in this Ordinance is synonymous with “eEnforcement aAuthority or their designee”. ~~means the person(s) or department authorized under section 32-3 of this article to administer and enforce this article.~~

Exempt person or discharge. —“Exempt person or discharge” means any person who is subject to a multi-sector general permit for industrial activities, a general permit for construction activity, a general permit for the discharge of storm water from the Maine Department of Transportation and the Maine Turnpike Authority municipal separate storm sewer systems, or a general permit for the discharge of storm water from state or federally owned authority municipal separate storm sewer system facilities; and any non-storm water discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. environmental protection agency (“EPA”) or the Maine department of environmental protection (“DEP”). ~~City of Portland~~

Illicit Discharge. - Means any discharge to a regulated MS4 system that is not composed entirely of stormwater other than discharges authorized in Sec. 32-18 of this Ordinance. For the purposes of this ordinance, illicit discharge and non-stormwater discharge may be used synonymously.

Illicit Connection. Means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency.

Municipality. —“Municipality” means the ~~e~~City of Portland.

Municipal separate storm sewer system, or MS4. ———“Municipal separate storm sewer system” or “MS4,” means a conveyance or system of conveyances designed or used for collecting or conveying stormwater (other than a publicly owned treatment works (POTW), as defined at 40 CFR 122.2, or a combined sewer), including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains owned or operated by any municipality, sewer or sewage district, Maine Department of Transportation (MDOT), Maine Turnpike Authority (MTA), State agency or Federal agency or other public entity that Discharges to Waters of the State other than groundwater. ~~means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, state agency or federal agency or other public entity that discharges directly to surface waters of the state.~~

National pollutant discharge elimination system (NPDES) storm water discharge permit. ———“National pollutant discharge elimination system (NPDES) storm water discharge permit” means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-storm water discharge. —“Non-storm water discharge” means any discharge to an MS4 that is not composed entirely of storm water. This includes illicit connections and discharges. For the purposes of this ordinance, non-stormwater discharge and illicit discharge may be used synonymously.

Person. —“Person” means any individual, firm, corporation, municipality, quasi-municipal

corporation, state agency or federal agency or other legal entity which creates, initiates, originates or maintains a discharge of storm water or a non-storm water discharge.

Pollutant. —“Pollutant” means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Post-construction stormwater management plan. “Post- construction stormwater management plan” means BMPs employed by a development project to meet the stormwater standards of Section V of the department of planning and urban development’s Technical and Design Standards and Guidelines.

Premises. “Premises” means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the municipality from which discharges into the storm drainage system are or may be created, initiated, originated or maintained.

Qualified Professional

Qualified to perform Post-Construction **BMP Annual Inspections** means a person who is:

- certified for Inspection and Maintenance of Stormwater BMPs by Maine DEP or
- a Maine Professional Engineer with at least two years’ experience in inspecting and maintaining Stormwater BMPs.

Qualified for Erosion & Sedimentation Control **Plan Development** means a person who is:

- certified by Enviro-Cert International in erosion and sedimentation control practices; or
- certified by the Maine Department of Environmental Protection for Erosion and Sedimentation Control Practices, or
- a Maine Professional Engineer with at least two years’ experience in designing Erosion and Sedimentation Control BMPs.

Qualified for Erosion & Sedimentation Control **Inspections during construction** means a person who is:

- a Maine Professional Engineer with at least two years’ experience in inspecting erosion and sediment controls or approved by Maine DEP as a “third-party inspector”.
- For sites with disturbances greater than 1-acre, the Qualified Professional may not be employees, partners, or contracted consultants involved with the permitting of the project or otherwise employed by the same company or may not have ownership or financial interest in the development other than that created by being retained as the third-party inspector.

~~*Qualified post construction stormwater inspector.* “Qualified post construction stormwater inspector” means a person who conducts post construction stormwater best management practice inspections for compensation and who has received the appropriate training for the same from DEP or otherwise meets DEP requirements to perform said inspections.~~

Regulated small MS4. Regulated Small MS4 means any Small MS4 authorized by the most recent, in-force MS4 General Permit or the general permits for the Discharge of stormwater from MDOT and MTA Small MS4s or state or federally owned or operated Small MS4s including all those located

partially or entirely within an Urbanized Area.

~~“Regulated small MS4” means any small MS4 regulated by the State of Maine “general permit for the discharge of storm water from small municipal separate storm sewer systems” dated July 1, 2008 (“general permit”) or the general permits for the discharge of storm water from the Maine department of transportation and Maine turnpike authority small MS4s or state or federally owned or operated small MS4s, including all those located partially or entirely within an urbanized area (UA).~~

~~Small municipal separate storm sewer system, or small MS4. Small MS4 means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, state or federally owned systems, such as colleges, universities, prisons, military bases and facilities, and transportation entities such as MDOT and MTA road systems and facilities. See also 40 CFR 122.26(b)(16). “Small municipal separate storm sewer system”, or “small MS4,” means any MS4 that is not already covered by the phase I MS4 storm water program including municipally owned or operated storm sewer systems, state or federally owned systems, such as colleges, universities, prisons, Maine department of transportation and Maine turnpike authority road systems and facilities, and military bases and facilities.~~

~~Storm drainage system. “———”~~“Storm drainage system” means the City of Portland’s regulated small MS4 and other conveyances for storm water located in areas outside the UA that drain into the regulated small MS4.

~~Storm-water.— Stormwater means the part of precipitation including runoff from rain or melting ice and snow that flows across the surface as sheet flow, shallow concentrated flow, or in drainage ways. “Storm water” means any storm water runoff, snowmelt runoff, and surface runoff and drainage; “Stormwater” has the same meaning as “storm water”.~~

~~Urbanized area (“UA”). -Urbanized Area means the area of the State of Maine so defined by the inclusive sum of the 2000 decennial census and latest decennial census (2010) by the U.S. Bureau of the Census. “Urbanized area” or “UA” means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of Census.~~
(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec.	32-2.	Reserved.
Sec.	32-3.	Reserved.
Sec.	32-4.	Reserved.
Sec.	32-5.	Reserved.
Sec.	32-6.	Reserved.
Sec.	32-7.	Reserved.
Sec.	32-8.	Reserved.
Sec.	32-9.	Reserved.
Sec.	32-10.	Reserved.
Sec.	32-11.	Reserved.
Sec.	32-12.	Reserved.
Sec.	32-13.	Reserved.
Sec.	32-14.	Reserved.
Sec.	32-15.	Reserved.

ARTICLE II. PROHIBITED DISCHARGES

Sec. 32-16. Applicability.

This Article shall apply to all persons discharging storm water and/or non-storm water discharges from any premises into the storm drainage system.
(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-17. Responsibility for administration.

The Department of Public Works is the Enforcement Authority who shall administer, implement, and enforce the provisions of this article.
(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10; 8-17-09; Ord. 108-15/16, 11/16/2015)

Sec. 32-18. Prohibition of illicit connections and discharges ~~non-storm water discharges.~~

~~(b)~~ (a) General prohibition. Except as allowed or exempted herein, no person shall create, initiate, originate or maintain a non-storm water discharge to the storm drainage system. ~~Such non-storm water discharges are prohibited notwithstanding the fact that the city may have approved the connections, drains or conveyances by which a person discharges un-allowed non-storm water discharges to the storm drainage system.~~

~~(c)~~ (b) Allowed non-storm water discharges. ~~The creation, initiation, origination and maintenance of the following non-storm water discharges to the storm drainage system is allowed:~~

- 1) Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire-fighting activity runoff; water line flushing and discharges from potable water sources; individual residential car washing; and de-chlorinated swimming pool discharges.
- 2) Discharges specified in writing by the Enforcement Authority as being necessary to protect public health and safety.
- 3) Dye testing, with verbal notification to the Enforcement Authority prior to the time of the test.

~~(d)~~ (c) Prohibition of Illicit Connections

- 1) The construction, use, maintenance or continued existence of illicit discharges and connections to the storm drain system is prohibited.

- 2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- 3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

~~(e)~~(d) *Exempt person or discharge.*—This article shall not apply to an exempt person or discharge, except that the Enforcement Authority may request from exempt persons and persons with exempt discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the discharge(s).

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-19. Suspension of access to the City's small MS4.

~~(a)~~ The Enforcement Authority may, without prior notice, physically suspend discharge access to the storm drainage system to a person when such suspension is necessary to stop an actual or threatened non-storm water discharge to the storm drainage system which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system, or which may cause the City to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the discharge to prevent or minimize a non-storm water discharge to the storm drainage system.

~~(a)~~(b) If a person fails to comply with a suspension order issued in an emergency, the Enforcement Authority may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system, or to minimize danger to persons.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-20. Monitoring of discharges.

In order to determine compliance with this article, the Enforcement Authority may enter upon and inspect premises subject to this article at reasonable hours to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring, sampling and testing of the discharge to the storm drainage system.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-21. Enforcement.

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this article. Whenever the Enforcement Authority believes that a person has violated this article, the Enforcement Authority may enforce this article in accordance with 30-A M.R.S.A. § 4452. Each day on which a violation exists shall constitute a separate violation for purposes of this section.

(a) *Notice of violation.* Whenever the Enforcement Authority believes that a person has violated this article, the Enforcement Authority may order compliance with this article by written notice of

violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

- 1) The elimination of non-storm water discharges to the storm drainage system, including, but not limited to, disconnection of the premises from the MS4.
- 2) The cessation of discharges, practices, or operations in violation of this article.
- 3) At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-storm water discharges to the storm drainage system and the restoration of any affected property; and/or
- 4) The payment of fines, of the ~~C~~city's remediation costs and of the city's reasonable administrative costs and attorneys' fees and costs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

(b) *Penalties/fines/injunctive relief.* In addition to the imposition of any other costs or penalties provided for herein, any person who violates this section shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this section also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the city for violation of federal and ~~S~~state environmental laws and regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

(c) *Consent agreement.* The Enforcement Authority may, with the approval of the ~~C~~city ~~m~~Manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.

(d) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may appeal the determination of the Enforcement Authority to the ~~e~~City ~~M~~Manager or their designee. The notice of appeal must be received within 30 days from the date of receipt of the notice of violation. The ~~C~~city ~~M~~Manager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the ~~e~~City ~~M~~Manager and the appellant. The ~~C~~city ~~M~~Manager may affirm, reverse or modify the decision of the Enforcement Authority. A suspension under Section 32-5 of this article remains in place unless or until lifted by the ~~C~~city ~~m~~Manager or by a reviewing court. A party aggrieved by the decision of the ~~e~~City ~~M~~Manager may appeal that decision to the Maine superior court within 45 days of the date of the ~~C~~city ~~M~~Manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

(e) *Enforcement measures.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal to the ~~e~~City ~~m~~Manager, within 45 days of a decision of the ~~C~~city ~~m~~Manager affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend that the ~~C~~corporation ~~C~~ounsel's office file an enforcement action in a Maine

court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

(f) *Ultimate responsibility of discharger.* The standards set forth herein are minimum standards; therefore, this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This article shall not create liability on the part of the City, or any officer agent or employee thereof for any damages that result from any person's reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-22. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this article.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-23.	Reserved.
Sec. 32-24.	Reserved.
Sec. 32-25.	Reserved.
Sec. 32-26.	Reserved.
Sec. 32-27.	Reserved.
Sec. 32-28.	Reserved.
Sec. 32-29.	Reserved.
Sec. 32-30.	Reserved.
Sec. 32-31.	Reserved.
Sec. 32-32.	Reserved.
Sec. 32-33.	Reserved.
Sec. 32-34.	Reserved.
Sec. 32-35.	Reserved.

ARTICLE III. POST-CONSTRUCTION STORMWATER MANAGEMENT.

Sec. 32-36. Applicability.

This article applies to all development projects that require a stormwater management plan pursuant to Section V of the ~~department of planning and urban development's~~ City of Portland's Technical and Design Standards and Guidelines Manual.

(Ord. No. 35-09/10, 8-17-09)

Sec. 32-37. Post-construction Stormwater Management Plan Approval.

Notwithstanding any ordinance provision to the contrary, no applicant for a development project to which this article is applicable shall receive approval for that development project unless the applicant also receives approval for its post- construction stormwater management plan and for the best

management practices ("BMPs") for that development project.
(Ord. No. 35-09/10, 9-17-09)

Sec. 32-38. Post-construction Stormwater Management Plan Compliance.

Any person owning, operating, or otherwise having control over a BMP required by a post-construction stormwater management plan shall maintain the BMPs in accordance with the approved plan and shall demonstrate compliance with that plan as follows:

(a) *Inspections.* The owner or operator of a BMP shall hire a professional Qualified to perform Post-Construction BMP Annual Inspections (as defined in section 32-1 of this ordinance) ~~qualified post-construction stormwater inspector certified for Inspection and Maintenance of Stormwater BMPs by Maine DEP~~ to at least annually, inspect the BMPs, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning, and maintenance requirements of the approved post-construction stormwater management plan.

(b) *Maintenance and repair.* If the BMP requires maintenance, repair, or replacement to function as intended by the approved post-construction stormwater management plan, the owner or operator of the BMP must provide to the DPW, a record of the deficiency and corrective action(s) taken in no later than 60 days following the date the deficiency was identified. If 60 days is not possible, then the DPW must establish an expeditious schedule for the owner or operator of the BMP to complete the maintenance and establish a record of the deficiency and corrective action(s) taken. ~~shall take corrective action(s) to address the deficiency or deficiencies as soon as possible after the deficiency is discovered and shall provide a record of the deficiency and corrective action(s) to the Department of Public Works ("DPW") in the annual report.~~

~~(b)(c)~~ *Annual report.* The owner or operator of a BMP ~~or a qualified post-construction stormwater inspector hired by that person,~~ shall, ~~on or by June 30 of each year,~~ hire a professional Qualified to perform Post-Construction BMP Annual Inspections (as defined in section 32-1 of this ordinance), to provide on or by June 30 of each year, a completed and signed certification to the DPW in a form provided by the DPW, certifying that the person has inspected the BMP(s) and that they are adequately maintained and functioning as intended by the approved post-construction stormwater management plan. ~~If, at the time of inspection, the BMP(s) or that they required~~ maintenance or repair, the professional Qualified to perform Post-Construction BMP Annual Inspections (as defined in section 32-1 of this ordinance) hired by that person shall provide including the record of the deficiency and corrective action(s) taken to the DPW in no later than 60 days following the date the deficiency was identified. If 60 days is not possible, then the DPW must establish an expeditious schedule for the owner or operator of the BMP to complete the maintenance and establish a record of the deficiency and corrective action(s) taken.

~~(c)(d)~~ *Filing fee.* Any persons required to file ~~an~~ annual certification under this section shall include, with the annual certification, a filing fee established by the DPW to pay the administrative and technical costs of review of the annual certification.

~~(d)(e)~~ *Right of entry.* In order to determine compliance with this article and with the post-construction stormwater

management plan, DPW may enter upon property at reasonable hours with the consent of the owner, occupant, or agent to inspect the BMPs.

(Ord. No. 35-09/10, 8-17-09; Ord. 108-15/16, 11-16-2015)

Sec. 32-39. Enforcement of Post-Construction Stormwater Management Plans

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this article or of the post-construction stormwater management plan. Whenever the Enforcement Authority believes that a person has violated this article, DPW may enforce this article in accordance with 30-A § 4452. Each day on which a violation exists shall constitute a separate violation for purposes of this section.

(a) *Notice of violation.* Whenever DPW believes that a person has violated this article or the post-construction stormwater management plan, DPW may order compliance, by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

- 1) The abatement of violations, and the cessation of practices or operations in violation of this article or of the post-construction stormwater management plan;
- 2) At the person's expense, compliance with BMPs required as a condition of approval of the development project, the repair of BMPs and/or the restoration of any affected property; and/or
- 3) The payment of fines, of the City's remediation costs and of the City's reasonable administrative costs and attorneys' fees and costs.
- 4) If abatement of a violation, compliance with BMPs, repair of BMPs and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.

(b) *Penalties/fines/injunctive relief.* In addition to the imposition of any other costs or penalties provided for herein, any person who violates this section shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the City's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. —Each day such violation continues shall constitute a separate violation.

Moreover, any person who violates this section also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines, or injunctive relief imposed under this section.

(c) *Consent agreement.* The Enforcement Authority may, without approval of the City Manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs, and fees without court action.

(d) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may

appeal the determination of the Enforcement Authority to the ~~e~~City ~~M~~anager or their designee. _____
_____The notice of appeal must be received within 30 days from the date of receipt of the notice of violation. The ~~e~~City ~~M~~anager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the ~~C~~ity ~~m~~anager and the appellant. The ~~C~~ity ~~M~~anager may affirm, reverse, or modify the decision of the DPW. _____A party aggrieved by the decision of the city manager may appeal that decision to the Maine superior court within forty-five (45) days of the date of the city manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

(e) *Enforcement measures.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or-, in the event of an appeal to the ~~C~~ity ~~m~~anager, within forty-five (45) days of a decision of the ~~e~~City ~~m~~anager affirming the Enforcement Authority's decision, then the Enforcement Authority may recommend that the ~~C~~orporation ~~C~~ounsel's office file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure. (Ord. No. 35-09/10, 8-17-09; Ord. 108-15/16, 11-16-2015)

Sec. 32-40. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this article.
(Ord. No. 35-09/10, 8-17-09)

ARTICLE IV. EROSION & SEDIMENTATION CONTROL

Sec. 32-41 Definitions.

Adverse Impact. Adverse impact means any undue deleterious effect due to erosion or sedimentation from Construction Activity on Waters of the State, Protected Natural Resources, the infrastructure of the Regulated Small MS4, or off-Site. Such undue deleterious effect is or may be potentially harmful or injurious to human health, welfare, safety, or property to biological productivity, diversity, or stability, or may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Common Plan of Development or Sale. Common Plan of Development or Sale means a "subdivision" as defined in Title 30-A M.R.S. §§ 4401 et seq. (the Maine Subdivision statute) and in Chapter 14 Land Use Code.

Construction Activity. Construction Activity means any activity on a Parcel that results in Disturbed Area.

Construction Dewatering. Construction Dewatering means the removal of water from trenches, excavations, foundations, elevator pits, utility vaults, coffer dams, ponds, and other areas within a construction area that retains water after excavation. The collected water removed from a ponded area(s) may be rainfall collected in the excavation or groundwater associated with the water table or a seasonal perched water table. In many cases ponded water in excavations does not infiltrate or

evaporate quickly enough and hinders correct and safe construction practices, and therefore must be removed for construction to proceed.

Dewatering Plan. Dewatering Plan means a written plan detailing the operating procedures, equipment, and devices to be used for removing sediment, and if required, petroleum or hazardous substances, from approved discharges to the City Right of Way or water resources infrastructure. A basic written plan for any construction work is required and must be approved by the City prior to start of construction for any off-site discharges. The plan should be submitted as part of the Construction Management Plan when applicable. Additional requirements can be found in Section 8 of the City of Portland's Rules and Regulations for Use of the Sewer System.

Disturbed Area. Disturbed Area means all land areas that are stripped, graded, grubbed, filled, or excavated at any time during the Site preparation or removing vegetation for, or construction of, a project. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. "Routine maintenance" **for the purpose of this definition** is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces **is considered routine maintenance** provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same ~~is considered routine maintenance~~. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area.

Impervious Area. Impervious Area means the total area of a Parcel covered with a low-permeability material that is highly resistant to infiltration by water, such as asphalt, concrete, or rooftop, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common Impervious Areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. Areas of pervious pavement, pervious pavers, pervious concrete, and under-drained artificial turf fields are all considered impervious.

Permitting Authority. Permitting Authority means the Code Enforcement Officer, Building Inspector, Planning Board, or other official or body authorized by State law or the Municipality's ordinances to approve development or redevelopment projects.

Site. Site means the portion(s) of a Parcel(s) upon which Construction Activity subject to this Ordinance is located.

~~*Third-Party.* Third-Party means a group besides the principals of a project, including the owner, general contractor, or design engineer~~

Waters of the State. Waters of the State means Waters of the State as defined in 38 M.R.S. §361-A (7).

Sec. 32-42 Applicability.

a. — This article shall apply to any Construction Activity commencing after the effective date of this Ordinance that results in a disturbed area of 10,000 square feet or more or where sediment is being discharged to the City right-of-way.

Sec. 32-43 Responsibility for administration

The Department of Public Works and/or the Planning Department is the Enforcement Authority who shall administer, implement, and enforce the provisions of this article.
(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10; 8-17-09; Ord. 108-15/16, 11/16/2015)

Sec. 32-44 Erosion and Sediment Control Plan Submission & Review

(a) Erosion and Sedimentation Control Plan Required. No Person shall commence Construction Activity subject to the Applicability Section of this Ordinance without first preparing and obtaining approval for an Erosion and Sedimentation Control Plan in accordance with this Ordinance. The requirements of the Erosion and Sedimentation Control Plan are detailed in any/all of the following:

- 1) The Rules and Regulations for Use of the Collection System
- 2) City of Portland Technical Manual

(b) Concurrent Review. When Construction Activity is subject to Subdivision, Site Plan, or other review under the City's Land Use Code which includes a review for erosion and sedimentation control, an Erosion and Sedimentation Control Plan meeting these requirements shall be submitted to the Permitting Authority concurrently with that review. When a concurrent review is not otherwise required, an Erosion and Sedimentation Control Plan shall be submitted to the eEnforcement Authority.

(c)- Erosion and Sedimentation Control Plan Requirements. The eEnforcement Authority or Permitting Authority, as appropriate, will review the Erosion and Sedimentation Control Plan for compliance with the regulations and specifications detailed in any/all of the following:

- 1) The Rules and Regulations for Use of the Collection System
- 2) City of Portland Technical Manual

(d)- Approval, Denial, and Appeals. The Enforcement Authority or Permitting Authority may approve the Erosion and Sedimentation Control Plan, approve it with conditions, or deny the Erosion and Sedimentation Control Plan, and that decision shall be in writing and supported by findings of fact and conclusions of law. Any person receiving a denial may appeal the determination of the Enforcement Authority to the City Manager or their designee. The notice of appeal must be received within 30 days from the date of receipt of the decision. The City Manager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the City Manager and the appellant. The City Manager may affirm, reverse, or modify the decision of the Enforcement Authority. A party aggrieved by the decision of the City Manager may appeal that decision to the Maine superior court within forty-five (45) days of the date of the city manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

(e)e-f. Compliance with Approved Plans and Plan Changes. The applicant shall implement and comply with the Erosion and Sedimentation Control Plan as approved throughout all phases of Construction Activity.

(fg-) Project Completion. The applicant shall provide notice to the eEnforcement aAuthority when permanent stabilization of the Site has been achieved to allow for final inspection.

Sec. 32-45 Erosion and Sediment Control Inspections

(a) Inspections are required in order to ensure that all erosion and sediment control practices are installed and maintained to prevent the discharge of sediment from disturbed areas.

(b) Sites with 1 acre or More of Disturbance or Major Site Plan

- 1) For Major Site Plans that have less than one acre of disturbance the applicant shall retain the services of a qualified professional.
- 2) For all sites with one acre or greater of disturbance, the applicant shall retain the services of a Third-Party Qualified Professional for Erosion & Sedimentation Control Inspections during construction (as defined by section 32-1 of this Ordinance) to inspect the site weekly, for the duration of construction until final site stabilization is in place.
- 3) The inspection is required in order to ensure that all construction and stabilization activities comply with the approved drawings and specifications; that field decisions regarding erosion control implementation, stormwater system installation, and natural resource protection are based on sound engineering and environmental considerations; and that any changes to the development's erosion control plan, stormwater management plan, or final stabilization plan is communicated to the City of Portland for additional review and approval.
- 4) The inspector will submit weekly written reports to the Stormwater Coordinator(s) in the Water Resources Division of Public Works and the Development Review Coordinator(s) in Planning. Reports must include: project ID, project address, the date(s) and time(s) of inspection(s), site photographs of areas under construction, and the date(s) and approximate duration(s) of any rainfall events in the prior week. The report will identify and describe any erosion problems or discharge of pollutants and what actions will be taken to address these issues and repair any damage to other properties or natural resources, actions to eliminate the erosion source, and actions to prevent future sediment discharges from the area.

(c) Minor Site Plans. The applicant is responsible for inspecting the site and maintaining erosion and sedimentation controls in good working order. In general, sites with less than 1 acre of disturbance are not required to submit an inspection report, however the City reserves the right to require reports of any project. The applicant should inspect the site as follows:

- 1) All areas of disturbance, impervious areas, erosion and sediment control best management practices, materials storage areas exposed to precipitation, and locations where vehicles enter or exit the Site shall be inspected:
 - a. Once before any disturbance begins and after all Erosion and Sedimentation Control BMPs specified in the Erosion and Sedimentation Control Plan are in place;
 - b. At least once a week as well as before and within 24 hours after a storm event (rainfall); and

- c. Once at project completion to ensure the Site has reached permanent stabilization and all temporary erosion and sedimentation controls have been removed.

(d) Minor residential projects must use effective erosion and sedimentation controls for the duration of the Construction Activity.

(e) The Enforcement Authority ~~Department of Public Works~~, bearing proper credentials and identification, shall ~~have~~ reserve the right of entry to any site with soil disturbance, ~~either permitted or unpermitted, in order to complete an inspection of the~~ for the purpose of inspecting the site to determine ~~that~~ to ensure that all construction and stabilization activities comply with the provisions of this article and applicable standards.
Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 32-46 Enforcement of Erosion and Sediment Control Plans

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this article. Whenever the Enforcement Authority believes that a person has violated this article, the Enforcement Authority may enforce this article in accordance with 30-A M.R.S.A. § 4452 and Chapter 1, Section 15 of the City Code.

(a) *Notice of violation.* Whenever the Enforcement Authority believes that a person has violated this article, the ~~E~~enforcement ~~A~~authority may order compliance with this article by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:

- 1) The elimination of sediment-laden discharges off-site or to the ~~collection~~ system, including, but not limited to, disconnection of the premises from the ~~collection~~ system, whether it is a separated system or combined system.
- 2) The cessation of discharges, practices, or operations in violation of this article.
- 3) At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of sediment-laden discharges off-site or to the storm drainage system and the restoration of any affected property; and/or
- 4) The payment of fines, of the City's remediation costs and of the City's reasonable administrative costs and attorneys' fees and costs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.

(b) *Stop Work Order.* The ~~e~~Enforcement ~~a~~Authority or Permitting Authority may issue a Stop Work Notice whenever:

- 1) A Person has not ~~corrected~~acted on a notice of violation issued pursuant to this Ordinance within the time set forth in the notice, or

2) A Person subject to the applicability section of this Ordinance undertakes Construction Activity without first submitting an application for and obtaining approval of an Erosion and Sedimentation Control Plan.

The eEnforcement aAuthority or Permitting Authority will attempt to deliver the Stop Work Notice to the applicant, the Person performing the Construction Activity, or the owner or occupant of the Parcel, as appropriate, by any means reasonably calculated to effectuate delivery.

Once the Stop Work Notice has been delivered, no further Construction Activity at the Site may proceed other than as is necessary to correct the non-compliance. Construction Activity may resume only when the eEnforcement aAuthority or Permitting Authority provides written notice that the Person may resume that Construction Activity.

(c) Penalties/fines/injunctive relief. In addition to the imposition of any other costs or penalties provided for herein, any person who violates this section shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the City's attorney's fees and costs, all in accordance with Chapter 1, Section 15 of the City Code and 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this section also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the City for violation of federal and State environmental laws and regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

(d) Consent agreement. The EeEnforcement AaAuthority may, with the approval of the City Manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.

(e) Appeal of notice of violation. Any person receiving a notice of violation or suspension notice may appeal the determination of the eEnforcement aAuthority to the City Manager or their designee. The notice of appeal must be received within 30 days from the date of receipt of the notice of violation. The City Manager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the City Manager and the appellant. The City Manager may affirm, reverse or modify the decision of the eEnforcement aAuthority. A suspension under Section 32-5 of this article remains in place unless or until lifted by the City Manager or by a reviewing court. A party aggrieved by the decision of the City Manager may appeal that decision to the Maine Superior Court within 45 days of the date of the City Manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

(f) Enforcement measures. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal to the City Manager, within 45 days of a decision of the City Manager affirming the eEnforcement aAuthority's decision, then the eEnforcement aAuthority may recommend that the Corporation Counsel's office file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

(g) *Ultimate responsibility of discharger.* The standards set forth herein are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This article shall not create liability on the part of the City, or any officer agent or employee thereof for any damages that result from any person's reliance on this article or any administrative decision lawfully made hereunder.

Sec. 32 - 47 Severability

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this article.

Sec. 32 - 48 Waivers

Where the eEnforcement aAuthority finds that there are special circumstances of a particular Erosion and Sedimentation Control Plan that make a particular submission requirement or standard inapplicable, a waiver may be granted, provided that such waiver will not have the effect of voidingnullifying the intent and purpose of this Ordinance. The applicant shall submit, in writing, the reason for the requested waiver. In granting waivers or modifications, the eEnforcement aAuthority may require such conditions that will substantially secure the objectives of the standards so waived or modified.

Sec. 32 - 49 Authority

The Municipality enacts this Erosion and Sedimentation Control Ordinance pursuant to 30-A M.R.S. §§3001 et seq. (municipal home rule ordinance authority), 38 M.R.S. §413 (the Wastewater Discharge Law), 33 USC §§1251 et seq. (the Clean Water Act), and 40 CFR Part 122 (US Environmental Protection Agency's regulations governing the National Pollution Discharge Elimination System (NPDES)). The Maine Department of Environmental Protection, through its promulgation of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems has listed the Municipality as having a Regulated Small MS4; under this General Permit, listing as a Regulated Small MS4 necessitates enactment of elements of this Ordinance as part of the Municipality's stormwater management program in order to satisfy the minimum control measures for Construction Site Stormwater Runoff Control.

Chapter 24 SEWERS*

***Cross reference(s)**--Buildings and building regulations, Ch. 6; disposal of wastes by food service establishments, § 11-26; land use, Ch. 14; streets, sidewalks and other public places, Ch. 25.

State law reference(s)--Sewers and drains, 30 M.R.S.A. § 4351 et seq.

Art. I. In General, §§ 24-1--24-15

Art. II. Sewer Construction, §§ 24-16--24-30

Art. III. Sewer Use Regulations, §§ 24-31--24-70

Art. IV. Sanitary Sewer User and Industrial Pre-treatment Charges, §§ 24-71--24-77

Art. V. Stormwater Service and User Charges,

ARTICLE I. IN GENERAL

Sec. 24-1. Purpose

The city is responsible for the health and safety of the public and maintaining over 300 miles of sewer line comprised of the sanitary sewer and storm sewer lines themselves, catch basins, manholes, detention ponds, underground waste water storage facilities, and sewer pump stations.

The city maintains a sewer system in order to convey domestic wastewater and stormwater runoff from private and public property for treatment at the Publicly Owned Treatment Works.

The city maintains a stormwater drainage system in order to convey stormwater runoff away from private and public property to minimize flooding, reduce pollution discharge to waters of the State of Maine, and to control erosion of streams and channels.

The city council finds that funding the comprehensive wastewater and stormwater programs to properly operate this infrastructure should be equitably paid for by properties making use of sewer and stormwater services provided by the city according to costs incurred to provide those services.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-2. Definitions.

For the purposes of this chapter, all words shall have their normal meanings and such meanings as may be in common use in the

field of wastewater treatment. Certain words are more particularly defined. For the purposes of this Chapter, the following terms shall have the following meanings.

Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, U.S.C. § 1251 et seq., and the regulations promulgated thereunder, as amended from time to time.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, which begins eight (8) feet outside the outer face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

Combined sewer shall mean a sewer conveying both stormwater and wastewater.

Department of Public Works shall mean the public works authority.

Discharge shall mean any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants

District shall mean the Portland Water District, a quasi-municipal corporation existing pursuant to Chapter 84 of the Private and Special Laws of Maine of 1975, as amended, with a business address of 225 Douglas Street, Portland, Maine.

Domestic wastewater shall mean the liquid wastes and liquid borne wastes discharged from the sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens, and floor drains essentially free of industrial wastes or toxic materials.

Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Industrial waste shall mean any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

Interceptor sewer shall mean a large sewer used to intercept a number of main or trunk sewers and convey wastewater and stormwater runoff to treatment or other disposal facilities.

National pollutant discharge elimination system or *NPDES permit* shall mean a permit issued pursuant to § 402 of the act, 33 USC § 1342, and M.R.S.A. Title 38, § 414-A.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

POTW (publicly owned treatment works) ("facility") shall mean the treatment works, as defined by § 212 of the act, operated by the Portland Water District. This definition includes any devices and systems used in the storage, treatment, recycling, disposal, and reclamation of wastewater consisting of domestic, commercial, municipal, and industrial wastes of a liquid nature. It also includes those sewers, pipes, pump stations and other conveyances which convey wastewater to the facility and may be owned by the city. For the purposes of this chapter, POTW shall also include any sewers that convey wastewater to the treatment works from persons who are, by permit, contract, or agreement with the city, users of the facility.

POTW treatment plant shall mean that portion of the facility designed to provide treatment (including recycling and reclamation) of wastewater, municipal wastewater, industrial waste, septage and holding water and other trucked-in wastes as allowed under the provisions of this article.

Private wastewater disposal system shall mean a treatment tank with the effluent discharging into a subsurface absorption area, or such other facilities as may be permitted under the procedures set forth in rules and regulations adopted by the state department of health and welfare pursuant to 22 M.R.S.A. § 42(3), and the city's plumbing code.

Private sewer system shall mean any sewer system within the city not owned by or constructed by a public authority.

Private wastewater treatment works shall mean all facilities other than private sewage disposal systems for treating and disposing of wastewater within the city not owned by a public authority. Private wastewater treatment works shall be distinct from private wastewater disposal systems as the effluent is discharged directly into surface water bodies. Private wastewater

treatment works shall be licensed by the state department of environmental protection, in accordance with the provisions of 38 M.R.S.A. §§ 413, 414.

Public sewer shall mean a sewer directly owned, operated or controlled by the city or the Portland Water District.

Sanitary sewer shall mean a sewer, conveying either exclusively domestic wastewater and industrial waste or a sewer also conveying stormwater runoff together with ground and surface water that is not admitted intentionally.

Sewer shall mean a pipe or conduit for conveying liquid or liquid-carried waste.

Storm sewer shall mean a sewer for conveying stormwater runoff, groundwater, subsurface water, condensate, cooling water or other similar discharge but which excludes domestic wastewater and polluted industrial wastes.

Stormwater shall mean any stormwater runoff, snowmelt runoff, and surface runoff and drainage. "Storm water" shall have the same meaning as stormwater.

Stormwater drainage system shall mean any publicly owned or operated conveyance for stormwater, natural and human-made including, but not limited to, storm sewers, city and state roads including the Maine Turnpike and other physical works with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, culverts, human-made channels, swales, ditches, swamps, rivers, streams, creeks, brooks, reservoirs, ponds, drainage ways, inlets, pipes, head walls, lakes, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

Stormwater services shall mean the program and maintenance activities as well as the pipe, conduits, or other conveyances or facilities provided by the city including but not limited to necessary programs, improvements, or maintenance required to meet national pollutant discharge elimination system (NPDES) permits the city may hold or other regulatory or court imposed obligations on the city, or general maintenance of pipes, conduits or other facilities improvements and other unforeseen improvements necessary to provide stormwater service to the city.

Wastewater shall mean a combination of the liquid and water-

carried wastes from residences, commercial buildings, institutions and industrial establishments, together with such ground, surface, and stormwater as may be present.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently on a natural basis.

Westbrook Inter-Municipal Sewer Service Area shall mean the Domestic and sanitary sewage and waste water from the Riverside Street/Warren Avenue/Forest Avenue vicinity of Portland as defined on the plan to the Rules and Regulations enacted by the Department of Public Works, and on file in the Department of Public Works, intercepted by the District and delivered to the existing Westbrook Gorham Regional Treatment Plant for treatment.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

- - - - -

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Reference - Council Order 54-02/03 § An Order Authorizing Three-Party Sewer Service Agreement with Portland Water District and City of Westbrook).

Sec. 24-3. Administration.

(a) The director of public works shall establish rules and regulations governing the availability and use of city wastewater collection and treatment facilities and stormwater drainage system. The rules and regulations shall be consistent with federal law and ordinances. Said wastewater rules shall be enacted in conjunction with the Portland Water District prior to enactment.

(b) The rules shall be enacted in the same manner as the rules for solid waste disposal are promulgated, prescribed in section 12-105(b) and (b.1) of this Code, with the exception that the rules will go into effect twenty (20) days after enactment by the director unless stayed by action of the city council. Proposed rules shall be delivered to the council as a communication prior to enactment.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-4. Enforcement Agency.

The Department of Public Works or the Portland Water District as agent for the city and at the request of the Department of Public Works, shall administer and enforce the provisions of this chapter.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-5. Reserved.

Sec. 24-6. Reserved.
Sec. 24-7. Reserved.
Sec. 24-8. Reserved.
Sec. 24-9. Reserved.
Sec. 24-10. Reserved.
Sec. 24-11. Reserved.
Sec. 24-12. Reserved.
Sec. 24-13. Reserved.
Sec. 24-14. Reserved.
Sec. 24-15. Reserved.

ARTICLE II. SEWER CONSTRUCTION

Sec. 24-16. Accepted streets.

When any person owning property on an accepted street shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the approval of the Department of Public Works:

- (a) Upon authorization by the city council, a sewer shall be constructed by the city, the cost of a sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause a sewer to be built to the specifications of the Department of Public Works and under his or her supervision, with or without regard to competitive bids. Upon completion of a sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and a sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.1; Ord. No. 101-81, §§ 1--3, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-17. Dedicated streets.

When any person owning property on a street, which prior to July 7, 1948, has been dedicated, constructed and used for public travel but has not been accepted by the city, shall petition for the construction of a sewer in the street, such sewer may be constructed under one (1) of the following arrangements at the option of the petitioner, subject to the approval of the Department of Public Works:

- (a) Upon authorization by the city council, a sewer shall be constructed by the city, the cost of a sewer to be recovered in part as hereinafter provided; or
- (b) The petitioner may cause a sewer to be built to the specifications of the Department of Public Works and under his or her supervision, with or without regard to competitive bids. Upon completion of a sewer, the city shall be reimbursed in full for its costs, including engineering and inspection, and at such time as the street is accepted by the city, a sewer shall be deeded to the city as a public sewer at no cost to the city.

(Code 1968, § 704.2; Ord. No. 101-81, §§ 4, 5, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-18. Initiative of city council.

The city council may, on its own initiative and without petition therefor, authorize construction by the city of a sewer in accepted and dedicated-but-unaccepted streets, the cost of a sewer to be recovered in part as hereinafter provided.

(Ord. No. 101-81, § 6, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-19. Costs.

(a) A charge is hereby established for the connection heretofore or hereafter of any property to a sewer constructed by the city or the Portland Water District and completed on or after January 1, 1978. Such charge shall be due and payable upon application for a connection permit as provided in section 24-39, and except for connections made before November 15, 1981, shall be in lieu of all other charges related thereto, including the fee for the connection permit and street and sidewalk opening charges as provided in section 25-156, provided that connection is made in accordance with article III of this chapter. This section shall not apply to any property assessed for the cost of sewer construction according to law.

(b) For any such sewer completed heretofore, the charge shall be two hundred dollars (\$200.00) per each sanitary sewer connection made heretofore or hereafter but before November 15, 1981, and one thousand dollars (\$1,000.00) per each such connection made thereafter.

(c) For any such sewer completed hereafter, the charge shall

be two thousand dollars (\$2,000.00) per each such connection, provided that the city council may, from time to time, by order readjust the charge according to the then-prevailing cost of sewer construction and the anticipated number of such connections. (Ord. No. 101-81, § 7, 9-21-81; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-20. Reserved.
Sec. 24-21. Reserved.
Sec. 24-22. Reserved.
Sec. 24-23. Reserved.
Sec. 24-24. Reserved.
Sec. 24-25. Reserved.
Sec. 24-26. Reserved.
Sec. 24-27. Reserved.
Sec. 24-28. Reserved.
Sec. 24-29. Reserved.
Sec. 24-30. Reserved.

ARTICLE III. SEWER USE REGULATIONS*

***Editor's note**--Ord. No. 263-96, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use regulations, consisted of substantive §§ 24-31--24-60, and derived from §§ 309.1--309.29 of the 1968 Code, as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
13-76	--	10- 6-76	221-88	1	1- 4-88
154-79	--	3-19-79	228-88	1	2- 1-88
355-84	1--14, 16, 17	1- 4-84	77-91	--	8- 7-91
317-87	1	2- 2-87	37-93	--	7- 7-93

Sec. 24-31. Scope.

The provisions of this article shall apply to and govern all types of buildings requiring wastewater facilities; the excavation, construction, installation, usage, maintenance, extension, alteration, repair or removal of any building sewer, building storm drain, sanitary sewer system, or storm drainage or sewer system; the connection of building sewers and building storm sewers to sanitary sewer systems and/or storm drainage systems or combined sewers; the types of wastes or wastewaters prohibited from public sewers and storm drainage systems; permitted and prohibited concentrations and strengths of wastewater; and situations in which use of a private sewage disposal system is permissible.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-32. Intent and purpose.

(a) It shall be the intent and purpose of this article to eliminate existing pollution, and to prevent further pollution caused by inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the pollution abatement schedule for the Portland Regional Wastewater Plan established by the state and the federal government. All this is in furtherance of the health, welfare, comfort and convenience of the inhabitants of the city.

(b) Whereas the Portland Water District has been designated by state legislative action and local public referendum as the regional agency responsible for interception and wastewater treatment, and is the owner and operator of the POTW treatment plant, none of the provisions of this article shall be construed to repeal or otherwise interfere with the rights, duties or powers granted to the Portland Water District pursuant to Chapter 433 of the private and special laws of the State of Maine of 1907, as amended.

(Ord. No. 263-96, 5-20-96)

Editor's Note - Section 24-32.1 Administration was deleted by Order 129-14/15, passed on 1-21-2015 and Effective 1-1-2016.

Sec. 24-33. Reserved

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-34. Definitions.

For the purposes of this article, all words not defined in section 24-2 shall have their normal meanings and such meanings as may be in common use in the field of sanitation and wastewater treatment. For the purposes of this article, the following terms have the following meanings.

B.O.D. (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

Categorical industrial user shall mean an industrial user subject to national categorical pretreatment standards.

Caustic alkalinity (hydroxide alkalinity) shall mean a measure of the capacity of wastewater, which exhibits a pH of greater than or equal to 8.3, to neutralize acids.

C.O.D. (chemical oxygen demand) shall mean the measure of the oxygen required for oxidation of the organic matter in a sample that can be oxidized by a strong chemical oxidizing agent under standard laboratory procedure.

F.O.G. shall mean the measure of fats, wax, grease and oils (other than petroleum based materials).

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and produce, and from the handling, storage and sale of food and produce.

Incompatible pollutant is defined as any pollutant other than biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria or additional pollutants identified in the POTW's NPDES permit to discharge, which the POTW was not designed to treat and does not remove to a substantial degree or may be toxic to the POTW or receiving water.

Industrial user shall mean a source of indirect discharge or any source which discharges industrial waste to the facility.

Interference means a discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the facility, its treatment processes or operations, or its sludge processes, use or disposal, and which is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase

in the magnitude or duration of a violation), or of the prevention of wastewater sludge use or disposal by the facility in accordance with applicable federal, state, or local statutes and regulations or permits issued thereunder, as set forth in 40 CFR § 403.3(i).

mg/l shall mean milligrams per liter.

National categorical pretreatment standard shall mean any regulations containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the act, which apply to a specific category of industrial users and which are found in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

pH shall mean the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions in a solution expressed as standards units.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Significant industrial user shall mean any industrial user subject to categorical pretreatment standards, and any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the facility (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the facility's operation or for violating any pretreatment standard or requirement; provided, however, that upon a finding that an industrial user meeting the foregoing criteria has no reasonable potential for violating any pretreatment standard or requirement or for adversely affecting the facility's operation, the city may, at any time, upon its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug shall mean any discharge of nonroutine, episodic nature, including, but not limited to, an accidental spill, noncustomary

batch discharge, or any discharge of wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flow rate during normal operation or which may adversely affect the POTW.

Total suspended solids (TSS) shall mean the total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and which is removable by laboratory filtration.

(Ord. No. 263-96, 5-20-96; Ord. No. 97-03/04, 12-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-35. Sanitary facilities required.

Every building intended for human habitation, occupancy, employment, recreation or other purposes, situated within the city shall be provided with suitable and sufficient sanitary facilities for the use of the occupants thereof, which facilities in character, number and method of installation shall comply with all health laws of the state, ordinances of the city, and rules and regulations of the state bureau of health so far as the same are compatible and not inconsistent.

(Ord. No. 263-96, 5-20-96)

Sec. 24-36. Connection to public sewer required.

The owner of any building used for human habitation, occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary, combined or interceptor sewer, is hereby required at his expense to connect the building sewer in the most direct manner possible with the proper public sewer in accordance with the provisions of this article, provided that the public sewer is within two hundred (200) feet of the building (the two hundred (200) feet to be measured in such manner so as not to pass over any property owned privately by anyone other than the owner of the premises from which such measurement is being made). Any required compliance with this section shall be completed within one (1) year after the date of official notice to do so.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-37. Exception for private wastewater system.

Where the public sewer does not extend to within two hundred (200) feet distant from the nearest point of the building (measured as described in section 24-36), the public sewer shall, at such time, be classified as inaccessible with regard to such premises. Where the public sewers are inaccessible to premises, any building required to be provided with sanitary facilities under section 24-35 shall comply with the following:

- (a) The owner may at his own expense connect with the public sewer even though the building is over two hundred (200) feet distant from the public sewer; or
- (b) Where liquid-carried wastes or wastewater result, they shall discharge into a private wastewater disposal system; or
- (c) Where liquid-carried wastes or wastewater result, they shall discharge into a private wastewater treatment works.

(Ord. No. 263-96, 5-20-96)

Sec. 24-38. Private wastewater systems discontinued.

(a) At such time as a public sewer becomes accessible, as defined in section 24-36, to a property served by a private wastewater disposal system, direct connection shall be made to the public sewer by the owner of such property in compliance with this article within twelve (12) months of receipt of official notice to do so. At the time that direct connection to the public sewer is completed, use of the private wastewater disposal facilities shall have been discontinued. Such abandoned private wastewater disposal system shall be cleaned of sludge and waste materials and filled with clean bankrun gravel or dirt within thirty (30) days.

(b) The closing and filling of the private wastewater disposal system and the connection to the public sewer system shall be inspected by the Department of Public Works. The fee for such inspection shall be a minimum of ten dollars (\$10.00) per septic tank plus ten dollars (\$10.00) per hour for all inspection time exceeding one (1) hour. The permit for the connection to the public sewer is the same as those required under sections 24-39 and 24-42.

(c) No such work may be approved unless notice is given to the Department of Public Works sufficient to permit the inspector to be present at the filling of the private wastewater disposal system and the connection to the public sewer. No new sewer

construction or sewer repair or reconstruction may be approved if backfilled and/or covered prior to inspection. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the city.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-39. Public sewer connection; permit; fee.

No person shall uncover, make any connections with or openings into, alter or disturb either any public sewer or appurtenance thereof or any private sewer or appurtenance thereof without first obtaining a written permit from the Department of Public Works or the Portland Water District, if required. The fee for such permit shall be fifty dollars (\$50.00).

(Ord. No. 263-96, 5-20-96; Ord. No. 261-01/02, 5-20-02; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-40. Costs.

All costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner.

(Ord. No. 263-96, 5-20-96)

Sec. 24-41. Separate connections required.

A separate and independent building sewer shall be provided for every new building, and a separate connection shall be made for each building sewer. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Department of Public Works, to meet all requirements of this article.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-42. Defective building sewers to be repaired or replaced.

(a) Whenever any building drain or building sewer connected to the public sewers, or to a private sewer system connected to the public sewers is found to be defective, deteriorating or substandard, the owner of the building served by such building drain or sewer shall be served by the Department of Public Works with written notice stating the nature of the defect and providing a fifteen (15) day period for the satisfactory repair or replacement of such building sewer and requiring the owner to make a new connection to the public sewer at the owner's expense.

(b) All work done pursuant to this section shall be inspected by the Department of Public Works. The fee for such inspection shall be twenty-five dollars (\$25.00).

(c) *Failure to comply.* When a person to whom an order is directed fails to fully comply within the fifteen (15) day period, it shall be lawful for the city to repair a building drain or building sewer which is located within the public right-of-way, and all costs thereof shall be charged to the owner thereof.

(d) *Lien procedure.* The Department of Public Works shall keep an accurate account of the expense of the work under this article, and as soon as practicable after completion of such work, the city shall assess to the person(s) upon whom notice has been served pursuant to subsection (a) of this section their just cost thereof, and all assessments so made shall constitute a lien on the property to be enforced in the manner provided for the collection of sewer assessments within the city.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-43. Methods of construction.

On all work done within the scope of this article, the size, slope, alignment and materials of construction of a building sewer, and the methods to be used in placing of the pipe, jointing, testing and backfilling the trench shall conform to the requirements of the Department of Public Works' building sewer construction specifications. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by a means subject to the approval of the Department of Public Works and discharged to the building sewer.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-44. Public sewer connection limitations.

(a) No person shall make connection of sanitary facilities such as toilets, washrooms, urinals, sinks, showers, drinking fountains, kitchens or laundry rooms, nor discharge or cause to be discharged any waste or domestic wastewater to a building's stormwater system or building storm drain which in turn is connected directly or indirectly to the storm drainage system.

(b) No person shall make connection of roof downspouts, foundation drains, sump pump, areaway drains or other sources of surface runoff or groundwater, nor discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(c) Stormwater shall be discharged to such sewers as are specifically designated as ~~combined sewers or~~ storm sewers, or to a natural outlet approved by the Department of Public Works. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Department of Public Works, to a storm sewer, combined sewer or a natural outlet.

(d) Stormwater shall not be allowed to discharge into a combined sewer unless approved by the Department of Public Works. Prior to receiving approval from the Department of Public Works it must, at a minimum, be demonstrated that no practicable alternative exists, and that the proposed discharge adheres to all technical requirements as listed in Section's II & V of the City's Technical Manual.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-45. Connections to public sewer.

The connection of the building sewer into the public sewer shall be constructed in the following manner:

- (a) The Department of Public Works shall be notified in advance of the time when the connection is to be made. Such notice must be sufficient to permit the Department of Public Works to inspect the building sewer during construction and to be present when the connection is made to the public sewer.
- (b) In the case of new construction, domestic wastewater systems and stormwater drainage systems shall be kept separated from their connections to the proper city sewers.
- (c) The building sewer shall be connected to the public sewer at the point designated by the Department of Public Works.

- (d) No building sewer connection constructed pursuant to this section can be approved if such sewer is backfilled and/or covered prior to inspection. No connection to the public sewer constructed pursuant to this section can be approved if such connection is made other than in the presence of an inspector from the Department of Public Works or the Portland Water District, as required. No such unapproved or unapprovable building sewer in the city may be used, and if the building served by such building sewer is occupied, the owner of such building will be held to be in violation of this section, with each day in which the violation continues deemed to be a separate violation.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-46. Sewer excavations.

(a) All excavations under this article within the public way shall be in accordance with article VII of chapter 25 of this Code.

(b) All excavations for sewer installation shall be made and maintained in compliance with the provisions of the construction safety rules and regulations of the state, applicable to excavation work.

(Ord. No. 263-96, 5-20-96)

Sec. 24-47. Prohibited wastes.

(a) No person shall discharge or cause to be discharged any waters or wastes prohibited by Department of Public Works rule; or:

1. Any noxious or malodorous gas or substance capable of creating a public nuisance.

(b) The Department of Public Works may, if deemed necessary in its judgment, impose the following limitations on discharges of the following described waters or wastes to any public sewer or any part thereof:

1. Any aluminum exceeding a concentration of 500 milligrams per liter;
2. Any iron exceeding a concentration of 10 milligrams per liter;

3. Any tin exceeding a concentration of 2 milligrams per liter;
4. Any fluorides exceeding a concentration of 100 milligrams per liter;
5. Any phenols exceeding a concentration of 100 milligrams per liter;
6. Any chlorides exceeding a concentration of 3,000 milligrams per liter;
7. Any sulphates exceeding a concentration of 600 milligrams per liter;
8.
 - a. Any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 500 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).
 - b. In the Westbrook Intermunicipal Sewer Service Area, any waters or wastes containing animal or vegetable based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperature between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).
 - c. Any waters or wastes containing hydrocarbon (nonpolar) based fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees centigrade).

(Ord. No. 263-96, 5-20-96; Ord. No. 250-97, 4-9-97; Ord. No. 97-03/04, 12-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-48. Prohibited wastes permitted how; cost.

(a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain any of the substances or possess the characteristics listed in section 24-47, and which in the judgment of the Department of Public Works may have a deleterious effect upon the wastewater works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Department of Public Works may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewer as required by rule;
3. Require control over the quantities and rates of discharge (flow equalization); and/or
4. Require payment to cover the added cost of handling and treating the wastes.

(b) If the Department of Public Works permits or requires pretreatment or waste flow equalization, the design and installation of the plants and equipment shall be subject to its review and approval subject to the provisions of the state plumbing code, and the provisions of this article

(c) Where preliminary treatment or flow equalizing facilities are provided for any water or wastes, the owner shall bear the cost and responsibility for installing and maintaining them in continuously satisfactory and effective operating condition, as determined by the Department of Public Works.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-49. Separate systems required.

Any person discharging or causing to be discharged into any public sewer both domestic wastewater and industrial wastes from any building or premises shall install separate drainage systems for the domestic wastewater and industrial waste. The control manhole required by rule shall be installed in the industrial waste system; or where two (2) separate systems are required, the two (2) systems may be joined in the control manhole provided that samples of each system can be sampled separately.

(Ord. No. 263-96, 5-20-96)

Sec. 24-50. Discharge permit.

(a) All categorical users and other dischargers of industrial wastes shall obtain a discharge permit from the Portland Water District, as required by rule. New users shall obtain permits prior to any discharge. Applications and permits shall be in a form prescribed by the Portland Water District and shall be subject to an application fee as set by the Portland Water District.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 24-51. Public wastewater works not to be damaged.

No person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the public sewer or stormwater drainage system.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-52. Right of entry.

The Department of Public Works, or the Portland Water District as its agent, bearing proper credentials and identification, shall be permitted to enter upon all properties with sewer or stormwater drainage systems connected to the public sewer and producing industrial or process wastes, at reasonable times and upon reasonable notice for the purpose of inspection, observation, measurement, sampling and testing or to otherwise enforce the rules, including copying of reports and records relating to the industrial pretreatment program in accordance with the provisions of this article.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 24-53. Exclusion of industrial waste.

(a) The Department of Public Works or the Portland Water District shall have authority to temporarily exclude any industrial waste, whether pretreated or not, from the public sewers whenever, in its or their opinion, such action is necessary for the purpose of determining the effects of such wastes upon the sewers, wastewater system or wastewater treatment facilities.

(b) The Department of Public Works or the Portland Water District shall notify the affected user prior to taking such actions and shall afford the user a reasonable time for response. The Department of Public Works or the Portland Water District shall

have the authority to take actions necessary to halt the discharge of pollutants from any user to the treatment works which reasonably appears to present an imminent endangerment to the health or welfare of persons or the POTW. Such actions shall be preceded by a notification, oral or written, to the user.

POTW(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-54. Demolition of buildings.

(a) No building served by a building drain or sewer which is connected to the public sewers or to a private sewer system connected to the public sewers, may be demolished prior to the termination of the building sewer or drain at the public sewer under the inspection of the Department of Public Works. The building sewer shall be terminated at the main, at the point designated by the Department of Public Works.

(b) Notice of intent to demolish a building shall be given to the Department of Public Works, by means of a copy of the application for a demolition permit from the building authority or by direct notice to the Department of Public Works, in advance of the time when the building drain or sewer is to be terminated. No such demolition permit shall be issued until a drain termination permit has been issued by the Department of Public Works and a copy thereof has been given to the building authority.

(c) The fee to terminate the building and/or facility sewer and/or drain system will be paid to the city in advance of the termination. The fee of two hundred fifty dollars (\$250.00) per termination represents inspection fees and materials to terminate sewer service. Upon payment of this fee and approval by the Department of Public Works, the applicant shall be issued a sewer termination permit.

(d) Failure to give notice of intent to demolish a building to the Department of Public Works, or to terminate the building drain prior to demolition thereof, or to obtain a permit therefor, shall be deemed a violation of this section, with each day in which the violation continues deemed to be a separate violation.

(e) All excavation for sewer service termination shall be made and maintained in compliance with all provisions of the construction safety rules and regulations of chapter 25, article VII of this Code.

(f) *Violations.* The property owner who fails to obtain a

sewer termination permit and terminate the sewer or drain from the building to be demolished to the public sewer shall be guilty of an offense.

(g) *Failure to comply.* When a person to whom an order is directed fails to terminate a building sewer or drain within a ten-day period, it shall be lawful for the city to terminate the building sewer or drain. All city costs thereof shall be charged to the property owner.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-55. Written notice required.

Forty-five (45) days' written notice shall be given to the Department of Public Works and the Portland Water District by any person proposing to:

- (a) Substantially change the volume or character of pollutants over that being discharged into the treatment system at time of enactment of this article;
- (b) Create a new discharge into the treatment system of pollutants from any source which would be a new source as defined in section 306 of the act if such a source were discharging pollutants elsewhere;
- (c) Create a new discharge into the treatment system of pollutants from any source which would be subject to section 301 of the act if it were discharging such pollutants elsewhere.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 24-56. Violations.

Any person failing to comply with or violating any provision of this article shall be served by the Department of Public Works with written notice stating the nature of the failure or violation and providing a reasonable time limit for the satisfactory correction thereof. Such person shall, within the period of time stated in such notice, permanently cease or correct all such failures or violations. Any person who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this section shall be guilty of an offense. Any person violating any of the provisions of this article shall be liable to the City and shall be assessed a civil penalty

of a minimum of one thousand dollars (\$1,000.00) per day for each violation of industrial pretreatment standards and requirements, and in addition, shall be liable for any expense, loss or damage occasioned by the City by reason of such violation, including reasonable attorney's fees. The City may seek injunctive relief for the purposes of enforcing this article.
(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-57. Appeals.

(a) Whenever the person receiving written notice shall deem himself or herself aggrieved by an order made by the Department of Public Works, the person may file an appeal to the city manager within ten (10) days of the date of the written notice, and the person shall be afforded a hearing on the matter before the city manager or his or her designee, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

(b) In cases of applicability or interpretation of this article, the city manager may revoke such order made by the Department of Public Works.

(c) In cases where compliance with such order made by the Department of Public Works would cause undue hardship, the city manager may extend the time limit of such order or they may permit exceptions to, or waive requirements of, or grant a variance from the specific provisions of this article, subject always to the rule that the city manager shall give due consideration to the purposes of this article in eliminating existing pollution, preventing further pollution and promoting the public health, safety and welfare.

(d) This Section shall not apply to notices of violation or other determinations issued by the Portland Water District. Any notices issued by the Portland Water District under this Article shall be subject to review by the superior court under Rule 80B of the Maine Rules of Procedure within thirty (30) days of the decision.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 31-18/19, 8-13-2018)

Sec. 24-58. Reserved.

Sec. 24-59. Reserved.

Sec. 24-60. Reserved.

Sec. 24-61. Reserved.

Sec. 24-62. Reserved.
Sec. 24-63. Reserved.
Sec. 24-64. Reserved.
Sec. 24-65. Reserved.
Sec. 24-66. Reserved.
Sec. 24-67. Reserved.
Sec. 24-68. Reserved.
Sec. 24-69. Reserved.
Sec. 24-70. Reserved.

**ARTICLE IV. SANITARY SEWER USER AND
INDUSTRIAL PRE-TREATMENT CHARGES***

*

***Editor's note**--Ord. No. 263-96, passed May 20, 1996, amended this article in its entirety, in effect repealing the former provisions and enacting similar new provisions as herein set out. Formerly, such provisions pertained to sewer use charges, consisted of substantive §§ 24-71--24-78, and derived from §§ 322.1--322.3, 322.5--322.8 of the 1968 Code, as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
326-77	--	5-16-77	123-89	--	10- 2-89
420-77	--	7-18-77	259-90	--	2-21-90
284-78	--	5-15-78	79-91	--	8- 7-91
102-81	1, 3	9-21-81	88-92	1, 2	9- 9-92
476-82	1--3	4- 6-82	187-95	--	3- 6-95
523-83	1--3	6- 8-83	157-96	--	2- 5-96
17-88	--	6-20-88			

Sec. 24-71. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article, and not defined elsewhere in this chapter, shall be as follows:

Commercial unit shall mean any structure or portion of a structure from which wastewater or industrial waste is discharged, excepting only dwelling units as defined hereinafter and shall include industrial users. Commercial units owned by different entities within the same structure and sharing the same water meter shall be treated as one (1) commercial unit.

Dwelling unit shall mean one (1) or more rooms occupied or designed to be occupied by one (1) or more natural persons as a single housekeeping unit with sanitary facilities, other than a place of public accommodation as defined hereinafter, discharging only domestic wastewater and shall include each unit of ownership in any condominium. If the occupant or occupants of rooms fit the definition of a dwelling unit except for the fact that the occupants share sanitary facilities with an occupant or occupants of other rooms located within the same structure, the number of units in the structure shall be deemed to be the total number of toilets or urinals located within such structure.

Parcel of land shall mean any area of land shown on the assessor's maps on the April first last preceding the operative date, located within the city, which is either connected in fact to a sewer within the city, or developed-but-unconnected to a sewer within the city, which sewer is nevertheless accessible to the area within the meaning of section 24-36.

Place of public accommodation shall mean any establishment having sanitary facilities located therein which gives or offers shelter or lodging to members of the general public, whether transient or long term and shall include but is not limited to hotels, motels, guest houses, hospitals, rest homes, nursing homes, inns, fraternity houses and dormitories.

Treatment facilities shall mean all wastewater treatment plants owned and operated by the Portland Water District or by the city.

Total organic carbon or TOC shall mean the determination of organic matter present by the measurement of carbon dioxide produced by pyrolysis measured in accordance with 40 CFR Part 136.

Volume of water shall mean the amount of water, estimated or measured, whichever is less, provided to the property by the Portland Water District during the previous period of the calendar year. This term shall include any amounts of water obtained from other sources whether or not water is also provided by the district.

(Ord. No. 263-96, 5-20-96; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 24-72. Sanitary sewer user charges.

(a) *Applicability.* There are levied upon all parcels of land charges for cost of treatment of wastewater and stormwater and for the operation and maintenance of the wastewater system.

(b) *Billing.* Bills for all charges under this article may be sent to the record owner, or to the person requesting water service. Bills shall be sent to each such owner or person every month, except that persons billed quarterly or seasonally by the Portland Water District for water service may be billed quarterly or seasonally for all charges under this article. All payments shall be credited against the oldest outstanding bill sent to such owner or person. Any payments made to the Portland Water District or its agents, which do not indicate to which account they are to be applied, shall be applied as provided by contract between the city and the Portland Water District.

Bills shall contain an amount for sanitary sewer user charges, and if delinquent as provided in section 1-16 of this Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes.

(c) *Computation.* The user charges shall be computed in accordance with the following schedule, as from time to time amended, which shall be sufficient to meet costs of the eligible purposes for which such charges may be used. Beginning July 1, 2023, user charges under this section for both dwelling units and commercial units shall be twelve dollars and seventy-five cents (\$12.75) per hundred cubic feet of volume for connected parcels of land. The user charge for developed but unconnected parcels of land shall be one dollar and seventy-one cents (\$1.71) per hundred cubic feet of volume. Each metered billing unit shall have a minimum charge of at least one hundred (100) cubic feet per month.

(d) *Purposes for which charges may be used.* Charges and assessments made under this article shall be used consistently with 33 U.S.C.A. § 1281 et seq., and applicable federal regulations for the following purposes:

- (1) To defray the current expenses of operating and maintaining the wastewater system, including any assessment made by the Portland Water District;
- (2) To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of sewers heretofore or hereafter constructed within the city;
- (3) To reimburse the city for the cost of computation, billing and enforcement of such charges.

(e) *Collection.* Charges assessed pursuant to this section shall be enforceable pursuant to section 1-16 of this Code.

(f) *Disconnection for nonpayment of charges.* The Portland Water District shall disconnect sewer users with unpaid sanitary sewer user charges according to the same terms and procedures used to disconnect water users with unpaid water user charges.

(Ord. No. 263-96, 5-20-96; Ord. No. 88-97, 9-15-97; Ord. No. 118-01/02, 12-3-01; Ord. No. 249-02/03, 5-19-03, Ord. No. 31-03/04, 7-21-03(enacted as emergency); Ord. No. 218-03/04, 5-17-04; Ord. No. 249-04/05, 5-16-05, enacted as emergency; Ord. No. 244-07/08, 5-19-08; Ord. No. 265-08/09, 5-18-09; Ord. No. 225-09/10, 5-17-10; Ord. No. 227-10/11, 5-16-11; Ord. No. 222-12/13, 6-24-13; Ord. No. 239-13/14, 5/19/14; Ord. No. 250-14/15, 6-24-2015; Ord. No. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 245-16/17, 5-15-2017, Effective 7-1-2017; Ord. No. 217-17/18, 7-1-2018; Ord. No. 244-18/19, 5-20-2019; Ord. No. 79-20/21, 9-21-2020; Ord. No. 256-20/21, 6-7-2021; Ord. 256-21/22, 7-1-2022; Ord. 221-22/23, 7-17-2023)

Sec. 24-73. Industrial surcharges.

(a) *Applicability.* Each industrial user except those included in the Westbrook Inter-Municipal Sewer Service Agreement Area, shall be subject to surcharges in addition to any other treatment charge if the wastewater discharged by such user is determined by the Department of Public Works, in accordance with 40 CFR Part 136, to exceed any of the following concentrations:

- (1) BOD of two hundred fifty (250) mg/l; or COD, where indicated for specific wastewater and a correlation between BOD and COD is established in such wastewater; or

TOC, where indicated for specific wastewater and a correlation is established between TOC and BOD in such wastewater;

(2) TSS content of three hundred (300) mg/l.

(b) *Computation of surcharge for BOD.* The surcharge for BOD shall reflect the cost of removing the excess BOD and shall be computed in accordance with the following formula:

$$\text{Surcharge for BOD} = \frac{(C_1 - 250 \text{ mg/l})}{S_1} \times Q \times 8.34 \times$$

Where C_1 = The concentration of BOD in mg/l

Q = The total volume of wastewater contributed during the billing period, in millions of gallons

8.34 = Conversion factor of gallons to pounds

S_1 = \$0.1633 for each pound of BOD in dollars

(c) *Computation of surcharge for TSS.* The surcharge for TSS shall reflect the cost of removing the excess TSS and shall be computed in accordance with the following formula:

$$\text{Surcharge for TSS} = \frac{(C_2 - 300 \text{ mg/l})}{S_2} \times Q \times 8.34 \times$$

Where C_2 = The concentration of TSS in mg/l

Q = Total volume of wastewater contributed during the billing period, in millions of gallons

8.34 = Conversion factor of gallons to pounds

S_2 = \$0.0817 for each pound of TSS in dollars

(d) Westbrook Inter-Municipal Sewer Service Agreement area may be surcharged for BOD and TSS, based on the cost of treatment at the Westbrook Gorham Regional Treatment Plant.

(e) *Industrial surcharge fee.* An industrial surcharge fee is hereby established for all permitted discharges from all permitted users at a rate of \$0.0857 per hundred cubic feet of volume, provided that the city council may, from time to time, by order,

readjust the surcharge fee according to the then prevailing cost of administering the industrial pretreatment program and the anticipated number of permitted users and anticipated volume to be surcharged.

(f) *Appeals.* Any person aggrieved by a determination of the Department of Public Works made pursuant to this section may appeal such determination to the city manager, within thirty (30) days of notification of such determination. Such person may submit additional evidence and shall be heard orally by the manager or his deputy. The manager may modify the Department of Public Works' determination if satisfied that the determination was erroneous, inconsistent with this chapter, or with applicable rules, regulations or grant requirements made pursuant to 33 U.S.C.A. c. 26. All determinations of the manager shall be rendered within a reasonable period of time, not to exceed ninety (90) days from the date of such hearing and shall be final.

(Ord. No. 263-96, 5-20-96; Ord. No.97-03/04, 11-17-03; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-74. Reserved.

Sec. 24-75. Volume measurements.

(a) *Water volume measurements.* Whenever in this article there is reference to volume of water, and the charges of such person are computed in whole or in part upon such volume of water, the use of such standard shall give the Department of Public Works the right to require any person obtaining water from sources other than the Portland Water District to install and maintain at such person's own expense water meters of a type approved by the Department of Public Works for the purpose of determining the volume of water obtained from their other sources and to report the volume of such water recorded by such meter to the Department of Public Works. Following installation, such meter shall not be removed without the written permission of the Department of Public Works.

(b) *Wastewater volume.* Devices for measuring the volume of wastewater discharged by a commercial or industrial user may be required by the Department of Public Works if these volumes cannot be determined from the water volume records. Any person who is a commercial or industrial user may, at his option, install devices approved by the Department of Public Works for the metering of wastewater and may have the charges based upon the volume of wastewater rather than upon water volume. All metering devices for determining the volume of wastewater shall be installed, owned and

maintained by the person to be charged. Following approval and installation, such meters may not be removed without the consent of the Department of Public Works and may be read by the Department of Public Works at all reasonable times.

(c) *Submetering of water volume.* Any person who feels that recorded water records are not a reliable index of his discharge volume may install an additional water meter of a type approved by the Department of Public Works to measure the volume of water which can be shown not to enter the sewerage system. The person installing such a meter shall immediately notify the Department of Public Works of such installation and shall be responsible to the Department of Public Works for reporting meter readings once every month. Such person shall be credited with the volume charges for the volume shown by such meter, which meter shall be accessible for reading by the city or its agents at all reasonable times.

(d) *Review.* Any person subject to charges under this article may make a written request for review of such charges by the city manager as provided in section 1-16 of this Code. The city manager may review and modify such charges, to the extent that justice requires, upon affirmative proof by such person that:

- (1) The volume of metered water consumed exceeds the volume of wastewater generated by the unit;
- (2) The difference between the volume of water and of wastewater exceeds ten (10) percent of the metered water measurement;
- (3) The amount of the difference can be established to a substantial certainty by reliable tests or is documented by reliable sources prepared for purposes unconnected with wastewater disposal; and
- (4) Measurement by the measuring devices provided for in the preceding subsections is impossible or impractical.

(Ord. No. 263-96, 5-20-96; Ord. No. 37-09/10, 8-17-09; Ord. 108-15/16, 11-16-2015; Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-76. Assessments.

(a) *Lien.* All assessments upon a parcel of land made under this article shall create a lien for the benefit of the city.

(b) *Reserved.*
(Ord. No. 263-96, 5-20-96)

Cross reference(s)--Uniform procedure for collecting assessments, § 1-16.

Sec. 24-77. Violations.

Any person violating the provisions of this article, other than the requirement of payment of charges or assessments, shall be guilty of an offense.
(Ord. No. 263-96, 5-20-96)

ARTICLE V. STORMWATER SERVICE CHARGES

Sec. 24-80. Purpose; Stormwater Service.

Stormwater services assist the city in meeting the regulatory obligations imposed by national pollutant discharge elimination system (NPDES) permits or other court orders or regulations promulgated from the act by reducing pollution and improving water quality within the city.

Stormwater services assist the city in protecting the public health, safety and welfare and the environment and providing stormwater services and regulation of the use thereof renders and/or results in both service and benefit to individual properties, property owners, business, citizens, and residents of the city and to all properties, property owners, businesses, citizens, and residents of the city concurrently and for the environment.

The area of impervious surface on each property is the most important factor influencing the cost of providing stormwater services by the city or to be provided by the city in the future, and the area of impervious surfaces on each property is therefore the most appropriate parameter for calculating a periodic stormwater service charge.

The City of Portland presently owns and operates storm sewers, combined sewers, and the stormwater drainage system, which have been developed over many years. The future usefulness of those existing services owned and operated by the city, and of additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater services in the city with the management of other water resources in the city. In order to do so, the city must have

adequate and stable funding for its stormwater service operating needs and capital program.

Stormwater services are needed throughout the city because many of those areas are developed. While specific service and facility demands may differ from area to area at any given point in time, a stormwater service area encompassing all lands and water bodies within the city is consistent with the present and future needs of the community.

The provision of stormwater services in the city promotes an essential regulatory purpose by influencing where stormwater runoff flows and how it is managed, thereby reducing flooding, erosion and water pollution caused by stormwater runoff.

By mitigating the impact of stormwater runoff from developed properties, stormwater services provided by the city help minimize damage that would subject a parcel owner to civil liability.

The city council is responsible for the protection and preservation of the public health, safety, and welfare of the community, and the environment and finds that it is in the best interest of the health, safety, and welfare of the citizens of the city and the community at large and the environment to provide stormwater services accounted for in the city budget as a separate enterprise fund dedicated solely to the provision of stormwater services and to institute funding methods associated therewith.

In order to fully recover the cost of providing stormwater services a stormwater service charge is the most fair and reasonable means of apportioning the cost among developed land throughout the city.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-81. Definitions.

Unless the context specifically provides otherwise, the meanings of terms used in this article shall be as follows:

Credit shall mean a conditional reduction in the amount of a stormwater service charge to developed land based on the provision and continuing presence of an effectively maintained and operational approved on-site stormwater system or facility or other service or activity that reduces the cost of providing service.

Developed land shall mean property altered from its natural

state by construction or installation of more than 400 square feet of impervious surfaces as defined in this chapter.

Exemption shall mean not applying to, or removing the application of the stormwater service charge from, a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner.

Impervious surfaces are those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Impervious surfaces include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces that prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Undeveloped land shall mean land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have less than or equal to 400 square feet of impervious surfaces as defined in this chapter consisting of limited pavement, asphalt, or compacted dirt or gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different than that which would occur naturally.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-82. Authority and Establishment of the Stormwater Fund.

(a) Under the authority of the Maine Constitution, Article VIII, and Title 30-A M.R.S. § 3001, the city hereby establishes the stormwater service charge to fund stormwater services within the city. Such stormwater charges shall be maintained and accounted for separately in accordance with generally accepted accounting principles as determined by the city's finance director.

(b) Charges made under this article shall be used for the following purposes:

To defray the current expenses of stormwater services and a portion of the current expenses of the combined sewer system attributable to providing stormwater service;

To pay the interest and repay the principal on any outstanding or future indebtedness of the city for construction of the storm drainage system and a portion of the combined sewer systems heretofore or hereafter constructed within the city similarly attributable to providing stormwater service;

To reimburse the city for the cost of computation, billing, and enforcement of such charges.

(c) The city manager will designate appropriate Department of Public Works management and other personnel, including support as needed of personnel from other city departments such as finance, to provide stormwater services and to collect and account for the stormwater service charge imposed hereunder.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-83. Exemptions.

Exemptions from stormwater charges established under this article are not allowed, except as provided in this section. Exemptions shall be allowed for:

(a) All roads owned or maintained by the State of Maine, including the Maine Turnpike; and all accepted City roads and all roads maintained by the City; all private roads and ways serving more than two dwelling or structures, but not driveways; all public pedestrian walkways. However, parking lots, buildings, or other developed land within the right-of-ways shall not be exempt from storm water service charges;

(b) Undeveloped land;

(c) Railroad rights-of-way (tracks). However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges;

(d) Airport runways, taxiways and aprons upon which public and private aircraft operate;

(e) With the exception of Peaks Island, all islands are exempted from the fee due to the limited services provided to the islands; and

(f) All City-owned land, buildings and other real property.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 217-17/18, 7-1-2018)

Sec. 24-84. Stormwater Service Charge.

(a) There is levied upon all developed land stormwater service charges for the cost of providing stormwater services. All developed land shall be charged seven dollars and seventy-five cents (\$7.75) per month per one thousand two hundred (1,200) square feet of impervious surface area, rounded to the nearest one thousand two hundred (1,200) square feet of impervious surface area.

(b) The basis for this charge is the measured amount of impervious surface area on the developed land as determined by the city. This measured area may be updated from time to time at the discretion of the Department of Public Works upon evidence of impervious surface area change or the availability of updated or more accurate information.

(c) Fees collected hereunder to fund stormwater services can also be supplemented by other revenues available to the city, including but not limited to state, federal, general and special city funds, and private grants and loans.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016; Ord. No. 217-17/18, 7-1-2018; Ord. No. 79-20/21, 9-21-2020; Ord. No. 256-20/21, 6-7-2021; Ord. 256-21/22, 7-1-2022; Ord. 221-22/23, 7-17-2023)

Sec. 24-85. Credits

(a) Owners of developed land may apply for and receive a voluntary stormwater service charge credit for approved stormwater credit systems or facilities. The director of the Department of Public Works or his/her designee shall determine such approved stormwater systems and facilities and stormwater service charge credit amounts based on the technical requirements, design and performance standards contained in the city's stormwater credits manual, to be adopted by the director of the Department of Public Works pursuant to this ordinance, as it may be updated or amended from time to time.

(b) It is the responsibility of the record owner to initiate and apply in writing for stormwater service charge credits, and to provide all necessary information with a letter requesting the credit. The department of Public Works is not responsible for initiating a credit application, performing engineering

calculations, or otherwise assisting in the preparation of a request for a credit. Credits will only be applied if the requirements outlined in the city's stormwater credit manual are met including but not limited to completion of on-going maintenance, guaranteed right-of-entry for inspection, and submittal of annual self-certification reports or other required reports as required per ordinance and rule.

(c) Credits will be applied to the stormwater service charge while stormwater facilities or management practices are functioning as approved by the city. If the approved practice or facility is not functioning as approved, or is terminated, the credit will be cancelled. Once the credit has been cancelled, the customer must reapply for the credit.

(d) The department of Public Works will only review complete credit requests. If approved, the credit will be applied to the first bill issued 30 days after the approval. Credits may be made retroactive, one calendar year from the date of the first billing period of the charge.

(e) A credit of up to one hundred percent (100%) of the stormwater service charge may be approved.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-86. Billing.

(a) All charges under this article shall be sent to the record owner of a given property. The record owner may request, subject to the approval of the director of the Department of Public Works, that the full charge be billed to the owner's designated tenant. The director may direct billing to the tenant of the property if the tenant is currently billed for water and sanitary sewer charges. The record owner shall be liable for payment even if the stormwater service charges are billed to the tenant of the property.

(b) Condominiums shall have the full charge for the developed land equally divided among all condominium owners of developed land. The condominium owners may appeal the director in writing to adjust the fraction of the charge applied to each condominium owner. The director will require signed confirmation from each condominium owner of developed land that they approve the adjustment to the fraction of the charge applied.

(c) Bills shall contain an amount for stormwater service user charges, and if delinquent, as provided in section 1-16 of this

Code, shall include charges for interest to be computed in the same manner as provided for real estate taxes and such delinquency may be collected by a civil action against the owner and/or may result in a lien being placed on the property as specified in section 24-88.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-87. Right of appeal and adjustments.

(a) A record owner may request review of the amount of the stormwater service charge imposed on such owner by written request to the director of the Department of Public Works within 30 calendar days of the date the customer receives the service charge bill.

(b) The owner must demonstrate the impervious surface area is less than the amount used in calculating the developed land's stormwater service charge. Factors that will be considered include the impervious surface area of the property.

(c) An owner must comply with all rules and procedures adopted by the director when submitting a request for appeal or adjustment of the stormwater service charge and must provide all necessary information to make a determination.

(d) The director of the Department of Public Works or his/her designee shall review the service fee and issue a determination, in writing, within 30 calendar days.

(e) With a finding that the impervious surface area is less than the amount used to calculate the developed land's stormwater service charge, the sole remedy to the owner shall be recalculation of the stormwater service charge based on the corrected impervious surface area. A finding that the impervious surface area is not less than the amount used to calculate the developed land's stormwater service charge shall be conclusive with respect to that property and shall remain effective unless the owner changes the impervious surface area of the property.

(f) An owner may appeal the director of the Department of Public Works decision to the city manager or his/her designee within 30 days of the date of the decision. An owner may appeal a decision of the manager to a court of competent jurisdiction pursuant to the applicable Rules of Civil Procedure.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-88. Right of enforcement and violations.

(a) The director of the Department of Public Works or his/her designee is the enforcement authority who shall administer, implement, and enforce the provisions of this article.

(b) It shall be unlawful for any person to violate or to fail to comply with the requirements of this article or its fees. Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452.

(c) Any person who violates this article may also be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorneys' fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this article also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this section; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

(d) Without limiting the foregoing, failure to comply with this article may also be enforced as a nuisance and be subject to an abatement action, in addition to, or alternatively to, the enforcement actions described above.

(e) *Consent agreement.* The enforcement authority, with the approval of corporation counsel and the city manager, may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.

(f) *Delinquent fees.* Any owner that fails to pay the stormwater service charge when due shall be responsible for the amount of the unpaid service charge, interest on the unpaid amount, and attorneys' fees and other costs of collection. To the extent permitted by law, the fee, when overdue, including interest and penalties, is a lien on real property and may be collected in the same manner as a sewer user lien pursuant to state law. Delinquent amounts may also be collected by a civil action against the person. (Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-89. Limitation of liability.

This article shall not be interpreted to mean that property subject to the charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or that stormwater drainage systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. Therefore the following limitations on liability, in addition to any other limitations or immunities existing in law, are set forth:

(1) It is the express intent of the city that this article will protect the public health, safety and welfare of properties and persons in general. However, this ordinance does not create any special duty or relationship with any individual person or specific property either within or outside the service area.

(2) The city shall not be held liable for flood damage or assessing and removing pollution sources, and reserves the right to assert all available immunities and defenses in any action seeking monetary compensation from the city, or its officers, agents or employees for alleged damages arising from alleged failure or breach of duties or relationship as may now exist or hereafter be created.

(3) The issuance of any permit, plan approval or inspection shall not constitute a warranty, express or implied, nor shall it afford the basis for any action seeking the imposition of monetary damages against the city or its officers, employees or agents.

(4) Operation of stormwater drainage systems located on private property or public property not owned by the city and for which there has been no public dedication of such systems and facilities for operation, maintenance and/or improvements of the system, shall be the legal responsibility of the property owner, except as may be affected by the laws of the State of Maine and the United States of America.

(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-90. Severability.

Each section of this ordinance is severable from all other sections. If any part of this ordinance is deemed invalid by a court or competent jurisdiction, remaining portions of the

ordinance shall not be affected and shall continue in full force. Whenever this ordinance conflicts with any other ordinance of the city, State of Maine, or federal government, the stricter standard shall apply, except as limited by state or federal law.
(Ord. 129-14/15, 1-21-2015, Effective 1-1-2016)

Sec. 24-91. Reserved.
Sec. 24-92. Reserved.
Sec. 24-93. Reserved.
Sec. 24-94. Reserved.

LMAC Report

Sustainability and Transportation Committee
April 10, 2024

PORTLAND LANDCARE ORDINANCE



City Code prohibits the use of synthetic pesticides and fertilizers on all public and private property.

Code of Ordinances, Chapter 34.



ORDINANCE BASICS

DO NOT USE SYNTHETIC PESTICIDES & FERTILIZERS ON:

- Lawns
- Vegetable and ornamental gardens
- Landscaped areas
- Patios
- Sidewalks
- Driveways
- Parks and playing fields

ALL fertilizers and pesticides are prohibited within 75 feet of a water body or wetland.

ALL fertilizer applications are prohibited:

- On impervious surfaces
- On frozen ground or saturated surfaces;
- When a heavy rain event is forecast or is occurring
- When plants are not taking up nutrients, such as during summer dormancy

You must get a soil test before using organic fertilizers and only apply what it recommends. This prevents excess nutrients from being washed in local waterways.

WHY ORGANIC?

Organic landcare practices nourish the microbes, fungi, and other life forms that work with plants to build healthy soil. Synthetic pesticides and fertilizers damage this delicate ecosystem by killing beneficial soil organisms and harming birds, insects, and other wildlife. Organic lawns are safer for kids and pets than those treated with pesticides.

WHAT YOU CAN DO

- Keep your grass between 3.5" - 4" tall
- Mow often enough that you don't cut more than 1/3 of the grass blades
- Leave your grass clippings to add nitrogen back into the soil
- Plant diverse native species
- Plant more gardens, veggie or perennial flowers

About the Landcare Ordinance Chapter 34

Exemptions:

- Treating Structural pests
- Pests that threaten public health
- Applications to treat invasive insects such as EAB & HWA
- Treating invasive plants on City property
- Private property owners may seek a waiver



LMAC Members

Appointed by the City Council

1. Jesse O'Brien, Chair
2. Avery Kamila, Waiver Committee
3. Priscilla Skerry
4. Noah Tucker
5. Melissa Runstrom
6. Carol Laboissoniere
7. Troy Moon, Waiver Committee

LMAC Responsibilities

1. Advising the S&T Committee and Sustainability Director of any problems encountered or amendments that may be required to achieve successful implementation of the ordinance
2. Reviewing and acting upon waiver applications when applicable
3. Developing and implementing outreach and education in coordination with the Sustainability Director
4. Seeking the participation and advice of experts in the fields of organic turf and landscape management, maintenance of trees and shrubs, and organic pest protocol
5. Encouraging broad community participation in the activities of the LMAC
6. Reviewing annual data and issuing a summary report annually

Landcare Lunch Break



sustainability
office



sustainability
office

Landcare Lunch Break 2024 Series

March 27

Soil Science & How to Test Your Soils

Jason Lilley, Maine Cooperative Extension

July 10

The Dirty Truth About Urban Runoff

Will Everitt, Friends of Casco Bay

July 24

Healthy Lawncare Made Easy

Amren Frechette, CCSWCD

August 14

Preparing Your Lawn for Winter

Jesse O'Brien, LMAC



Join us on Zoom.

Register for free on our website.



Friends of Casco Bay
Casco BAYKEEPER



CUMBERLAND COUNTY
SOIL & WATER
CONSERVATION DISTRICT

MOW TALL UNTIL FALL

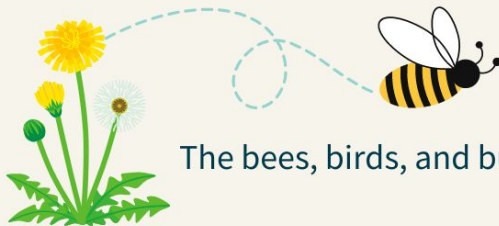
FOR HEALTHY SOILS AND
HAPPY POLLINATORS



Learn more at
portlandmaine.gov/landcare

MOW TALL UNTIL FALL BENEFITS

- Keeping your lawns height at 3-4 inches encourages the roots to grow deeper in the ground
- Pollinators thrive on the flowering weeds in your lawn, try keeping them around to see more bees and butterflies
- Grubs and other lawn pests are less likely to be an issue with longer grass and healthy roots in the soil
- More plants and deeper roots means more carbon is being stored. You can help fight climate change by mowing high!



The bees, birds, and butterflies thank you!



Promoting Healthy Ecosystems

Organic material nourishes soil supporting the growth of beneficial microorganisms, allowing plants to grow and resist pests and diseases.



Increasing Resilience

Stable ecosystems require less intervention and are more adept to environmental changes which in turn creates a sustainable and resilient landscape that benefits humans and the ever-shifting environment.



Back to the Basics: Landcare

Keeping pesticides off lawns and gardens



Why does Portland have a lawncare ordinance?

The ordinance helps protect the health of our waterways, residents, pets, and natural ecosystems.



Portland's Landcare Ordinance:

Restricts the use of synthetic fertilizers and pesticides on all public and private property except in limited circumstances.

Environmental Protection and Stewardship

Native plants are better suited to the local environment, require less maintenance, and play a major role in supporting water quality. By not using pesticides, chemical runoff is limited which protects aquatic ecosystems and drinking water resources. Incorporating native plants in your space contributes to the health of the environment.



Additional Outreach & Materials

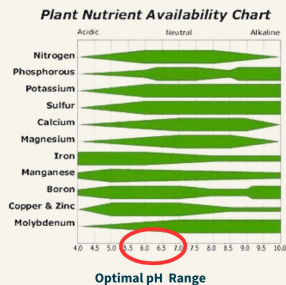
- Tabling
- Spreading awareness through other outreach events like Wayside Picnics and Parking Day
- Instagram and social media posts



Interpreting Your Soil Test Results



The test results for your soil are shown as bar graphs and numbers. The graphs indicate the optimal levels of nutrients in your soil.



Above Optimum

Too much of a soil component can harm plant growth and yield. It can be toxic or block other nutrients. You should not add more of this component to your soil.

Medium

Medium soil levels are sometimes enough for low-demand crops, but they may also reduce plant growth or yield. You may be recommended to add some fertilizer or lime to your soil to improve its quality and boost your crop performance.

Optimum

Optimum soil levels are perfect for plant growth and yield. You don't need to add any fertilizer, except to replace what the crop takes away. Adding a little bit of starter fertilizer may also help.

Low

Low levels of nutrient, organic matter, or pH can hinder plant growth and yield. You may need to add fertilizer or lime to your soil for several years and test it regularly.

How much fertilizer do you need?

$$\text{Lb of nutrient needed} \div \text{Concentration (\%) of that nutrient in fertilizer} = \text{Lb of fertilizer needed per unit of area}$$

Based on the results, you will receive a soil recommendation that will look something like this:

Calculated major nutrient requirements:
 2.0 pounds nitrogen per 1000 sq. ft.
 0.7 pounds phosphate per 1000 sq. ft.
 2.3 pounds potash per 1000 sq. ft.

To find a fertilizer suitable for your needs, you may need to round the ratio.

Ex. 2 - 1 - 2



City of Portland Landcare Ordinance Effective March 19, 2023

Restricting the use of pesticides and fertilizers in order to protect the health of our waterways, residents, pets, and natural ecosystems.

Application of synthetic pesticides and fertilizers within the City of Portland must comply with Chapter 34 of the City Code.

Learn More:

www.portlandmaine.gov/Landcare



Pesticide retailers must place a sign in their stores alerting residents about the ordinance.

ELECTRIFY EVERYTHING !



See if you qualify
for rebates
up to \$250 on
reel lawn mowers,
electric lawn tools,
and more!



Landcare Ordinance Proposed Amendments

1. Changing the required soil test to a “standard soil test” offered by the University of Maine Cooperative Extension.
2. Required soil tests may be done every three years rather than yearly.
3. Application of organic fertilizer to gardens is permitted with a soil test highly recommended.
4. Fertilization of woody plants and shrubs is permitted so long as fertilizer is injected to the root or applied within the drip edge of the plant and incorporated into the soil.
5. Removal of the term “penetrometer” because it is not referenced in the ordinance language.

Amendments Under Consideration in 2024

1. Quantity of organic fertilizer allowed in one growing season
2. Reporting requirements & information required on annual reports
3. Credentials required for LMAC membership
4. Other issues that arise as staff evaluate the ordinance.

Objective: To ensure the ordinance most effectively promotes sustainable landcare

City of Portland, ME
Landcare Management Advisory Committee
Annual Report to the Sustainability and Transportation Committee
March 13, 2024

The City of Portland's Landcare Ordinance requires the Landcare Management Advisory Committee to provide a report to the Sustainability and Transportation Committee every year before March 31 in order to inform the City Council about the actions of the committee and to provide recommendations to the pesticide ordinance to enhance its environmental and public health benefits. This is the fourth annual report.

LMAC 2023

- Jesse O'Brien (*Chair*)
- Avery Yale Kamila, Waiver Committee
- Carol Laboissonierre
- Priscilla Skerry
- Melissa Runstrom
- Troy Moon, City Staff
- Noah Tucker

Executive Summary

- During the past year, Portland Parks & Recreation actively worked to combat invasive species in Portland such as Emerald Ash Borer and Hemlock Woolly Adelgid.
- The LMAC received 36 applicator reports for 2023 compared to 40 applicator reports for 2022. Staff connected with all applicators that reported in 2022 and found full reporting compliance with at least 5 additional applicators listing no applications in Portland in 2023.
- The LMAC did not receive any waiver requests in 2023.
- There were seven pesticide complaints registered on SeeClickFix in 2023, the majority for signage violations.
- In September 2022, the Portland City Council approved amendments to the Pesticide Ordinance recommended by city staff and LMAC. The new Land Care Ordinance restricts the use of synthetic fertilizers in addition to the restriction of pesticides. These amendments went into effect on March 19, 2023.
- The Sustainability Office held numerous events and educational campaigns in 2023 to bring attention to the Landcare Ordinance and sustainable practices. The committee will continue to assist in educating the public about the City's Landcare Ordinance.
- The LMAC proposes a few amendments to the Landcare Ordinance in 2024 to clarify items regarding soil tests and exempt applications.
- The LMAC will review commercial applicator reporting requirements included in the Landcare Ordinance over the next year so they provide additional information to help administer the ordinance.

Portland Parks & Recreation Organic Land Care Highlights

The Parks & Recreation Department achieved 100% organic management of the City's athletic facilities in 2022 and continued having success with the organic applications in 2023. This significant accomplishment demonstrates the City of Portland's commitment to building vibrant, livable communities.

The Parks Department is actively working to combat disruptive invasive species in Portland. The Parks Department released 80 colonies of a predatory beetle that consumes Hemlock Woolly Adelgid - this included about 8,000 beetles across a handful of Hemlock stands around the city. The City also participated in a predatory wasp release along the Presumpscot River to combat the extensive Emerald Ash Borer infestation the city is facing. This program was administered through the Maine Forest Service.

Applicator Report 2023 Data

- The Landcare Ordinance requires that licensed applicators submit an annual report containing the following information for applications performed in the City of Portland in the prior year: target site, pesticide brand name, EPA registration number, total undiluted formulation, and total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Maine Board of Pesticide Control.
- To notify applicators of this requirement, we utilized the MELNA and State of Maine Board of Pesticide Control lists and sent notice via email to all licensed applicators in Cumberland County.
- We received reports from 36 businesses, which is 4 less than was received last year. 5 businesses that reported last year informed us they had no applications in Portland in 2023. There was 1 new reporter for 2023.
- While discussing the applicator reports, the members noted that the information requested from the applicators does not provide enough information to determine whether reported applications of synthetic pesticides are for an exempt purpose or whether the application is in violation of the ordinance. The Committee members agreed they should review the reporting requirements to determine what information should be reported in order to provide meaningful and actionable data. Improved data will help with the administration of the ordinance.

Businesses that submitted reports include:

1. A1 Exterminators	14. Liberty Pest Control, Inc.	24. Organic First LLC
2. Ant Man Pest Control	15. Magic Carpet Cleaning & Restoration Inc	25. Pest-End
3. Ants Etc Pest Control	16. Maine Pest Solutions	26. Prep-Clean
4. Atlantic Insect & Lawn Control		27. Protect Pest Services
5. Bartlett Tree Expert Co		28. Rainbow International of Greater Portland
6. Big Blue Bug		29. Riverside Golf Club
7. Bouchard Cleaning and Restoration		30. Seabreeze Property Services

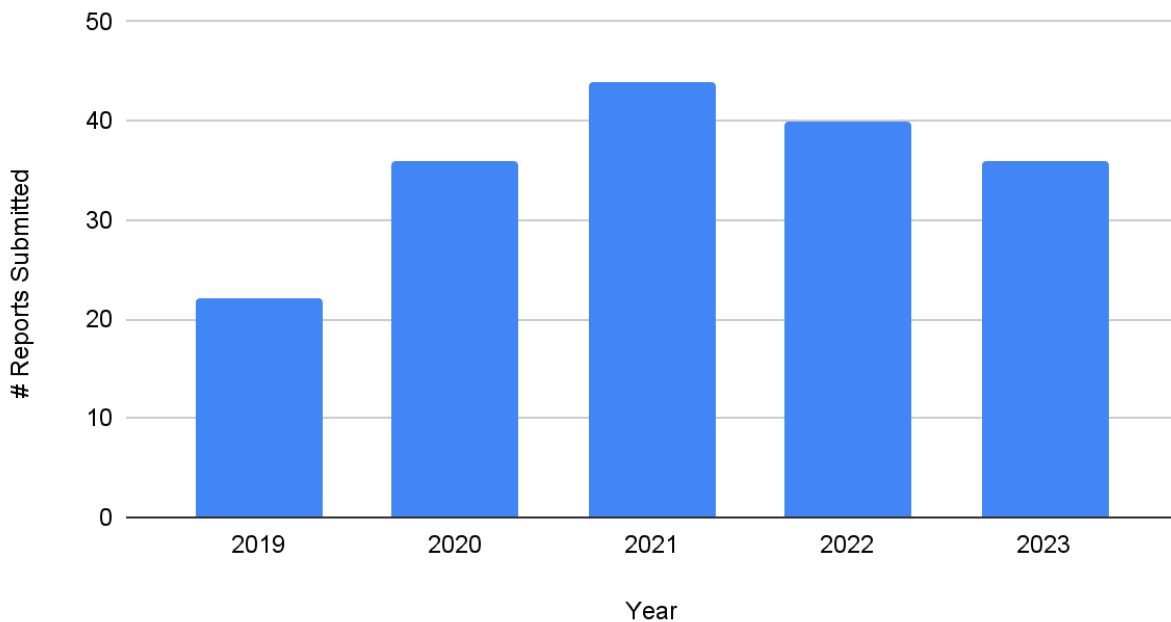
8. Bullseye Pest Services, LLC 9. Burnell Pest Services Inc 10. Davey Tree Expert Company 11. Erlich Pest Solutions 12. EZ Pest Solutions 13. Green Pest Defense	17. Maine Tick and Mosquito Control, LLC 18. Maine Verminator 19. Mainely Grass Holding LLC 20. Mainely Ticks 21. MD Weaver Corporation 22. Modern Pest Services 23. Mosquito Squad of Southern Maine	31. Sterling Insect - Lawn Control Inc 32. Superior Pest Control 33. Terminix 34. TruGreen 35. Turf Doctor Lawn & Pest Services 36. Waltham Pest Services
---	---	--

Staff was pleased that these companies submitted reports detailing their pesticide applications during the calendar year 2023.

- *It is important to note that we do not know how many pest management and landscaping companies operate in Portland so we do not know how many firms are required to submit reports.*

City of Portland Commercial Applicator Annual Reporting Summary Data (2019 to 2023)

Reports Submitted



Portland Pesticide Annual Report Areas	2023	2022	2021	2020	2019
# of Pesticide Annual Reports Submitted	36	40	44	36	22
Resident Complaints (Portland SeeClickFix)	7	12	6	12	0
# of Waivers Submitted	0	0	1	1	2
# of Waivers Submitted Approved	0	0	0	0	0
# of Education and Outreach Efforts Held	8	5	2	4	7

Education and Outreach Efforts in 2023

- The Office hosted a landcare professionals workshop in February 2023 titled Healthy Soils and Happy Lawns: A Deep Dive into Organic Turfgrass and Lawn Care Practices. Lawn care professionals and lawn care managers were invited to this workshop to learn how soil testing, proper irrigation, and proper use of organic fertilizers can create healthy soils that grow grass without the use of synthetic pesticides. The workshop was led by Jesse O'Brien, a practicing agronomist and sod expert, along with veteran Golf Course Superintendent, Brendan Parkhurst. Both have decades of practical experience cultivating high-quality turfgrass. Licensed applicators received one recertification credit for participation in this workshop.
- Sustainable Landcare Fair was held on September 9th, 2023 at the farmers market in Deering Oaks Park. The event saw many residents stop by to view educational materials about the Landcare Ordinance and Mow Tall Until Fall campaign presented by City staff and LMAC. Attendees were also able to learn from event partners such as Master Gardeners, Wild Seed Project, Eldredge Lumber, the Parks and Recreation Department, and State Entomologist Hillary Peterson.
- Sustainability Office staff launched an educational campaign "Mow Tall Until Fall" to educate about the importance of healthy soils creating happy lawns. This campaign included handing out yard signs at the farmers market, Wayside pop up picnic events, and at the Sustainable Landcare Fair. Additionally, all educational materials were also shared via a social media campaign.
- Sustainability Office staff launched a summer webinar series focused on sustainable landcare topics. Guest speakers from Maine Audubon to speak about creating Bird-Friendly Habitat in your Backyard, University of Maine's Cooperative Extension to speak about soil science and soil tests, and Wild Seed Project to speak about "building a biodiverse and climate-resilient yard". These events were well attended and reached over 200 individuals.

- Sustainability Office staff increased outreach to retailers by creating a “Pesticide and Fertilizer Retailer Guide” along with visiting local retailers to notify them of the Ordinance requirement to post signage near pesticides alerting customers of the Landcare Ordinance.
- The City of Portland Landcare website was updated with the new ordinance information and continues to be updated regularly by City staff. See the website at portlandmaine.gov/landcare

Waiver Requests

There were no waiver requests submitted in 2023.

Portland See-Click-Fix Resident Complaints on Pesticide Use

- The City of Portland relies on community-sourced reporting through the See-Click-Fix (SCF) platform to monitor compliance with the Landcare Ordinance. In 2023, residents filed seven SCF reports about potential Landcare Ordinance violations. Many of them note the lack of proper signage on applied lawns, specifically the lack of a chemical name and trade name as required by the ordinance.
- The Sustainability Office sent information about the ordinance to the owners of the properties identified by the See-Click-Fix report. Staff also included information about proper signage in our annual letter to applicators reminding them of the ordinance’s reporting requirements. Staff will continue to respond to resident reports and encourage residents to use the platform to share concerns they may have about compliance.

Summary

Portland’s Landcare Ordinance charges the Landcare Management Advisory Committee (LMAC) with advising the Sustainability Director and the Sustainability and Transportation Committee about implementation of the ordinance and recommended amendments.

- The LMAC proposes the following ordinance amendments in 2024:
 1. Changing the required soil test to a “standard soil test” offered by the University of Maine Cooperative Extension.
 2. Required soil tests may be done every three years rather than yearly.
 3. Application of organic fertilizer to gardens is permitted with a soil test highly recommended.
 4. Fertilization of woody plants and shrubs is permitted so long as fertilizer is injected to the root or applied within the drip edge of the plant and incorporated into the soil.
 5. Removal of the term “penetrometer” because it is not referenced in the ordinance language.
- The LMAC will review the reporting requirements for commercial applicators and will share findings and recommendations in the 2024 LMAC report.
- The LMAC will continue to assist in implementing an ongoing education and outreach program in coordination with the Sustainability Office that will inform residents, property

owners, and landscaping companies about the ordinance and ways to manage their property organically.

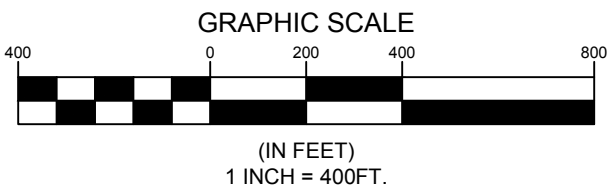
BAYSIDE TREE PLANTING PROJECT

WEST BAYSIDE & EAST BAYSIDE
PORTLAND, ME
BID No. 24043

OWNER
CITY OF
PORTLAND, ME
389 CONGRESS STREET
PORTLAND, ME 04101

LANDSCAPE ARCHITECT/
ENGINEER:

SEBAGO
TECHNICS
WWW.SEBAGOTECHNICS.COM
75 John Roberts Rd.
Suite 4A
South Portland, ME 04106
Tel. 207-200-2100



SHEET INDEX	
SHEET	TITLE
1	COVER SHEET
2 TO 38	TREE PLANTING SITES
39	DETAILS 1-7
40	DETAILS 8 - 11 AND TREE LIST
41	SUMMARY TABLE
42	SUMMARY TABLE

COVER SHEET
OF:
BAYSIDE TREE PLANTING PROJECT
PORTLAND, ME
FOR:
CITY OF PORTLAND, ME
389 CONGRESS STREET
PORTLAND, ME 04101

DESIGNED	
DRAWN	MTM
CHECKED	ABS
DATE	1/11/2024
SCALE	1"=400'
PROJECT	21999

SHEET	VAULT #
1 OF 42	01046_033

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC. SOME OR ALL OF THE INFORMATION USED IN THIS GIS PLAN RELIES ON

SEBAGO
TECHNICS
WWW.SEBAGOTECHNICS.COM
75 John Roberts Rd.
Suite 4A
South Portland, ME 04106
Tel. 207-200-2100

21999.C.dwg TAB COVER SHEET

IMAGERY DATE: 2020



IMAGERY DATE: 2020

DATA SOURCES

MAINE GEOGRAPHY
2020 ORTHOREGIONAL IMAGERY
ESRI HUMAN
GEOGRAPHY LABELS

GRAPHIC SCALE 1" = 200'
WHEN PRINTED AT 22 X 34

0 100 200 400 600 800
Feet

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC. SOME OR ALL OF THE INFORMATION USED IN THIS GIS PLAN RELIES ON

SEBAGO
TECHNICS
75 John Roberts Rd.
South Portland, ME 04106
Tel. 207-207-2100

FOR:
CITY OF PORTLAND, MAINE
389 CONGRESS STREET, SUITE 203
PORTLAND, MAINE 04101

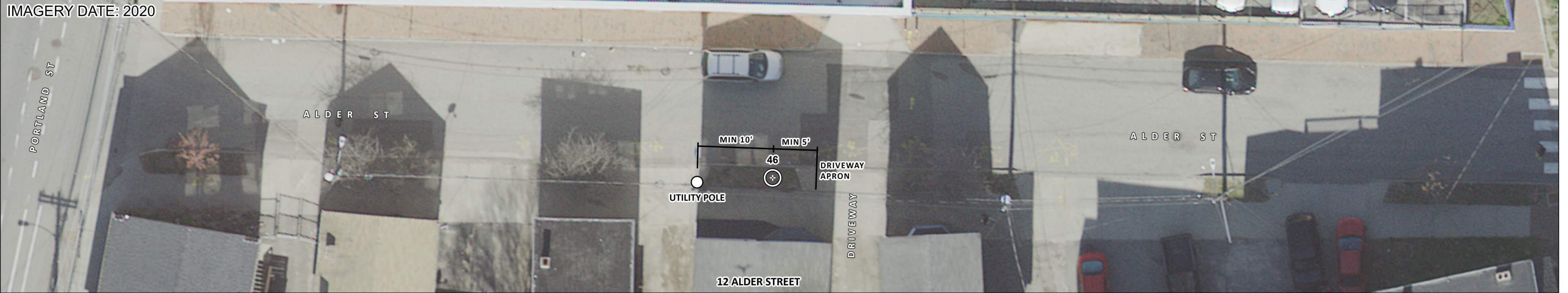
DESIGNED	MTM
DRAWN	MTM
CHECKED	ABS
DATE	1/30/2024
SCALE	1" = 200'
PROJECT	21999-02

SHEET NO.	VAULT #
2 OF 42	01046_033

IMAGERY DATE: 2020



IMAGERY DATE: 2020



TREE NO.	EXISTING CONDITIONS	PROPOSED WELL DIMENSIONS (W' X L')	TREE TYPE	DETAILS	NOTES
44	SIDEWALK ESPLANADE	N/A	B	8, 11	PLANT TREE CENTERED BETWEEN DRIVEWAYS BOUNDING EXISTING ESPLANADE. OVERHEAD WIRES NEARBY.
45	SIDEWALK ESPLANADE	N/A	B	8, 11	PLANT TREE BETWEEN PARKING SIGNS IN EXISTING ESPLANADE ±20FT ON CENTER FROM DRIVEWAY TO THE SOUTH. MAINTAIN A MINIMUM OF 10FT FROM STREET SIGN TO THE SOUTH.
46	SIDEWALK ESPLANADE	N/A	A	8, 11	PLANT TREE A MINIMUM OF 5FT FROM DRIVEWAY TO THE SOUTHEAST AND A MINIMUM OF 10FT FROM UTILITY POLE TO THE NORTHWEST. OVERHEAD WIRES.

SITE 45: DECEMBER 2023



SITE 45: DECEMBER 2023



SITE 46: SEPTEMBER 2023



SITE 44: DECEMBER 2023



DATA SOURCES

MAINE GEOGRAPHIC
2020 ORTHOREGIONAL IMAGERY
GOOGLE EARTH STREET VIEW
- SEPTEMBER 2023

MAINE LANDSCAPE ARCHITECT
Amy Ball
Seabag
No. 12345
STATE OF MAINE
1/31/24

0 5 10 20 30 40 50
Feet

GRAPHIC SCALE 1" = 10'
WHEN PRINTED AT 22 X 34

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNIQS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNIQS, INC. SOME OR ALL OF THE INFORMATION USED IN THIS GIS PLAN RELIES ON

SEBAGO
TECHNIQS
WWW.SEAGOTECHNIQS.COM
75 John Roberts Rd.
Suite 44
South Portland, ME 04106
Tel: 207-200-2100

14-28 HANOVER STREET; 12 ALDER STREET

OF:
SITES 44-46
BAYSIDE TREE PLANTING PROJECT

FOR:
CITY OF PORTLAND, MAINE
389 CONGRESS STREET, SUITE 203
PORTLAND, MAINE 04101

DESIGNED

DRAWN

CHECKED

DATE

SCALE

PROJECT

MTM

ABS

1/31/2024

1" = 10'

21999-02

SHEET NO.

15 OF 42

VAULT #

01046_033

Sheet 15 - 21999-02.aprx

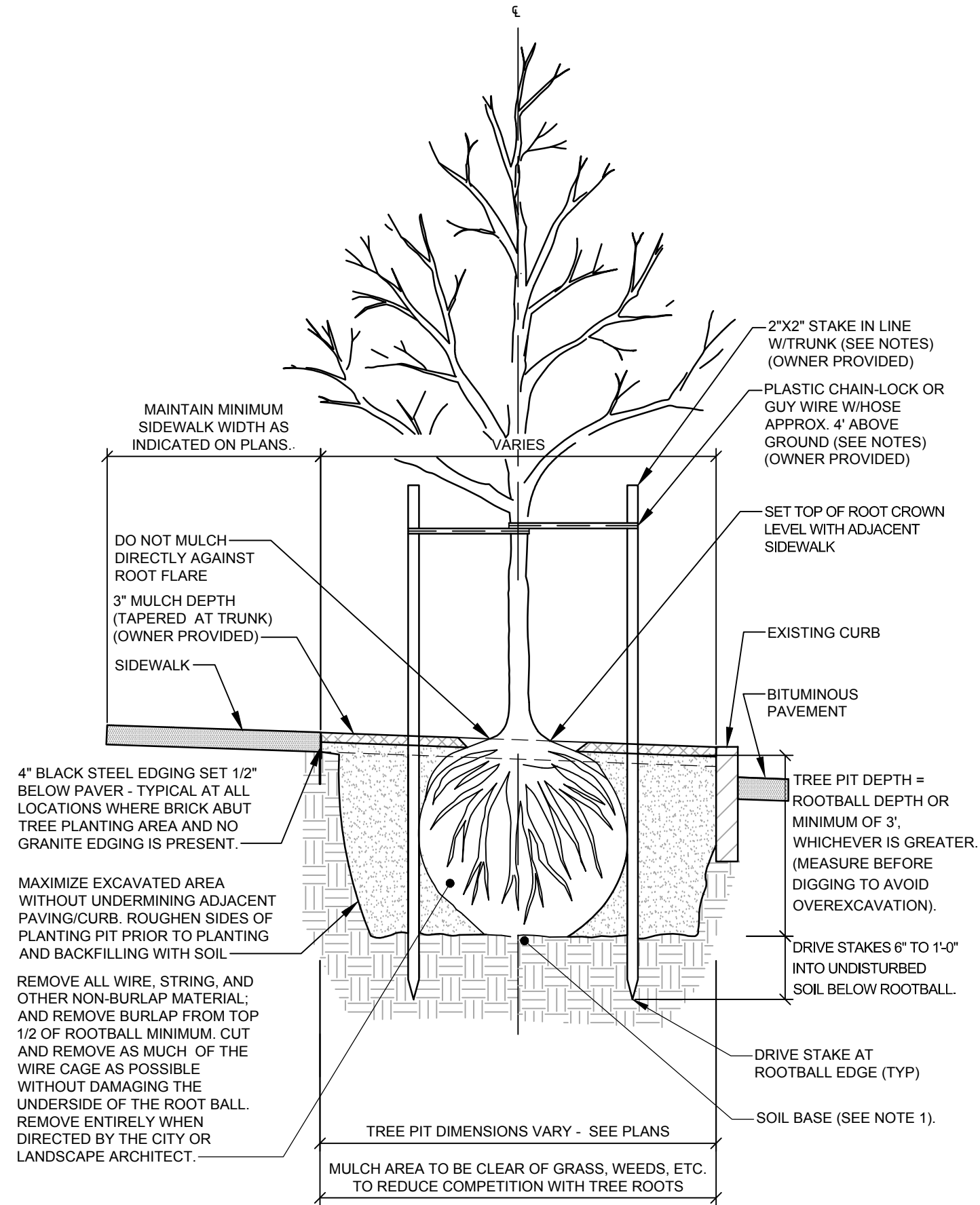
F:\Projects\2100021999-02DWG\Design\21999.Dwg - 2/5/2024 2:20 PM - RICHARD G. LEWIS

PORTLAND BAYSIDE STREET TREE PLANTING 2024			
SMALL TREES (CATEGORY A) - 84 CATEGORY A TREES			
BOTANICAL NAME	COMMON NAME	SIZE	NOTES
AMELANCHIER CANADENSIS	SHADBLOW SERVICEBERRY	1.5-2" BB	SINGLE STEM
AMELANCHIER GR ROBIN HILL T/F	ROBIN HILL SERVICEBERRY	1.5-2" BB	SINGLE STEM
CERCIS CANADENSIS	REDBUD	1.5-2" BB	
COTINUS OBOVATUS	SMOKE TREE	1.5-2" BB	SINGLE STEM
CRATAEGUS CRUSGALLI	COCKSPUR HAWTHORNE	1.5-2" BB	
MALUS ADIRONDACK	ADIRONDACK CRABAPPLE	1.5-2" BB	
MALUS SPRING SNOW	SPRING SNOW CRABAPPLE	1.5-2" BB	
PRUNUS SARGENTII COLUMNAR	COLUMNAR SARGENT CHERRY	1.5-2" BB	
PRUNUS SARGENTII ACCOLADE	ACCOLADE SARGENT CHERRY	1.5-2" BB	
PRUNUS SARGENTII PINK FLAIR	PINK FLAIR SARGENT CHERRY	1.5-2" BB	
SASSAFRAS ALBIDUM	SASSAFRAS	1.5-2" BB	SINGLE STEM
UPRIGHT STREET TREES (CATEGORY B) - 25 CATEGORY B TREES			
CARPINUS CAROLINIANA	AMERICAN HORNBEAM	2-2.5" BB	
CELTIS OCCIDENTALIS	HACKBERRY	2-2.5" BB	
CLADRASTIC KENTUKEA	YELLOWWOOD	2-2.5" BB	
GLEDITSIA TRI INER DRAVES STREET KEEPER	STREET KEEPER HONEYLOCUST	2-2.5" BB	
LIRIODENDRON TULIP ARNOLD COLUMNAR	ARNOLD TULIP POPLAR	2-2.5" BB	
QUERCUS BICOLOR BEACON	BEACON SWAMP WHITE OAK	2-2.5" BB	
QUERCUS IMBRICARIA	SHINGLE OAK	2-2.5" BB	

STREET TREES (CATEGORY C) - 40 CATEGORY C TREES			
CATALPA SPECIOSA	CATALPA	2-2.5" BB	
GINKGO BILOBA AUTUMN GOLD	AUTUMN GOLD GINKGO	2-2.5" BB	
GINKGO BILOBA SKY TOWER	SKY TOWER GINKGO	2-2.5" BB	
GLEDITSIA TRI SKYLINE	SKYLINE HONEYLOCUST	2-2.5" BB	
GYMNOCLADUS DIOICUS	KENTUCKY COFFEE TREE	2-2.5" BB	
LIRIODENDRON TULIPIFERA	TULIP POPLAR	2-2.5" BB	
QUERCUS ROBUR STREET SPIRE	STREET SPIRE ENGLISH OAK	2-2.5" BB	
QUERCUS RUBRA	RED OAK	2-2.5" BB	
ULMUS AMERICANA 'JEFFERSON'	JEFFERSON ELM	2-2.5" BB	
ULMUS 'MORTON' ACCOLADE	ACCOLADE ELM	2-2.5" BB	
QUERCUS MUEHLENBERGII	CHINKAPIN OAK	2-2.5" BB	
QUERCUS PALUSTRIS	PIN OAK	2-2.5" BB	
ZELKOVA SER MUSASHINO	MUSASHINO ZELKOVA	2-2.5" BB	
STREET TREES (CATEGORY D) - MORE SALT TOLERANT			
- 3 CATEGORY D TREES			
AMELANCHIER CANADENSIS	SHADBLOW SERVICEBERRY	1.5-2" BB	SINGLE STEM
AMELANCHIER GR ROBIN HILL T/F	ROBIN HILL SERVICEBERRY	1.5-2" BB	
CELTIS OCCIDENTALIS	HACKBERRY	2-2.5" BB	
CRATAEGUS CRUSGALLI	COCKSPUR HAWTHORNE	1.5-2" BB	
GINKGO BILOBA AUTUMN GOLD	AUTUMN GOLD GINKGO	2-2.5" BB	
GINKGO BILOBA SKY TOWER	SKY TOWER GINKGO	2-2.5" BB	
GLEDITSIA TRI SKYLINE	SKYLINE HONEYLOCUST	2-2.5" BB	
QUERCUS PALUSTRIS	PIN OAK	2-2.5" BB	
QUERCUS RUBRA	RED OAK	2-2.5" BB	

NOTES:

- IN ACCORDANCE WITH ASTM STANDARDS REFERENCED IN THE NOTES, DURING SITE PREP, THE TREE WELL SHALL BE EXCAVATED TO A DEPTH OF 3' AND BACKFILLED WITH PLANTING SOIL. WHEN READY FOR PLANTING, THE PLANTING PIT SHALL BE EXCAVATED AND THE ROOTBALL WILL BE SET ON A COMPACTED SOIL BASE, NOT UNDISTURBED SUBGRADE.
- SEE DRAWING PLANS FOR TREE WELL DETAILS AND GRANITE EDGING DETAILS.
- REMOVE EXISTING SOIL AND REPLACE WITH CITY PROVIDED SOIL MIX.
- CONTRACTOR TO EXCAVATE AND REPLACE ALL SOILS TO A DEPTH OF 3' FOR ALL EXISTING AND NEW TREE WELLS, NEW ESPLANADES, AND EXISTING BUMPOUTS.
- CONTRACTOR SHALL NOT EXCAVATE WITHIN 2' OF EXISTING UTILITY POLES, LIGHT POLES OR TRAFFIC SIGNALS.
- EXISTING ESPLANADES AND RAISED PLANTERS TO RECEIVE NEW PLANTING SOIL TO A DEPTH OF 3' AND EQUIVALENT WIDTH TO ACHIEVE A MINIMUM OF 85 CUBIC FT, FOR EACH NEW TREE PIT.

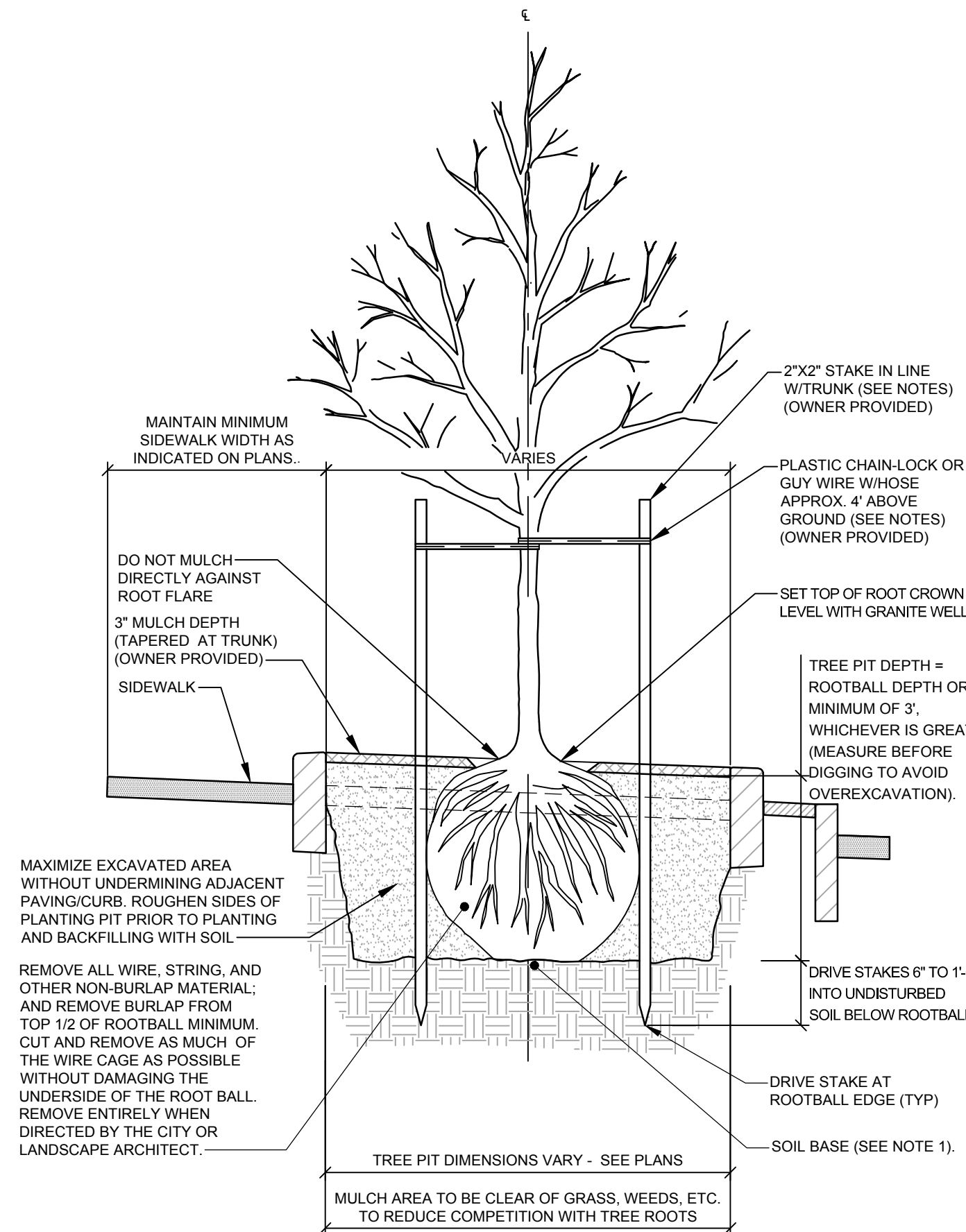


8 SIDEWALK FLUSH TREE PLANTING DETAIL

NTS

NOTES:

- IN ACCORDANCE WITH ASTM STANDARDS REFERENCED IN THE NOTES, DURING SITE PREP, THE TREE WELL SHALL BE EXCAVATED TO A DEPTH OF 3' AND BACKFILLED WITH PLANTING SOIL. WHEN READY FOR PLANTING, THE PLANTING PIT SHALL BE EXCAVATED AND THE ROOTBALL WILL BE SET ON A COMPACTED SOIL BASE, NOT UNDISTURBED SUBGRADE.
- SEE DRAWING PLANS FOR TREE WELL DETAILS AND GRANITE EDGING DETAILS.
- REMOVE EXISTING SOIL AND REPLACE WITH CITY PROVIDED SOIL MIX.
- CONTRACTOR TO EXCAVATE AND REPLACE ALL SOILS TO A DEPTH OF 3' FOR ALL EXISTING AND NEW TREE WELLS, NEW ESPLANADES, AND EXISTING BUMPOUTS.
- CONTRACTOR SHALL NOT EXCAVATE WITHIN 2' OF EXISTING UTILITY POLES, LIGHT POLES OR TRAFFIC SIGNALS.
- EXISTING ESPLANADES AND RAISED PLANTERS TO RECEIVE NEW PLANTING SOIL TO A DEPTH OF 3' AND EQUIVALENT WIDTH TO ACHIEVE A MINIMUM OF 85 CUBIC FT, FOR EACH NEW TREE PIT.

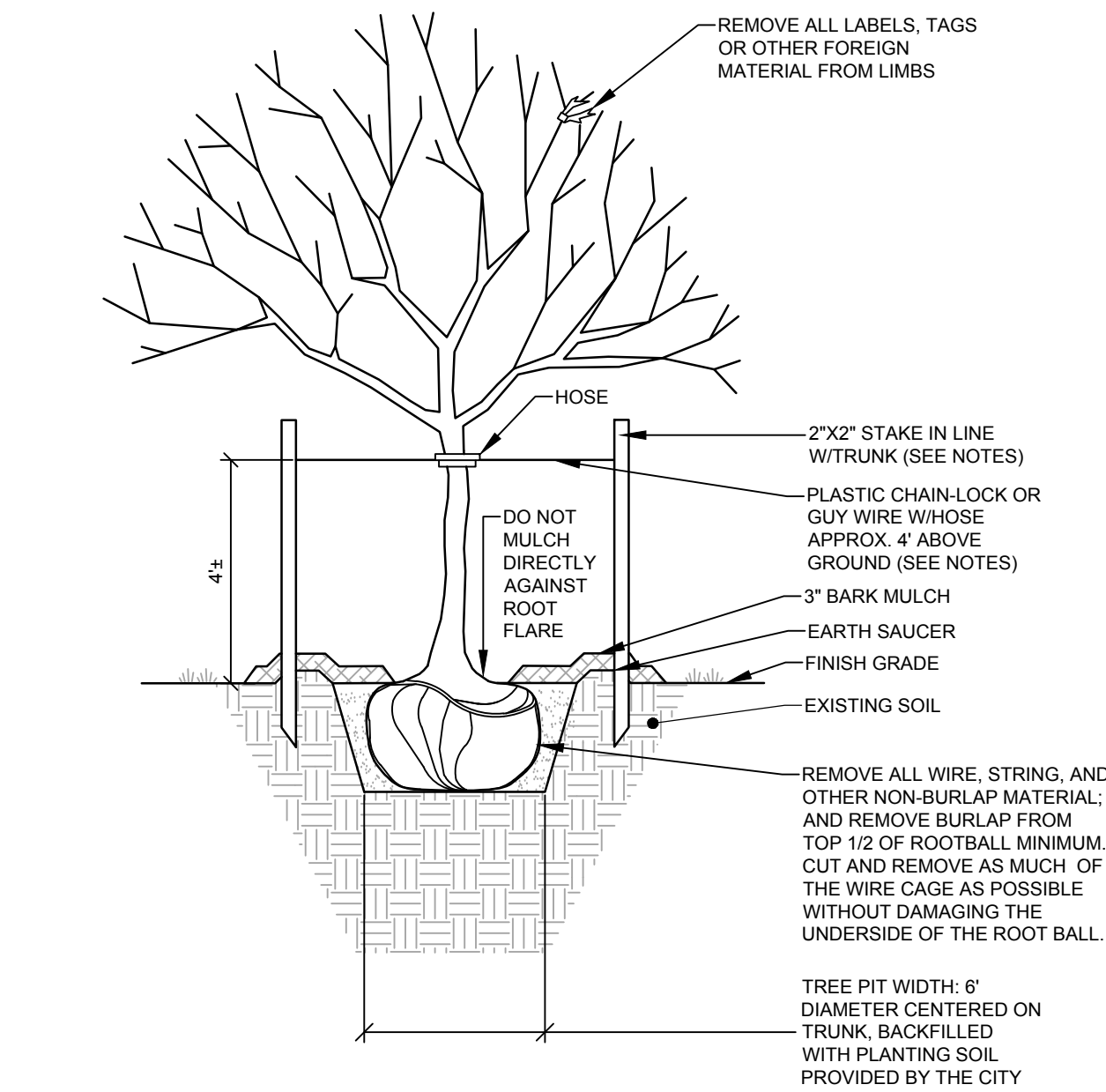


9 SIDEWALK GRANITE TREE WELL PLANTING DETAIL

NTS

NOTES:

- INSTALL STAKES AND GUYS TO TREES IF THE FOLLOWING APPLY:
 - THE TREE IS OF SUBSTANTIAL SIZE.
 - THE PLANTING LOCATION IS EXTREMELY WINDY, AS ON OPEN UNDEVELOPED SITES.
 - THE PLANTING LOCATION IS COMPRISED OF SAND OR OTHER LOOSE TEXTURED SOILS.
- CONTRACTOR TO EXCAVATE A MINIMUM OF 6 FT DIAMETER AND 3 FT DEPTH FOR EACH TREE PIT.



10 TREE PLANTING DETAIL IN EXISTING GRASS AREA

NTS

11 LOAM AND SEED DETAIL

NTS

21999.Dwg TAB:DETAILS 8 - 11 AND TREE LIST

DETAILS 8 - 11 AND TREE LIST
OF:
BAYSIDE TREE PLANTING PROJECT
FOR:
CITY OF PORTLAND, ME
380 CONGRESS STREET
PORTLAND, ME 04101

DESIGNED	
DRAWN	MTM
CHECKED	ABS
DATE	1/11/2024
SCALE	NTS
PROJECT	21999
SHEET	VAULT #
40 OF 42	01046_033

SEBAGO
TECHNICS
WWW.SEBAGOTECHNICS.COM
75 John Roberts Rd.
Belle Isle, ME 04008
South Portland, ME 04106
Tel. 207-200-2100

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNICS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNICS, INC. SOME OR ALL OF THE INFORMATION USED IN THIS GIS PLAN RELIES ON



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.

On Wednesday April 10, the Portland City Council Sustainability and Transportation Committee will take up the much-anticipated **Climate Action Fund**, previously known as the Sustainability Fund. The Portland Climate Action Team (PCAT) has been a stalwart advocate for establishing this important Fund. The Portland City Council also identified establishing the Fund as a high priority during the Annual City Council Goal Setting on December 11, 2023.

Although it has taken some time for the Fund to make it to the Sustainability Committee, we know it is more important that we get it right. The structure and purpose of the Fund must be correctly established to be effective and have the greatest impact. There are two basic elements to the Fund: (1) the revenue the fund will collect, and (2) the disbursement of those funds to deserving projects. PCAT has several recommendations on these two elements.

Revenue: Renewable Energy Certificates (RECs) – The RECs from renewable energy projects that Portland has helped develop represent the green attributes of the electricity consumed by Portland’s municipal buildings. The reduction in fossil fuels that these projects represent meets a small part of the sustainability goal the City adopted with the One Climate Future climate action plan. If Portland decides to sell these RECs, then the only appropriate purpose for that revenue is to leverage opportunities and projects that can go further to reduce the use of fossil fuels in the City and reduce greenhouse gases generated. Once Portland achieves the City goal of 80% reduction of fossil fuels those RECs must be retired, i.e. not sold. The OCF climate action plan sets a goal of reaching 80% reduction by the year 2050.

Disbursement: Projects that deserve funding – The total monies collected into the Fund will not be great enough to completely achieve Portland’s transition to clean renewable energy. In fact, they will be a very small part of the total dollar amount necessary. So, it will be important that the limited funds are used to leverage other opportunities for financing or funding projects. Only projects that can have a significant impact on reducing greenhouse gas emissions and reduce the energy costs for Portland residents and companies should receive support from the Fund.

Transparency and Accountability – Money coming into the Fund and money going to projects for GHG reduction should be transparent and reported on regularly. Quarterly reporting would be reasonable. Our elected city officials, either at the Committee level or the full City Council level should be accountable for selecting the projects using a process similar to the City Housing Trust.

Equity – We know there are significant energy inequities in Maine and Portland. Criteria for selecting deserving projects must include **Equity** as well as **Effectiveness** and **GHG Reduction**.

PCAT looks forward to further discussing and refining this important and vital step in advancing the work of One Climate Future with the City Staff and City Council.

--

Bill Weber

Portland Climate Action Team